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**Master's Thesis of Public Administration**

**IMPROVING THE  
GOVERNANCE OF MUNICIPAL  
PROPERTY:**

The case of Osh city, Kyrgyz Republic

키르기즈 공화국의 조세수입  
기획제도 개선을 위한 연구

**February 2015**

**Graduate School of Public Administration**

**Seoul National University**

**Public Administration Major**

**Shaiimkulov Taalaibek**

# **IMPROVING THE GOVERNANCE OF MUNICIPAL PROPERTY:**

The case of Osh city, Kyrgyz Republic

**Kwon Huck-ju**

**Submitting a master's thesis of Public Administration**

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**Graduate School of Public Administration**

**Seoul National University**

**Public Administration Major**

**Shaiimkulov Taalaibek**

**Confirming the master's thesis written by**

**Shaiimkulov Taalaibek**

**December 2014**

Chair                      Koo, MinGyo                      (Seal)

Vice Chair                Ko, Kilkon                      (Seal)

Examiner                 Kwon, Huck-ju                 (Seal)

Abstract

# **IMPROVING THE GOVERNANCE OF MUNICIPAL PROPERTY:**

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Shaiimkulov Taalaibek

Public Administration Major

Graduate School of Public Administration

Seoul National University

Administration of municipalities in mountainous countries such as Kyrgyzstan is a key to any kind of development, as some of the regions are hard to reach and socially isolated. Even though Kyrgyzstan is divided into seven regions there are more than 60 municipalities, which make it only harder to effectively run and manage by local administrations. This thesis work is devoted to one of the most pressing issues within the responsibilities of local authorities - management of municipal property.

Lack of professional work force, outdated regulations, conflicts within laws on property and land as well as poor control over the property inventory, all of these factors are closely researched on the example of city of Osh. After an analysis of the existing conditions I have written a recommendation for the most effective management of municipal property based on the best experiences of foreign countries.

Management of municipal property should be viewed as a set of effective control actions aimed at preserving the basic qualities of property or its increments:

- i. Conduct a complete inventory of leases of municipal property, to identify unscrupulous tenants, followed by termination of the lease, if necessary;
- ii. To ensure timely receipt of the budget rent for the leased land, it is necessary for execution of contracts for the payment of municipal property between entities, regardless of their form of ownership, is assigned to the State Tax Inspectorate of Osh city;
- iii. Creation of a special commission to work on the recovery of arrears of rent for the land and preparation of lawsuits;
- iv. Regularly work to identify the facts of self-trapping of municipal land and their freedom from illegal users.

The municipal property management and its use in the interests of the local citizens associated with the establishment of rules, conditions of use of municipal property, with the achievement of the goals and challenges of current Kyrgyzstan.

Key words: **Municipality, Municipal Property, Legislation, Policy Recommendations**

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## CHAPTER I. INTRODUCTION

### 1.1 STUDY BACKGROUND AND RESEARCH QUESTIONS

Kyrgyzstan since independence and sovereignty is undergoing a period of reforms associated with the transition to the new system of social relations, political and state structure and management. Certainly changes in a political and legal system of the Kyrgyz Republic had a serious impact on the entire gamut of relations between the state and local governments. The local government is reflected in the Constitution of the Kyrgyz Republic as one of the foundations of democracy and part of the democratic constitutional order of the country.

**Relevance of research topic** due to the fact that the efficient management of municipal property in the Kyrgyz Republic today is one of the most pressing, along with other important local issues that require new approaches, improvement and development. The effectiveness of management of the property of municipalities ultimately depends on the quality of public services, promotion of local economic development and income to the local budget communities.

#### *Key questions to be studied*

-  Examine the economic substance and content of municipal property;
-  Examine the legal framework of municipal property in the Kyrgyz Republic;
-  Analyze the management activities of municipal property in Osh;
-  Give recommendations to improve the management of municipal property in the city of Osh.

First, twenty years ago, this form of ownership in the country did not exist. The process of its formation and continues today. Municipal property along with local finances is the economic basis of local self-government. Challenges on formation the effective management and disposal of municipal property are a priority for municipalities. Relevant at this stage is seen as the problem of creating an effective system of management of municipal property. Second, the effectiveness of the authorities due to a viable structure of local government, as almost all government decisions concerning the interests of citizens, somehow pass through the local authorities realized in the life of local communities. People feel the results of public policy and evaluate it through the prism of their vital needs and interests. That's what the needs and interests of the local community and is designed to serve the municipal property. And this, in the first place, promotes competent and efficient management of municipal property.

**The purpose** of the master's thesis - based on the analysis of municipal ownership and regulatory framework in the management of the Kyrgyz Republic, to make recommendations to improve the management of municipal property in Osh.

Based on the goal, in the following tasks:

1. Examine the economic substance and content of municipal property;
2. Examine the legal framework of municipal property in the Kyrgyz Republic;
3. Analyze the activity of management of municipal property in Osh;
4. Provide recommendations for improving the management of municipal property in the Osh city.

The research paper item is the municipal property of the Kyrgyz Republic. This research focused theoretical and practical problems of legal regulation of the management of municipal property on the example of the city of Osh.

Substantive consideration of the Constitution of the Kyrgyz Republic have undergone, the system of normative legal acts of the Kyrgyz Republic, including the rules of municipal law-making, as well as the actual state and the dynamics of the legal framework of local government.

Master's thesis consists of an introduction, three chapters, seven paragraphs, conclusion and bibliography.

The first chapter discusses the theoretical basis of municipal property in the Kyrgyz Republic, which discloses the economic substance and content of municipal property, reflected problems of municipal property in the country, as well as some aspects of the legal regulation of the management of municipal property.

The second chapter provides an analysis of the existing legal framework in the field of management of municipal property and assesses the current legal regulation.

The third chapter is devoted to the improvement of legal regulation and management of municipal property, an analysis of the effectiveness of management and disposal of municipal property in Osh and recommendations for solving the existing problems.

Theoretical basis of the study make the works of domestic and foreign scholars and practitioners in the field of the theory of municipal property, constitutional, civil, and municipal law of the land, materials and scientific and practical conferences and reports. Research formed the basis of sources Constitution of the Kyrgyz Republic, the European Charter of Local Self-Government, the legislation of the Republic, including the regulations of local governments and other materials.

Methodological basis of the research is a collection of scientific ways to carry out a comprehensive analysis and conclusions on the subject of the study. In particular, the method is used is the comparative analysis of legal frameworks of municipal property management.

As already mentioned above, the issue of municipal property management in our country still does not have a clearly defined its place in the system of government, and in need have reform, both in legal and managerial aspects. In accordance with the Constitution of the Kyrgyz Republic Osh is a city of republican significance of particular national importance, in which the management on the principles of local self-government in conjunction with the State Administration of delegated state powers. Osh city is the administrative, political, economic, scientific, educational, spiritual, historical and cultural center, the seat of the southern residence of the President of the Kyrgyz Republic and the individual state bodies of the Kyrgyz Republic and in the cases provided for by the legislation of the Kyrgyz Republic, and also consular offices of foreign countries. That is, I want to say that the very meaning of the city for the country is large, whereas the present development does not correspond to the value it has.

## **1.2 PECULIARITIES OF OSH CITY**

Osh is the administrative center of Osh oblast and the second largest city in Kyrgyz Republic. Osh city is the second largest city of Kyrgyzstan - "southern capital", a city located in the east of the Fergana Valley, at an altitude of 1000 meters above sea level. Today, that old and ancient city is the administrative center of Osh region. This is a major economic and cultural center with a population of about 250,000 people, has preserved the unique charm of the ancient East.

Since I'm the native of the northern part of our country, I have been very seldom in southern Kyrgyzstan, and in early 2014, I arrived in the city of Osh. I was sent to work on a long business trip to the city of Osh, being here in the spring of this year, I looked at the development of the city, and I realized that there is a potential of good development, but there is no full and adequate management approach on the part of local authorities. As the person who had experienced seeing the dynamic development of such large cities as St. Petersburg, Seoul and many others, I can judge the slowness in development of municipal government in the city of Osh. Of course, the same situation is observed in the capital of our country, but the difference is that Bishkek largely developed due to the fact that in many households municipality invested by local businessmen, and international organizations. Therefore, in Bishkek, the weakness of municipal management is less tangible, although there is also the presence of thousands of unresolved problems in the municipal administration.

I believe in Osh is necessary to investigate the development and structure of the work of the municipal government, and on the basis of the material studied to give the advices on how to develop and improve the services offered to the

people the local government. Of course, the topic as such municipal administration, quite extensive for its study within the same research, so I took it narrowed and examines only the municipal property in the city of Osh, and its legal department.

Today the world is evolving and changing every second. We need to identify our targets in a changing world; otherwise the future will be hazy. Therefore it is necessary to develop a program of development of the city of Osh, the main task, which is the realization of the fundamental objectives of the National Strategy for Sustainable Development of the Kyrgyz Republic for 2014-2019 years. First of all, the fight against corruption, the rule of law, prevention of oppressive manifestations and injustice in public life, public involvement in the management of the affairs of the city and the urban environment.

Experience over the last few years' management experience Osh shows that many social and economic problems are systemic, deep character and, unfortunately, do not have fast and light solutions. Problems of housing and communal services, housing, health care, public transport, security and many others. It is impossible to solve a part of the traditional sectorial approach, nor in the annual budget planning. It is obvious that there are necessary other management tools that imply complex, increasing time intervals, multiple actors and action-renewable resources. Development of Osh met with a number of fundamental difficulties. As part of the Central - Asian region, our country has no independent experience in building large city, with the existing urban structures. There are no long-term programs, projects and their financing. Management institutions and structures are not adapted to meet the challenges of the future to achieve; no documents, personnel, policies and so on.

Osh is gaining experience and face difficulties entering the modern economy. Restoration of the city in 2010-2012; occurred rapidly, often to the detriment of the quality of construction and without taking into accounts the historical urban environment. This poses a particular challenge to the city building regulation processes.

Existing standards and methods of land management capabilities cover the rational use of land in the future, depriving the city development opportunities.

Osh city serves as a communications hub around the idea of collective security of the southern region of Kyrgyzstan and economic growth. Osh is the regional center of cultural diversity; it is the center of learning and dissemination of experience Kyrgyz nomadic heritage. In the city unfold experimental platforms for technological and cultural innovation.

Our goals are to create the conditions for conversion into a regional center of Osh development, the true center of the south of the country and an important junction of Central Asia, a modern city with a high level and quality of life. Osh city should become comfortable city equal opportunities for various social and cultural groups. This should provide the potential and growth of human capital.

There are several directions in developing the Osh city in overall through the improvement of its municipality and municipal property development.

"Osh City should be comfortable in usage for Citizens." - Becoming a full-fledged local self-government. Osh is a city for the citizens when each of its

inhabitants will be a city dweller, an active member of the urban community. Only active life position, which can manifest in the structures of civil society, in the simplest matters landscaping porch, yard, in neighborly relations, in primary cells of the local government can make us true citizens and Osh - the city residents.

We may gain the status of the city as a "Gates to different Ancient Cultures in the Center of Asia" by developing the interfaith and intercultural contacts. This project is based on one of the unique competitive advantages of Osh - the oldest, 3-thousand year history of coexistence of different cultures and faiths. By defining the features of our way to be our willingness to understand and communicate with people of different cultures and religions. Already approved way of interfaith meetings can become a kind of specialization for the city of Osh.

In order to be Osh city as one of the most developed cities we must first of all do the "Safe House, a Comfortable Area for Citizens and their quests". For this, we must improve primary living environment (housing and social infrastructure) and the development of the housing sector. This project is aimed at the immediate needs of the population of the city, and at the same time it serves as a catalyst for addressing key economic, social and urban problems. Therefore, it is the implementation of the project will be a priority for the city of Osh in the next few years.

"The control of development system of Osh." Efficient and effective change management system that contribute to social cohesion, the dynamism of the economy and form a favorable environment. Effective management is based on a preliminary analysis of the decisions taken with regard to their socio-

economic impacts; all stated goals are supported by the resources and focus on a certain result. It is supposed to realize the potential of the city, to create a favorable economic climate, which will reduce the risks of doing business, provide small business development. Through true urban planning, transport, taxation, information policy formed a favorable image of the city, and after that the city will come investments. Improving governance structures City Hall will increase the efficiency of municipal services; ensure the growth of the authority of municipal authorities.

The introduction of new information technologies provide increased efficiency in the municipal authority, will improve the work culture of municipal employees, residents of the city to facilitate communication with relevant municipal services. Development of the system of local government will provide more extensive public participation in solving social and economic problems of the city will increase the transparency of the municipal authorities.

Citizens need to understand that the market economy does not mean messy activities, and that such a system requires the development of not only private households, but also the development of the public interest by the civil sector. Capitalist countries are also very successfully used elements of the planned economy. Therefore, I believe that we have all the features of this program.

## **CHAPTER II. THEORETICAL BACKGROUND OF MUNICIPAL PROPERTY**

### **2.1 THE LEGAL BASIS OF MUNICIPAL PROPERTY**

Initially, at the stage of market economy, the municipal property was considered as a kind of special or state ownership, which was due to the interpretation of these categories as manifestations of public property.

By the formation and development of various economic systems, some economists, included it in a system of state ownership, along with national and regional property, calling it with "local or municipal."<sup>1</sup>

As the basis for the existing originals of municipalities, in science it was presented by works of A. Buzgalin E. Krasnikov, V.Koshkin, V.Nupyro, V.Radaeva. These works have been devoted to the study of macroeconomic processes, and only in a general they referred and disclosed to the category of "the local economy."

Later studies have become more high-quality, thoughtful and legally substantiated character, but they are public property belonged to a species of state property, while the researchers were limited to the description of this relationship, arguing restrained and almost without analyzing it in their works. Later, in the current economic and legal literature presents viewpoint on non-state nature of municipal property, its isolation from the public sector.

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<sup>1</sup> The theory of transitional economy. Volume -2 . Macroeconomics. Textbook. pos. / Ed. E.V.Krasnikov . M., 1998 . P.33

L.Abalkin notes that public property is not "either public or private."<sup>2</sup> It is - this characteristic of municipal property, as a special, independent form of public ownership corresponds to its present manifestation substantiality as a control object and as a basis municipalities. This point of view in the present economic conditions got reflected in the basic legislative documents of the Kyrgyz Republic: KR Constitution and the Civil Code of the Kyrgyz Republic. An important point in the study of municipal property stems from the fact that this form of ownership should not be evaluated as state property, although it is necessary to recognize its social character. First, a legal status of municipal property as a public form reflects its focus on joint performance of the assignment object property. Secondly, the special nature of municipal property as the material basis of production of public goods implies, on the one hand, the indivisibility of property objects, that is the impossibility of allocating a share of each individual member of the municipality and its compensation in monetary terms, but on the other hand, the non-profit nature of the operation property system, aimed at satisfying immediate socio-economic needs of the population, development and improvement of property objects. It turns out that the social nature of municipal property provides a basis to identify the forms of state and municipal property as a kind of social or public, in relation to the ownership of private property. Therefore, the main distinction between private and public forms of ownership due to the contractual nature of property relations, related to the fact that public ownership implements the common interest, and private represents and defends private interests. Within the framework of public property ownership, disposal and use of the property is realized in different forms, such as forms management subordination between the government and municipalities. This reflects the management of the

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<sup>2</sup>Diversity of ownership and management // EKO.1996. № 1. C.5. L I Abalkin

property in a number of developed countries, where distinguished public property belonging to the central authority, and communal ownership of territorial entities belonging to local governments.

Public recognition of municipal property does not mean denying its independent character, which is typical for a superficial approach to this problem. The basis of allocation of municipal property in the isolated, institutionalized property law does not put its desire to oppose state ownership, and the need for optimal allocation of public property through the levels and specific assignments.

Municipal property has two main functions. The first is that public property is the basis of economic independence of local government, provides manageability economy respective territories as a whole. It has both a legal framework that delineates the state power and local control. According to the article # 3 in the Constitution states that "State power in the Kyrgyz Republic is based on the principles of separation of functions and power of state authorities between local self-government."<sup>3</sup> All legislative acts adopted in recent years in the country, as interpreted solely as a local government municipality, while these terms are used interchangeably not, and embedded in them fundamentally opposite content. When justifying non-state local government argues that the system of these organs no strict hierarchy and subordination characteristic to build the state mechanism, and the fact that municipal authorities are not acting on behalf of the state, and in the interest of the population in the area, as well as what material and financial base of local

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<sup>3</sup>The Constitution of the Kyrgyz Republic , adopted by referendum ( popular vote ) June 27, 2010

government constitute public property and the municipal budget. Local self-government is defined as recognized and guaranteed by the Constitution independent and under its responsibility "to address the activities of the population directly or through local government in local matters, the interests of the population, its historical and other local traditions."

Consequently, local government, derived outside the system of state power, provides the most comprehensive, adequate consideration of the interests of the local population, the priority of those interests above the interests of the state, and also limits the intervention of higher levels of government in the activities of local authorities to manage municipal property. Availability of municipal ownership of local government secures exclusive right exclusive production of certain products and services and work performance is part of the territorial community. Providing the population with goods and services through the municipal sector performed frequently at lower prices, private enterprises, and sometimes for free. And the direct production of municipal benefits mediated regulatory role of social institutions, and that allows us to speak about the social nature of this form of ownership. Availability of municipal ownership promotes local government positions and allows for people to form part of the territorial community that the set of available benefits and privileges that will not infringe on the civil liberties and maintain an acceptable standard of living in the area. The second function of the municipal property is that it serves as the main instrument of social protection and support of the territorial population. Provision of municipal housing, the functioning of children and educational institutions, local incentives for utilities, targeted support for the needy and the poor enable them to maintain certain social standards of living of people in the area. Consequently, the presence of municipal property is a necessary condition

for the security of individual members of the territorial community and the guarantor of a democratically organized state. The analysis shows that public property is self-ownership, in essence related to public property on the basis of socially meaningful character actors, and as the basis of object relations, recognized for the production of public goods within the territorial entity. The main result of the functioning of the municipal property become public and mixed public goods. Municipal property is the economic basis of the municipality, a necessary element of a market economy territory since allows vital goods and services at minimum cost to the public and provides a guarantee of reproduction of local resources, in accordance with social norms and priorities of the area. Therefore, the formation of municipal property is objectively necessary in the conditions of formation and development of democratically organized state with a multi-sector market economy.

The first mention of municipal property in the Kyrgyz Republic is given in the Law "On local government and local state administration in the Kyrgyz Republic",<sup>4</sup> which was given to the definition that "*communal property is an integral part of state property is the basis of the local economy*" (v. 36). This article requires that municipal property is formed by donation of state property. The law was aimed at strengthening the vertical of state power, local state administration was subordinated to central government authorities and municipal property was considered as part of the public domain. The process of formation of communal property in the Kyrgyz Republic began after approval by the Presidential Decree of 22 September 1994 of the Regulation "On the Fundamentals of Local Government in the Kyrgyz Republic", where

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<sup>4</sup>The Law "On local government and local state administration in the Kyrgyz Republic ", as amended on 19 April 1991.

they were given a definition of the economic foundations of local self-government and communal property. Subsequently, the concept of communal property was given in the Law of the Kyrgyz Republic "On local government and local state administration." Public property - ownership of local community in the possession and disposal of local government serves as a source of income of local government and the socio-economic needs of the population. Communal property rights were also reflected in the Civil Code of the Kyrgyz Republic (05.08.1996) and the Land Code of the Kyrgyz Republic (02.06.1999).

In the new edition of the Constitution of the Kyrgyz Republic in 2003 communal property became known as community property. This interpretation was suggested by the Association of Cities of Kyrgyzstan in the draft constitution after the discussions at seminars and conferences on issues of local self-government with the participation of well-known lawyers and experts. In their practice the Association of Cities of the Kyrgyz Republic was faced with the problem of fuzzy understanding of the community property. Conducted sociological forecast of municipal officials of several cities of the republic showed that some members of the local community and even members of local councils to objects of communal property includes common areas in apartment buildings owned by the communities of tenants on the right general share property. But others argued that it is communal property ownership utilities.<sup>5</sup>

In addition, the Act of August 19, 2005 N 152 "On Amendments and Additions to the Law of the Kyrgyz Republic" On the communal ownership of property,

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<sup>5</sup>The economic foundations of local self-government in the Kyrgyz Republic, 2nd edition, revised and supplemented, Proc. pos. / Ed. B.Asanakunova , G.Bekbasarovoy , B. , 2007 . C.28.

the law "On the communal ownership of property"<sup>6</sup> were amended and supplemented, where the word "communal" in various of case, generic and numeric forms were replaced by the word "municipal" in the appropriate case, gender and number.

Use of the term can be traced to municipal property in scientific papers by the authors on this subject in the early editions. Organization of power, including local government, for its implementation implies economic and economic base. Without this, it is impossible to normal administration its inherent jurisdiction. According to the legislation of the republic economic basis of local self-government left natural resources, including land, subsoil, water, forests, flora and fauna, as well as businesses and organizations regardless of ownership, located on the territory, immovable and movable and immovable property, and part of the composition of municipal property.<sup>7</sup>

## **2.2 MUNICIPAL PROPERTIES AS PUBLIC ENTERPRISE UTILITIES**

Every society has a certain collection of material goods, which are part of a separate state form, its national wealth. Consumption of national wealth, carried out to meet the needs and interests of society (citizens and various public institutions), marketed by its assignment. Assignment in its historical development takes many forms, acquiring the most advanced form - the form of ownership.

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<sup>6</sup>The Law "On the communal ownership of property " (Bulletin of the Kyrgyz Parliament , 2002 , N 4 , Article 159

<sup>7</sup>Development of local government Kyrgyzstan, Proc. / A.A.Karashev , O.S.Tarbinsky , under Society. Ed. A.A.Kutanova - B. 2002. P.131

The process of development is fixed in the system of legal norms that are currently considering ownership in a trinity of owning, managing and use. In other words, the property - a relationship between a man and a group or community of subjects on the one hand, and any substance of the material world (object), on the other hand, consists in the permanent or temporary, partial or complete exclusion, disconnecting, conferring Property. From this perspective, the concept of community property, is primarily a legal concept and describes a specific list of the rights of local governments with respect to the individual elements of the national wealth.

Municipal property, unlike private property, is designed to protect the interests of a large number of individual people living in the urban or rural settlements. In a situation where the municipalities, which are the subjects of law come into property relations characterized by equality of the participants, they are subject to the rules of civil law, for the participation in these respects legal persons, unless otherwise provided by law and characteristics of these subjects.

To provide quality services to the population and income of local government must be *qualified in management* of municipal property. Institute of Municipal Property in Kyrgyzstan got its consolidation in the Law "On Local Self-Government and Local State Administration", "On the municipal ownership of the property," "On the financial-economic foundations of local self-government" and other legal acts, the Constitution of the Kyrgyz Republic.<sup>8</sup>

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<sup>8</sup>Law "The municipal ownership of the property" from March 15, 2002 N 37.  
Law " Local Self-Government and Local State Administration" dated May 29, 2008.  
Law "Financial and economic foundations of local self-government" of 27 June 2003.

Under the current Constitution, "The Kyrgyz Republic equally recognized and protected private, state, municipal and other forms of property." Thus, the Constitution enshrines the presence of municipal property and its equality with other forms of property, as well as endowed local governments the right to self-management of this property.

In strengthening the municipal property management foundations of local government as a basis for development of the areas have a special role. Three possible sources of well-being of local communities: taxes; foreign income (subsidies, grants, transfers); income from local entrepreneurship and business activities - currently, only the last has a relative independence from the state and is capable of unlimited growth in economic use of the property, and primarily real estate.

One of the major obstacles in the effective management of the property is that now local governments are not able to fully realize their property rights in relation to the property for several reasons: firstly, there is a relative imperfection of existing legislation; secondly, there are reasons of a subjective characteristics, such as reluctance or inability of many governments to realize their property rights on a competitive basis, the lack of qualified specialists in the management of municipal property, outstanding relationships with agencies that manage and dispose of municipal property. In general, this situation leads to a decrease in the quality of public services to the final consumer goods.

International experience of building the foundations of democracy shows that the local government only turns into a really effective management system, actually exercise its authority when exist for this economic and financial

capabilities that is durable material and financial resources. This is the basis that allows local communities, through appropriate authorities essentially adequately implement their own territorial objectives and carry through the delegated functions, overall, the state policy in the field. Economics and finance are the cornerstones of the parties, not only the development of local self-government, but also the entire state. In addition to state financial and economic foundations depend entirely on state of the public authority, whether state or municipal, its ability to solve real problems of state and local significance.<sup>9</sup>

Economic foundations of local self-government is a authority of law to strengthen and regulate the relations associated with the services and the local community income, material and labor resources within the territory.<sup>10</sup>

Economic bases provide economic independence of local government, are addressing the needs of urban and rural municipalities, create the conditions of his life. Strengthening and development of the economic foundations of local government influence on the economic situation in the country as a whole. In the Kyrgyz Republic for the first time *the concept of the economic foundations of local authorities and self-government* has been defined in the Law of the Kyrgyz Republic in 1991. In accordance with this definition, the economic basis of local authorities and self-government were natural resources, all businesses and organizations regardless of ownership, that are located in the territory.

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<sup>9</sup>Basics of local government of the Kyrgyz Republic, Proc .  
pos. / Ed. A.O.Kozhoshev , K.B.Shadybekov - B. " Sham ", 2006. - P.53

<sup>10</sup>Municipal management, Proc. / Ed. T.Morozova - Moscow. 1997

## **2.3 PROBLEMS OF MUNICIPAL PROPERTY IN THE KYRGYZ REPUBLIC**

Finding the way of modern development in management of municipal property, would be the first steps in improving the economic basis of it. The problem is that today local government obligations are approximately three times greater than the financial opportunities. However, to solve economic problems needs a stable financial health of the municipality. In the regulation of the financial well-being plays a leading role of municipal property. If we talk about the ownership of the municipality as a public education, the acquisition of such rights municipalities occurs primarily at empowering municipal authority in law. And it is not regulated by civil law and public law. As mentioned above the municipality itself, as well as the state has no right to use the public property as privatized. Ownership is reserved exclusively for local authorities in accordance with certain legislative powers to row. Not all, but only the executive authority. Same representative authority has no such right.

Composition of municipal utilities which may be in the municipal property, defines the competence of municipalities. By this, there is a need to create conditions for the activities of local governments. Competence of municipalities made up of local issues related to such Law on Local Self-Government and Local State Administration, and certain state powers, enforceable by local authorities.

Institutional and structural changes in the economy have stimulated the formation of municipal property as a basis of economic activities of local territorial entities (cities, districts, groups of settlements). By institutional changes taking place at the level of municipal economy, you need to include

changes in the structure and methods of municipal property management, management of municipal enterprises.

Municipal property is recognized and protected by the state on a par with other forms. During the formation of a new economic system, some economists, recognizing municipal property, included it in the multilevel system of the state, thus called it "local, or municipal." Relating to the forms of municipal public property, they are theoretically enough to clearly distinguish between the municipal and state forms of public property or in some cases to identify them, limited only by generalizing characteristics. Most authors, considering the problems of municipal property, analyzed its essential features, forms and mechanisms of implementation. However, the problems of complex and effective management of municipal property were adequately investigated.<sup>11</sup>

The property is a complex set of socio - economic and legal relations that characterize the ways content, forms of appropriation and factors that condition the means and results of life and livelihoods. How diverse factors such conditions is so diverse and property relations and the variability of the first determine the mobility of the latter. Individuals, their layers and groups involved in the assignment and use of factors, conditions and facilities of life and livelihood, become subjects of property relations. Each of these subjects, realizing their economic interest, may be the cause of conflict at the local level. This is a bundle of contradictions: between enterprises and social institutions, enterprises and between populations, between individuals within the population itself, etc. Among these contradictions should be highlighted the contradiction

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<sup>11</sup>Problems of municipal property in the Kyrgyz Republic, Article / Ed. SZ Seidahmatova .

between the main subjects of municipal property - social institutions and the population of the area.

The basis of this contradiction is the fact that the population of the municipality transfers the right of use and disposal of municipal property to the representative authority of local self-government. Their property rights it (population) scores through consumption of final goods for free or partly paid basis. It is not always the quality of the goods and services meet the needs of the population and as a result of a clash of interests.

Municipal property as the basis of local government has two features. The first is that public property is the basis of the independence and autonomy of local government. The second feature is that it serves as the main instrument of social protection and support of the territorial population.<sup>12</sup>

Internal source development community property are conflicts of interests of several subjects - social institutions, which act as the authorities of different levels and the population of the territory between the different citizens of the territory, between social institutions and organizations, organizations located in the area.

For each of these subjects is characterized by its own set of property rights assignment mode, the degree of self-realization as an owner. Property located in the municipal property is assigned to the enterprises on the right of business (which means that they can possess, use and dispose of the property), and for

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<sup>12</sup>On the improvement of the system of Local Government in the Kyrgyz Republic . R.Sh.Bazarbaeva // Bulletin of the Kazakh National University № 4 (36) , Almaty, 2005 - With 92.

the agencies for operational management. But as these subjects are combined in the process of appropriation of public goods, then these become the source of diverse internal contradictions of municipal property. Social institutions, acting as the authorities of different levels are seen as entities with certain contradictions within itself.<sup>13</sup>

Generally the municipality as a local government intended to carry out their activities on issues of local importance, "the interests of the population, its historical and other local traditions." Obviously, to protect the interests of local communities, local governments can not only exercising legislative activity, representing the interests of the local population on the upstream (state) level, or other actions, but also largely due to the use of municipal property, part of the economic basis of local self-government.

Local issues solved through use and disposal of property, are among the most different spheres ("public interests" rather wide) not only economic or legal. The concept of "ownership" is primarily an economic category and legal consolidation of property objects is a significant factor in the inter-subjective relationship.

International experience suggests that a property right to own and dispose of municipal property must be wholly owned by the local communities in the face of local government. According to the Law of the Kyrgyz Republic "On financial and economic principles of local self-government" economic basis of local self-government constitute movable and immovable municipal property, funds of local governments, securities, natural resources located in the territory,

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<sup>13</sup>Municipal property as a form of social and economic functioning of the national economy. Ivlev GY Saratov, 2002 - P.55.

other objects of civil rights, as well as enterprises organizations and institutions operating in the relevant territory. "Only in the case of full ownership and disposition of municipal property by the local community can achieve the most efficient use.

The effectiveness of the authorities really viable due to the structure of local government, "because almost all government decisions regarding the interests of citizens, anyway, go through local, implemented in the life of local communities." People feel the results of public policy and evaluate it through the prism meet their vital needs and interests. That's what the needs and interests of the local community and is designed to serve the municipal property. And this, in the first place, promotes competent and efficient management of municipal property.

Today, the task of effective management of municipal property is reduced, as a rule, the accounting and placement of objects within its economic space areas. At the same time underestimated the regulatory functions of municipal management in the system of property relations, which reduces the potential yield of the municipal economy.

Municipal property has a number of functions, the implementation of which strengthens and expands economic opportunities for municipalities. The most important of these is the income-generating function. Before the municipality task is continuously enhancing revenues. To this end, municipalities seeking budget from higher authorities develop their own financial and economic activities, promote business development in the territory. However, the management capacity of municipal property income is not combined with

social protection of the population and provides quality services to the population and economic benefits.

It is well known that the municipal economy will develop only if it is built on existing means at its disposal, and possible reserves, that is on well-defined resources. In our case, the transfer of state property to municipal ownership, priority was given socio-cultural destination, because the primary purpose was to provide the necessary public services and benefits. Many objects were transferred unprofitable for their content required additional funds. In addition, local authorities needed sufficient independence in the formation of a profitable part of local budgets, which they did not possess.

In world practice, property management is understood as a process of making and implementing decisions regarding the acquisition, use and disposal of the property. Local authorities of the Kyrgyz Republic in the process of establishing the institution of local government had some experience of effective management of municipal property, identified many of the problems of property management - is not only maintenance and repair, but also to adopt economically and socially sound solutions for disposal of, the lack of a consolidated and clear picture available throughout the property, lack of qualified personnel, lack of information support for the effective management and tracking of municipal property. Today, these and many other questions are trying to answer specialists; they sought ways to solve problems.

Many income-generating facilities in the country, such as complexes of trade, catering and life, have been privatized. In rural areas, most of the mills were

owned farms that were created on the basis of the collective farms and their successors were.

Municipal property, being part of the economic foundations of local self-government should be under constant control and accounting. Property role requires competent and community management of this property.

Of particular importance in addressing the effective management of municipal property attached to the issue of direct participation in decision-making of property management. In considering this question, it should be noted that it is not always a public hearing held in accordance with conventional procedures. There is a practice where the public on the influence of misinformation, cannot take the right decision, or when the population not having full information about the situation on the ground, unable to solve important problems. Unfortunately, not only the people are not aware of their rights and powers, but deputies and district councils. This is reflected in their behavior and manifested in the form of passive participation in decision-making.

In connection with the foregoing, as a tool in solving this problem can propose the introduction of an approach which is widely used in some countries. It comes to assessing the quality of services provided to the population, through the introduction of civil card statements. Thus, we can evaluate the effectiveness of not only local authorities but also enterprises in the territory of the local community, received the right to use property. This tool was first developed and tested in India. The result was to improve the quality and transparency in the management and decision-making by local governments. Among the population, on an annual basis, to assess the quality of services

provided in the field. Results were transferred to the appropriate authorities for decision-making and to improve the monitoring of performance. In our view, this system it is possible to adapt to the conditions of our country. However, it must be emphasized that the effect will be achieved only when the interest of the public, local authorities, regional state administration and government in general. In addition, for the effective implementation of this instrument is necessary to create conditions for the development of informal institutions to control and participation in decision-making: association of community organizations, courts of elders, youth organizations by strengthening their role. In conclusion, it should be noted and a greater role in addressing this issue of deputies of local councils, which are representative authority in the field.

#### **2.4 THE QUALITY OF TRANSPORT SERVICES OF THE MUNICIPALITY AS AN INDICATOR OF SUCCESS IN MANAGING**

Transportation is one of the most important issues in all societies. Transport services of the municipality, as one of basic and essential services for the population of the state is an integral part of the management of municipal property. In any developing city, questions of transport services are subjected to a change in every day, improving because the development of the city, transport services also must necessarily have been developed.

Issues in the management of municipal transport services in the Osh city are more than enough. All unresolved issues, problems come from the fact that the Osh city enlarging in scales and growing population has doubled in it at times, so grow new neighborhoods and districts, but a municipal transport continues to operate under the same conditions and to the extent they have worked for 30

years - 40 ago. Old, decrepit electric - buses, buses and mini - buses some continue to serve on the streets of the Osh city, since Soviet times. Municipality and tries to rectify the situation by giving private businessmen transport lines that go on line with their own bus, but it is not a solution. Since private businessmen who travel on transport lines, on their own mini buses, they cannot dictate to the end, the many responsibilities that carry the municipality. That is the municipal government of the Osh city, unable to cope with the challenges of development and has not yet been adapted decent, comfortable transportation of the population within the city. At this point, on the balance of municipal transport services of the Osh city there are about ten electric - buses, and 20 buses, and at last the mini – buses approximate number is unknown routes as they are mostly privately owned local businesses. So, those 20 buses and 10 electric - buses, are to less on the scales of the Osh city, and they are only enough to serve two or three central districts of the Osh city, and the other neighborhoods and districts of the city are served by private minibuses. In fact, mostly the mini – buses are the main public transportation feature in Osh city, because of lack number of buses in our municipality. Even our City Hall together with the owners of that mini – buses try to fully serve the transportation needs of Osh city citizens, still there the reports of late buses, long lines in bus stop stations, and many other problems. In a period of fall and study time in universities, schools students are having extremely awful hardships in transportation. All above mentioned problems are caused of lack number of buses, and mini – buses.

The government should emphasize more on the development of the public transportation system. Some benefits provided by it such as efficiency, environmental protection, and the lower risk of happening accidents are anticipated. With such improvement, the public are promised to dwell in the

better and more comfortable surroundings. The issue of spending money on public transportation or building highways has always been a matter of controversy among urban designers, city authorities and citizens. Everybody could hold different view according to their knowledge, experience and interests. In my point of view, however, financial resources should be allocated to the expansion of public transportation. Developing public transportation is the most practical way to serve the society in such ways that government shouldn't pursue the business incomes from it, but just to concentrate on an appropriate serving the transportation needs of citizens.

## **CHAPTER III. ANALYSIS OF THE EXISTING LEGAL FRAMEWORK IN TERMS OF MUNICIPAL PROPERTY**

### **3.1. MODERN LEGISLATIVE REGULATION AND DESCRIPTION OF THE EXISTING REGULATORY AND LEGAL FRAMEWORK**

Constitution of the Kyrgyz Republic has identified local government as an important element of the constitutional order. Being the primary level of organization of public authority, the local government is intended, on the one hand, to participate in the implementation of the State, on the other - the most complete account of the interests of the population, thereby providing stability and democratic development of society as a population formed local governments are most accessible to the public have the opportunity to maximize the use of resources of the area to meet local needs, ensure the strengthening of statehood at the local level.

The urgency and magnitude of the problems in the management of municipal property, the question of the necessity of a comprehensive solution caused the need to improve legislation in the field of municipal property.

Municipal property - self-ownership, a special kind of public (social) Property is a set of economic relations arising between the local governments (or their representatives) in the implementation of socio-economic functions and other economic actors and provide conditions for the conservation and reproduction of objects livelihoods municipal education to meet the priority needs of the local community.

Municipal property - economic category, its status and legal personality established rules are defined, respectively, distinguishing between economic and legal aspects of the concept of "public property", it is necessary to emphasize the priority of the economic nature of this phenomenon.

Currently, municipal property occupies a prominent place in the structure of the form of ownership of the Kyrgyz Republic. Characteristic features of the municipal property are:

- This property is a direct link with the interests of the local community;
- Embodied in it a special set of economic relations between man and power;
- Assignment of its species to the public (public) property;
- Municipal property is an essential tool for social protection and support of the population of the municipality.

Municipal Property Management is the authority and local government officials on the possession, use and disposal of municipal property in order to maximize the socially important services the municipality population and implemented through the adoption of legal acts, the organization of their implementation and monitoring their implementation.

The essence and purpose of the municipal property suggests that the purpose of the control is to solve local issues that are issues of direct life support population of the municipality. Subjects realizing the right of possession, use and disposal of municipal property, act in the public interest, established their objects of reference, competence and authority.

Due to the complex character of the process of reforming the management of municipal property the most important task is to set priorities. At the first stage of improving municipal property management should implement economic activities and projects that provide a significant result, and provide changes in the organizational structure of management, bullet making the necessary changes in the legislative and municipal legal acts regulating this process of municipal property.

The purpose of the economic dimension of improving the management of municipal property is to ensure resolution of local issues from its own financial resources of the municipality. The term "efficiency" as applied to the management of municipal property implies that the activities of local government need demands and resources of the local community.

The optimal criterion for evaluating the performance of the municipal formation on municipal property management is the ratio of outcomes and costs. In this evaluation of the effectiveness of municipal property is advantageously carried out by the following criteria:

- Natural-real - functioning assessed in terms of quality, quantity and specificity of social services for the residents of the municipality;
- Value - according to which the amount of financial costs, including extra-budgetary investments and services provided are taken per unit obtained a useful result.

Improvement of legislation in the field of municipal property management is carried out within a broader process of improvement and development of the

economic foundations of local self-government, whose goal is the efficiency of solving local issues related to the competence of local authorities.

According to article 12 of the Law "On Local Self-Government and Local State Administration" local communities to coordinate their activities for mutual aid, joint solutions to social, economic and cultural problems, more effective implementation of the rights and interests of the right to establish non-profit organizations in the manner and forms stipulated by the legislation of the Kyrgyz Republic. Organizations outside of the system of local self-government cannot be transferred powers of local governments. Local communities have the right to enter into international unions and associations of local communities, but it cannot act on behalf of the state.

However, for purposes of legal regulation of relations between municipalities and funds of the above acts is not enough. In this regard, there are problems of building of relationships between funds and local authorities, so there is an urgent need for a special law governing the specifics of these associations, either in the amendments and additions to the existing regulatory framework. In order to improve legislation on the management of municipal property is necessary to upgrade the entire set of forms and methods of regulation, control and monitoring of local government over the activities of economic entities, municipally owned.

The most important problem is the development of local government lack of adequate mechanisms of interaction between state, regional and local authorities, which leads to the establishment of inefficient and legally flawed relationship does not allow timely solve acute social and economic problems.

In the organization of constructive interaction, deserves more detailed study of the problem of government regulation harmonization and mutual interests of central and regional governance structures.

Among the most frequent violations of the law on local self-government should be noted the desire of regional authorities to regulate the decision of those issues that are not their responsibility. Objective reasons for such shortcomings, in our opinion, are the following: first, the experience of the existence of local government in our country has a short duration; secondly, the nature and content often established norms contrary to the interests of the municipality, limiting their independence. Improvement of mechanisms of interaction between state, regional and local authorities is an important part of the solution of a more general problem - reconstruction of a strong and effective state.

One of the most acute problems of local government in the Kyrgyz Republic is a problem of inconsistency powers of local governments available to them material resources. The economic base of most municipalities is insufficient to carry out the functions of local government. Availability of certain material scarcity to solve economic and social problems is the cause of conflict between the government and local authorities, the resolution of which should be in the plane of development regulations interaction imperious powers vested authorities.

Solving the problem of improving the management of municipal property is not possible without the active intervention of the state in regulating the relationship, primarily by eliminating the gaps in the legislation, amendments and additions to existing national and regional regulations, as well as through

the adoption of new, in order to standardize the forms and methods of process control municipal property.

Identified problems indicate the need to improve the regulatory process in the field of municipal property, conversion of legal forms of municipal enterprises and institutions and farming methods to optimize the use of the property complex of municipalities. In forming a complex of measures to improve the management of municipal property and their practical implementation certainly manifest territorial, climatic and historical features of the municipalities. Implementation of activities in the above areas will allow delineation of powers of public authorities and local self-correlating these distinctions between public ownership of the state and municipal, and create conditions for the formation of effective control procedures of the population over the efficient use of property complexes municipalities.

Legal framework of local government is an interrelated system of regulations and legal rules governing the organization and functioning of the local government and its purpose, as an institution, a total control system. The whole system of regulations and rules on local government has the following internal structure. First, regulations and legal standards are divided into groups. The first group consists of the normative legal acts of national importance. These include: the Constitution of the Kyrgyz Republic, the laws, regulations and the President of the Government, other regulatory legal acts. The second group consists of normative legal acts adopted in the local government system. These include decisions taken at the local level, decisions representative and executive authorities of local self-government, local government officials. For example, statutes of municipalities, of the structure of local government, on the

management of municipal property are normative legal acts constituting the legal basis of local government. Secondly, regulations subdivided legal force to the laws and regulations. Laws have supreme legal force in relation to the by-laws. Regulations must not conflict with the laws. If subordinate normative act contrary to the law, it is not effective to the extent prohibited by law and must be brought into line with the law. The main place in the system of law is the Constitution of the Kyrgyz Republic, on which all other laws are accepted, as well as regulations at all levels of government, and local authorities.

By the degree of void legal acts are in the following hierarchy: the Constitution, the law amending and additions to the Constitution; constitutional law; Code; law; Presidential Decree; resolution Jogorku Kenesh; Resolution of the Government; of the National Bank, the Central Commission for Elections and Referenda; normative legal acts of state authority authorized to issue and enforce regulations, in accordance with the acts delegated rule-making power; normative legal acts of local government authorities.<sup>14</sup>

Observance of the principle of subordination of the normative legal acts regulating relations in the system of local government is one of the main conditions to ensure the normal management process of formation and development of the institution of local government. Regulations on local self-government should be a single, coherent mechanism smoothly operating across the entire state.

In accordance with article 1 of the Law of the Kyrgyz Republic "On the municipal ownership of the property" under the community property mean -

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<sup>14</sup>The Law " On normative legal acts of the Kyrgyz Republic" dated July 20, 2009 № 241

community property in the possession, use and disposal of the authorities of local self-serving source of income for the local government and required to carry out the functions of local government, in accordance with the legislation of the Kyrgyz Republic.

Legislation regulating the issues of municipal property in the Kyrgyz Republic consists of a number of fundamental laws governing this aspect, including the bylaws, the main ones are:

1. The Constitution of the Kyrgyz Republic of 27 June 2010;
2. Civil Code of the Kyrgyz Republic, Part 1, on May 8, 1996 N 15;
3. Land Code on June 2, 1999 N 45;
4. The Law "On Local Self-Government and Local State Administration" May 29, 2008 № 99;
5. Law "On the municipal ownership of the property" from March 15, 2002 N 37;
6. Law "On financial and economic foundations of local self-government" from September 25, 2003 N 215;
7. Law "On access to information held by public governments and local authorities of the Kyrgyz Republic" dated 28 December 2006 № 213;
8. Regulation on the procedure for transfer of state-owned facilities in the municipal property for city administrations cities of regional importance, from October 8, 2001 N 608;
9. Model provision on the procedure and conditions for onerous provision of property rights or lease on land in the settlements, February 5, 2004 N 57;
10. Conduct an inventory of municipal property, October 16, 2008 N 580;

11. Presidential Decrees, Resolutions of the Government of the Kyrgyz Republic, local administration relations in the field of municipal property (on lease of municipal property and other regulatory issues);
12. Other regulations.

Conventionally, these legal acts can be divided into specific, fully dedicated to the management of all or individual relationships in the local government and containing the individual rules relating to the management of municipal property. Special laws are, for example, the Law "On Local Self-Government and Local State Administration", the Law "On the municipal ownership of the property," the Law "On financial and economic foundations of local self-government." Rules governing certain types of relations in the system of local self-contained, for example, the Constitution of the Kyrgyz Republic, as well as a number of other laws that do not have a special purpose for the local government.

By touching the scope of this Legislative Act, it applies to municipal property in the possession, use and disposal of local authorities, irrespective of whether they are on their territory or not.

Speaking about the right of municipal property, you must determine the composition of such property, to which the law gives his list of objects. In community property can be so the following property:

- Buildings, equipment and other movable property of local governments and enterprises under their jurisdiction;
- Objects of education, health, culture, sports and tourism;

- Objects of housing and communal services, repair and construction of transportation facilities, equipment and materials necessary for the operation of local governments;
- Networks and infrastructures of transport, energy, water supply, sewage systems and communications, serving the respective territory and not owned enterprises in the public and private property;
- Property complexes of trade, catering and life, as well as facilities and equipment for their operation, maintenance and servicing;
- Non-privatized housing and residential funds, owned by local governments;
- Streets, bridges and roads settlements;
- Public parks and land allocated for parks and other facilities improvement and green economy;
- Forests and farmland, lakes, water sources and mineral deposits of local importance, if they are not related to the list of state natural resources;
- Historical and cultural monuments of local importance;
- Land, including under objects municipal property under the relevant project boundaries, as well as undeveloped land;
- Construction in progress;
- Other objects needed to address issues of life population in the area.

Questions on the coming out, of law on the municipal ownership of the property. Municipal ownership of the property is formed in many ways one of which is at an early stage of formation of local governments by way of transfer of state property to local governments in accordance with the law and in the manner

determined by the Government of the Kyrgyz Republic. In this state ownership is transferred to local authorities under the following conditions:

- When the property is necessary for the resolution of local issues;
- When the property has cultural or historical value or used for other purposes of public utility;
- When the state provides local governments with the necessary financial means for the management and disposal of the property itself, but also through an agreement with a third party. It should be borne in mind that the adoption of state property transferred to municipal ownership, is made with the consent of the local council.

### **3.2 LEGAL BASIS FOR THE FORMATION OF MUNICIPAL PROPERTY**

In accordance with the decisions of the Government of the Kyrgyz Republic in the municipal ownership of local governments were given more than 9300 social infrastructure totaling 7 billion 935 million KGS.

If we look towards the creation of municipal property by transferring objects of state property, then one of those is the Resolution of the Government of the Kyrgyz Republic dated October 8, 2001 N 608 "On the transfer of objects in the municipal ownership of city councils of cities of regional importance of the Kyrgyz Republic." This regulation has undergone a lot of changes and additions, one of the last that is the law of March 30, 2010 N 190. This Government Resolution performing Presidential Decree "On the basis of organization of local government in cities of regional importance of the Kyrgyz Republic" dated May 2, 2001, the regional state administration together with

local governments have made the necessary work to identify the list of objects to be transferred to municipal ownership of city councils of cities of regional importance Osh Balykchi, Talas, Kara-Kul, TashKumyr, Maili-Suu, Jalal-Abad, Sulukta, Kyzyl-Kiya.

Only municipal property for city administrations cities of regional importance of the Kyrgyz Republic then offered to transfer 736 social facilities, health, housing and utilities, and other objects for population residual value at the time 2,844,678 KGS.

Government was requested to local state administrations and local authorities, together with relevant ministries, state committees, administrative agencies, state commissions of the Kyrgyz Republic to produce round-trip facilities to municipal ownership mayors of regional importance of the Kyrgyz Republic. City councils of cities of regional importance of the Kyrgyz Republic to take effective measures to safeguard transmitted to municipal ownership of objects, creating the necessary conditions for their functioning, meeting the needs of cities of regional importance in the services they provide. In accordance with the previously adopted legal acts in line with this decision were brought into line with current legislation.

Besides by this Government Resolution adopted: Regulation on the procedure for transfer of state-owned facilities in the municipal property city councils of cities of regional importance. In this situation then repeatedly introduced amendments (as amended by the Governmental Decree on August 9, 2004 N 577, August 17, 2004 N 622, September 8, 2004 N 672), and the Model Regulation on account of municipal property and maintaining a register of

municipal property and property (as amended by Resolution of the Government of the Kyrgyz Republic of August 17, 2004 N 622).

Regulation on the procedure for transfer of state property to municipal ownership gives us the fundamental principles of division of property objects for their transfer. Objects to be transferred to municipal ownership mayors of regional value, determined by the following principles of division of property:

- Population's need for services provided at the facilities;
- The possibility of financing the activities of local authorities objects.

Thus drawn attention, to the fact that these facilities are the guidelines in services to the local community, other point is the presence of the financial ability of content objects transmitted by the local authorities, to be useful. Thus do not mean lay a burden and were difficult for the local community.

Other bases of the right of municipal ownership of the property in addition to the transfer of state property to local governments, is the formation of municipal ownership:

- Of the funds received by the local budget in the form of local taxes, fees and other established by the legislation of the Kyrgyz Republic obligatory payments; amount paid by citizens and legal persons, public authorities and institutions for the lease and use of municipal property; dividends and interest, proceeds from the sale of confiscated in accordance with the law of property, donations and other receipts that are not prohibited by law;
- Through the acquisition of objects in the property from citizens and legal persons in civil law transactions (sale, exchange, donation, non-performance by the other party of its contractual obligations);

- By expropriation or other compulsory seizure of property for the obligations of the local government bodies, or otherwise by the court;
- In recognition of ownerless things received in the municipal property by a court decision;
- As a result of construction, manufacture or create new objects at the expense of local governments;
- In other cases stipulated by the legislation of the Kyrgyz Republic.

In addition, the formation of municipal property at the dawn of local government and the formation of their material and technical base for the resolution of local issues and provide the necessary services to local communities can be traced and other legal acts. Facilities (rural municipalities) on the basis of Government Resolution № 531 of 11.11.1996 "On the order of transfer objects in municipal ownership of local communities KR". Objects (urban municipalities) - as noted above by the Governmental Decree number 608 of 08.10.2001 "On the order of transfer of state property to communal ownership cities of regional subordination" and - Government Resolution № 827 of 16.12.1998, the "On the transfer of objects in the communal ownership and management structure of the urban cities of district subordinations in the KR".

Once we have defined the process and the legislative basis for the formation of municipal property shall review the provisions of the law "On the municipal ownership of the property" in terms of the provisions of state registration of rights to immovable property situated in the municipal property and transactions with it. This is important because of the law without such registration may not be a question of rights, fixing all sorts of property.

Article 7 of the Legislative Act states that the right to immovable property situated in the municipal property, as well as limitations on those rights, their emergence, change, transfer or termination of registered in the state registration bodies relevant territory in the manner prescribed by the legislation of the Kyrgyz Republic.

The law also sets the standard that all costs associated with the state registration shall be made at the expense of the local budget. Like any property right of municipal property must be confirmed by the presence of the title documents. Those documents to objects of municipal property, in particular, the laws, decrees of the President of the Kyrgyz Republic, decrees of the Government of the Kyrgyz Republic, the court's decision, contracts and other transactions, as well as other statutory acts of the Kyrgyz Republic, establishing the right of municipal ownership of the property.

Article 9 Law stipulates that local authorities are required to have and maintain an inventory of municipal property to property. For this there are model regulations on accounting and management of municipal property and Property Registry of the municipal property (as amended by Decree of the Government of the KR dated August 9, 2004 N 577). Register must contain the following information:

- Description of the objects;
- An indication of the location of objects;
- Documents confirming the rights to objects of municipal property possessed by local governments or other entities or individuals;
- Limitations on the use of objects;

- Estimated cost of facilities;
- Other information related to the characteristics and use of municipal property on the property.

Content of the register of municipal ownership of the property must be available for the study of citizens.

Subsequently, on the basis of the model provision executive and administrative authorities of local self-government set at its order establishing and maintaining a registry of municipal ownership of the property and it must be approved by local councils.

Law "On the municipal ownership of the property" also includes termination of rights issues of municipal ownership of the property. From which it follows that the right of municipal ownership of the property may be terminated in the following cases:

- Disposal of the property to state ownership, the ownership of legal entities and individuals;
- Loss or destruction of property, or by loss of the right to property;
- Deprivation of property rights for the obligations of local governments;
- The abolition of local governments with rights on municipal property;
- In other cases stipulated by the legislation of the Kyrgyz Republic.

Property located in the municipal property may be alienated by sale, barter or privatization. Expropriation which is municipal property, made of the executive and administrative branch of local government. Procedure for disposal of the property, which is municipal property, set by the local authorities. As to the seizure of property, which is municipal property, it is not permitted, except in cases stipulated by the legislation of the Kyrgyz Republic.

The privatization law stipulates according to claim 2, article 12-1 that the implementation of the privatization of municipal property shall be in accordance with the legislation of the Kyrgyz Republic on state property privatization.<sup>15</sup>

There are various methods of privatization of municipal property. Methods are the following:

- Sale by auction;
- Sale of the competition;
- The transfer of the management of-purchase;
- The lease-purchase;
- Entering as a contribution to the charter capital of economic partnerships and companies.

This law also provides for exceptional cases of privatization, which states that in exceptional cases, based on the decision of the local council privatization of housing, municipal ownership, can be affected by transfer of the ownership of individuals at no cost. It also provides a case where the object of the municipal property exhibited twice at a public auction in the prescribed manner and has not been sold; the privatization of the municipal property by the local council can be made by direct sale. These changes in the law "On the municipal ownership of property" were introduced by the wording of Law of the KR dated August 19, 2005 N 152, November 22, 2006 N 184.

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<sup>15</sup>Law of the Kyrgyz Republic "On privatization of state property in the Kyrgyz Republic" dated 31.01.2002

Given to note here that executive body of local self-government should not just carry chaotic privatization process and develop before this program of privatization of municipal property, and this program should be coordinated and approved by the appropriate local authorities. In the privatization program should cover the following points are required:

- goals and objectives of the policy of local authorities in the area of privatization;
- procedure of privatization of municipal property and bidding;

Classification of municipal property:

- The objects of municipal property to be privatized;
- The objects of municipal property, which are fixed in the municipal property before deciding on privatization;
- The objects of municipal property, privatization of which is prohibited;
- forecast proceeds from the privatization of municipal property;
- procedure of privatization of municipal property and bidding;
- classification of municipal property:
- The objects of municipal property to be privatized;
- The objects of municipal property, which are fixed in the municipal property before deciding on privatization;
- The objects of municipal property, privatization of which is prohibited;
- forecast proceeds from the privatization of municipal property;
- prognosis of the investment through privatization of municipal property.

All funds received from privatization of municipal property, go to the local budget. Regarding the provision of land, municipally owned, the ownership of individuals and legal entities, they are made in the manner prescribed by the

land legislation of the Kyrgyz Republic. Code of the Kyrgyz Republic regulates land relations in the Kyrgyz Republic, the grounds of the order of implementation and termination of rights to land and their registration, and aims to create a land market relation in the state, municipal and private land ownership and management of land and its protection.

Article 4 states that in accordance with the Constitution of the Kyrgyz Republic, land owned by the state, municipal, private and other forms of ownership. Chapter Two describes the Land Code of the core competencies that public authorities and local authorities in the sphere of land relations, in particular the competence of the executive and administrative authority of local government ail county, township, the competence of the executive and administrative body of the local government of the city (City Hall, City Council), district state administration, as well as other organs in the regulation of land relations.

If we turn to the specific competences of local authorities in the management and disposal of municipal property, the law on this subject in the article 19 of the Law "On the municipal ownership of the property" identify and delineate exactly what each local authority the power to exercise, the types of powers enshrined for him in law and undeniable, in particular:

*Local council or authorities:*

- Establishes rules for the use and disposal of municipal property, as well as control over its use;
- Agrees to the provision of municipal property in the mortgage or pledge;
- Approves the privatization program;
- Establishes the order of security of municipal property;

- Approves the prices and tariffs for public services rendered by municipal enterprises and institutions, as well as other legal and physical persons using municipal property;
- Establishes the order of cancellation of municipal property;
- Exercise other powers stipulated by the legislation of the Kyrgyz Republic and the Charter of the local community.

*Executive authority of local self-government:*

- Manages and disposes of municipal property;
- Develop and submit to the local council draft normative legal acts of local self-government, providing for the procedure for granting rights to objects of municipal property, privatization programs and other regulations establishing the procedure for the management and disposal of municipal property;
- Provides guidance, coordination and control of the establishment, operation, reorganization and liquidation of municipal enterprises and institutions, as well as management of shares of joint stock companies, municipally owned;
- Enter into contracts relating to the management and disposal of municipal property;
- Maintains a register of municipal property, as well as other records of municipal property in accordance with the legislation of the Kyrgyz Republic;
- Insures municipal property, taking other measures to ensure the safety of municipal property;
- Exercise other powers stipulated by the legislation of the Kyrgyz Republic and the Charter of the local community.

In conclusion, it should be noted that in addition to the powers provided that provided local authorities, at the same time need legislative protection of the rights of municipal ownership of the property, which they were given. The right of local self-government, or any other legal or natural persons holding rights to municipal ownership, protected against the illegal actions in accordance with the legislation of the Kyrgyz Republic on the rights of property, and in accordance with the provisions of contracts or agreements for the rights to municipal ownership between local governments and other stakeholders. Remedy on municipal property shall be in accordance with the legislation of the Kyrgyz Republic.

And therefore, when it comes to granting rights of possession, use and disposal of municipal property, the same time in parallel with such rights should be the responsibility of local governments for violation of municipal property. The law specifies that local governments and their officials are held accountable for the violation of possession, use and disposal of municipal property on the property in accordance with the legislation of the Kyrgyz Republic, if any, will the exercise of their powers at the local level.

## **CHAPTER IV. APPROACHES TO IMPROVE LEGISLATIVE REGULATION OF MUNICIPAL PROPERTY**

### **4.1 LAW AND NORM CONTRADICTIONS IN MANAGEMENT OF LAND RELATIONS**

The land legislation of the Kyrgyz Republic is a conceptually new and small volume collection of normative legal acts adopted after the enactment of the Land Code of the Kyrgyz Republic (Legislation of KR). Most of the regulatory framework was aimed at realization of the old Legislation and respectively, need to be updated. However, the process of legislative gaps and conflicts settlement regulations, unfortunately, is slow and inconsistent. Legislation of KR as a fundamental normative legal act contains internal contradictions, and these contradictions also affect the activity of local governments on municipal property management. Restrictions imposed by the Legislation of KR to establish KR own priority, do not allow others to use, possibly obsolete legal acts, which in some measure fill gaps that Legislation of KR contains the Land Code of the KR. Some of the existing contradictions Code consist of the following elements:

1. From the sense of the rules of the land legislation providing the land, as in the property and is entitled to exercise in the use of only the public authorities, which are the Ail Okmoty (local authorities), city council, mayor's office, district administrations, the government. As the name suggests these authority, which include the local authorities, we can assume that the legislator was an inaccuracy in the generalization of the names of all these bodies "authorized authority" since local authorities are not public, and can serve as public

authority only in the case of the latter's delegation of authority (st.113 Constitution of the Kyrgyz Republic).

2. According to legislation paragraph 2 of art. 29 of the KR tendering procedure shall be determined by the specially authorized state authorities. As already mentioned above, these are and Ail Okmoty (local authorities). However, according legislation art.13 of KR and art. 46 of the Law "On Local Self-Government and Local State Administration" Ail Okmoty has no such authority. Normative legal acts shall be entitled to receive local councils (article 30) and, in accordance with Art. 23 of the Law "On Local Self-Government and Local State Administration", it is the local councils have the right to determine the order of the municipal property. Consequently, if the plots are in municipal ownership, the order granting land at auction define local councils in their respective territories; if the land owned by the state, the order determined by the Government (see Model Regulation "On the procedure and conditions for the provision for onerous property rights or lease on land in the settlements", approved by the Government of the Kyrgyz Republic dated February 5, 2004 № 57).

3. Withdrawal of land is one way to extinguish the rights to the land, an exceptional measure termination rights to the land and is used only by the court. In accordance with established procedures, the competent authorities may initiate the process of taking land in court. However, a generalized notion of "competent authorities" is used by the legislator, makes you wonder. For example, can initiate withdrawal Ail Okmoty agricultural land plot for its misuse? Analysis authority Ail Okmoty shows the impossibility of such a step, at least because of agricultural land, except LRF and village pastures are not in the management of this authority. It has the right to dispose of land in

settlements. Thus, not all of the public authorities may initiate the process of withdrawal. Litigants to seize land plot may be different competent authorities, depending on the reason for the seizure of land. So, for agricultural land side in court can act public authorities. On the parcels of land settlements are the competent authorities that provided the land, the ownership or use. All grounds seizure of land having sanctioning character (in the case of misuse, non-use of agricultural land for 3 years; non lands within the timeframe established town planning legislation, land tax, non-payment of premiums), expects to pay the cost of the right to Land net costs associated with the removal of the land and the organization of the auction. In the case of land acquisition for state and public needs competent authority is likely to have to serve the public authorities, if the withdrawal is effect for state needs, and local governments - in the case of the need to meet public needs, respectively.

4. According legislation paragraph 2 of art. 119 of the KR resolving land disputes relating to the provision, withdrawal and termination of rights to land, solved only by the court. This is the general rule, which, at first glance, it seems simple. But the question arises, how it is possible to appeal to the court authorized state agency or local authority, a statement if found illegality of an act of granting the land to a person, and the grounds for exemption listed in legislation art.66 of the KR not. There is a conflict rule providing for the seizure of land only in court, but such grounds as illegal allocation of land as the basis for the seizure of land, this norm does not.

5. Question also arises as to the parties to the dispute. Can the competent authority to allocate the land and be both claimant and defendant in the case. Person to whom the plot is selected, may not always be the defendant, because

sometimes the violation of land legislation allowed by the authorized government body. Sometimes found the illegality of the decision to provide land to establish the boundaries of land in kind or issue of certifying documents.

6. Withdrawal of land - with the allocation of land and fixing of borders on the ground based on the decision of the authority. In accordance to legislation paragraph 3 of art. 13 of the KR allocation of land for development within the boundaries of rural settlements and settlement are bases on the master plan development project rural settlement after consultation with the authority of Architecture and Construction (the chief architect of the district). However, in accordance with paragraph 6 of the Regulation "On land management and the manner of its conduct", approved by the Government of the Kyrgyz Republic dated 27 December 1999 № 715, the withdrawal of land on the ground carried Governmental Registry. Preceding from this, at the moment the two departments are disputes regarding competence in land allotment.

7. Article. 3 Attach the intended use as one of the principles of land legislation. On target use and purpose of said subject only two articles legislation of the KR (articles 11, 12). However, even these two articles is inconsistent and do not provide a sufficient explanation for the settlement of the issue. For example, in article 11 stipulates that the assignment of land to the categories is made according to their main purpose and, accordingly, the translation category is possible in case of change of the main purpose of land. Competent in these matters only authorized authority. However, art. 12 regulates that the establishment and change of use is made specially authorized state authority. The problem here is that, according to this norm changing the purpose of land carried out by authorities which are provided for in legislation art.19 of the KR,

whereas the meaning of this provision that the appointment should provide land set authority providing land and the question of changing the target destination must also be addressed by the same authority.

#### **4.2. RECOMMENDATIONS TO IMPROVE THE MANAGEMENT AND DISPOSAL OF MUNICIPAL PROPERTY IN OSH**

Administration Osh exercises the powers of municipal property owner Osh through sectorial and territorial divisions. Municipal property of Osh city in the possession of use and disposal of the local government serves as a source of income and the socio-economic needs of the population of the city. Protection of public property rights are guaranteed by the government. The procedure for use and disposal of municipal property is set by local authorities in accordance with the legislation of the Kyrgyz Republic.<sup>16</sup>

The composition of the City Hall and includes structural subdivisions. The structure of city government and divisions of City Hall approved by the Government of the Kyrgyz Republic «On measures on organization structures of state power and administration of the city of Osh» from April 14, 2003 № 208. In accordance with the Decree of the Government of the Kyrgyz Republic in the city of Osh function:

-14 Offices, 3 Committee, Division 2, 1 inspection, one military commissariat, 1 office and 1 service, have the functions of government and non- territorial divisions of ministries, state committees, administrative departments of the

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<sup>16</sup>The Law "The status of the Osh city" Government House on June 11, 2003 № 97.

Kyrgyz Republic, 15 municipal agencies and nine companies providing livelihoods in Osh city.

Among the above-mentioned structural units of the municipal property management Osh - is the main authority, whose task is to perform the functions of municipal property owners and municipal lands in Osh, which delegated to it by the City of Osh. Management is headed by a Chief who is appointed and dismissed by the Mayor of the city of Osh. <sup>17</sup>

Municipal Property Management Authority powers defined in the relevant normative legal acts of Osh municipal government, among which are directly self -laws of municipal property Osh. Management on behalf of the local government performs the following tasks:

- a. ensuring the effective use of municipal property and municipal land Osh in accordance with its purpose;
- b. coordination of institutions, enterprises, organizations and other entities in Osh on municipal property management;
- c. the functions and tasks of the specially authorized by municipal land granted to individuals and legal entities;
- d. protects property rights and interests of Osh city administration in matters of municipal property;
- e. accept and maintain a registry of municipal property Osh;
- f. coordinates the activities of government Osh enterprises, organizations and institutions in the city on the municipal property;
- g. examines and considers proposals for the use of vacant and unused municipal property;

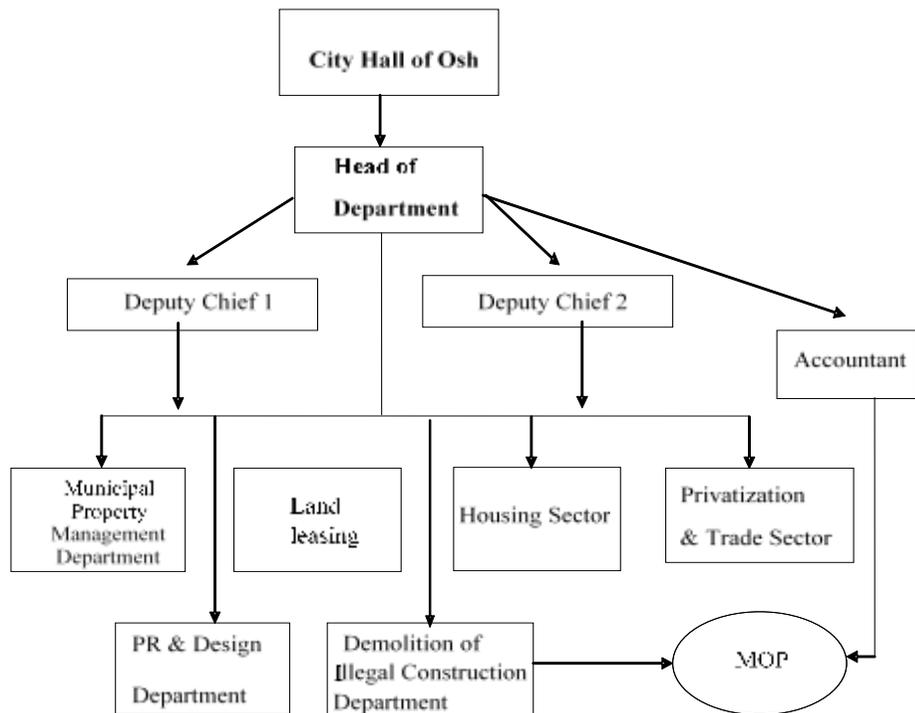
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<sup>17</sup>Regulations of the municipal property Osh approved by Decree of the Mayor of Osh from 30.01.2007, № 122.

- h. 8 organizes design visual forms of agitation (hanging slogans production of stands, preparing panels, etc.);

Management Structure includes departments and sectors to ensure fulfillment of its functions. Management consists of the following departments:

- department of municipal property;
- division of land lease;
- the Department of Advertising and Design;
- sector privatization and tendering;
- the Department of Housing;
- Department over illegal buildings.



*Table 1 Organizational management structure of the municipal property of the Osh city.*

Municipal property Osh - is the economic basis of local self-government of the city, one of the main sources of income of the city budget.

*In overall, by the 01.12.2009 in the municipal property Osh includes:*

1. Medical centers: 24
2. Educational centers: 75

The 24 medical centers consist of district polyclinics, regional hospitals and educational centers consist of schools of art, music and culture, kindergartens. There are other external accomplishment facilities as roads, sidewalks, water channel nets, bridges crossing, street lighting, squares, traffic lights, and parks.

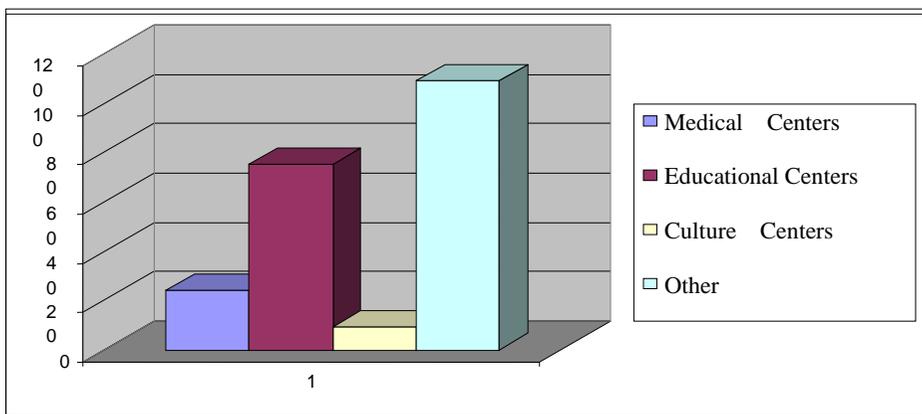
**Thus municipal property consists:**

1. *Medical facilities: 24*
2. *Educational centers: 75*
3. *Cultural centers: 9*
4. *Nonresidential buildings: 6*
5. *Sport centers: 5*
6. *Buildings institutions and enterprises: 19*
7. *Housing Fund (apartment): 4*
8. *Assets under construction: 13*
9. *External accomplishment facilities: 62*

**Total: 217 objects.**

#	Sector	Quantity	
		01.01.2008	01.01.2010
1	Medical	23	24
2	Culture	9	9
3	Education	72	75
4	Other	111	109
	<b>Total:</b>	<b>215</b>	<b>217</b>

Table 2 Content of Municipal Institutions



*Diagram 2.1 the structure of the municipal institutions by activity on 01.01.2010*<sup>18</sup>

The diagram shows that a major proportion of municipal institutions of education provided, followed by health care, on the third culture. A significant portion of municipal property is property that serves as the implementation of social objectives and not aimed at commercial use. This property should bring maximum beneficial effect at a reasonable cost to it.

#### **4.3 ANALYSIS OF THE EFFECTIVENESS MANAGEMENT OF MUNICIPAL PROPERTY**

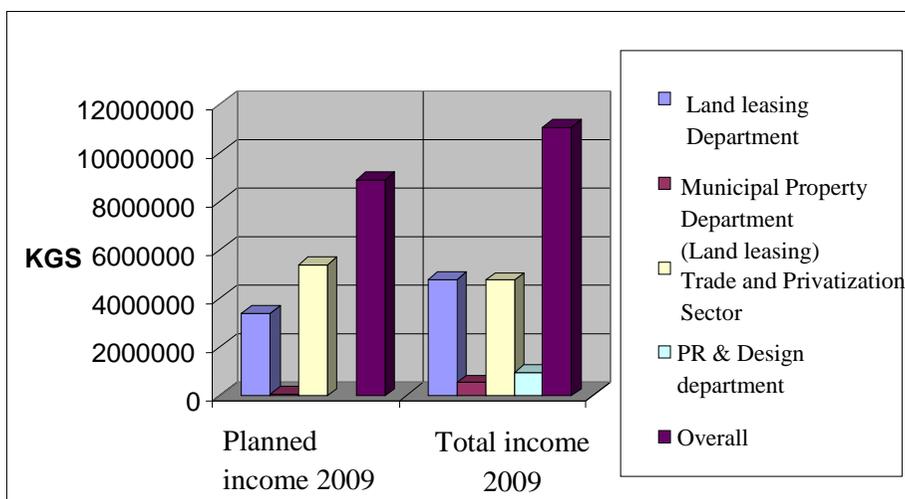
To assess the performance of local authorities in terms of efficiency, it is necessary to consider indicators that characterize this activity.

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<sup>18</sup>Municipal Property Management Osh Letter № 2521/05-6 from 17.12.2009

2009	Land Leasing Department	Municipal Property Department (lease of a buildings)	Sector on the Privatization and Organization of a Trades	PR & Design Department	Total
Plan for 2009	3405000	77000	5400000		<b>8882000</b>
Total income in 2009	4777900	549500	4754200	968400	<b>11 050 000</b>

*Table 3 Proceeds from exploitation municipal property of the city of Osh in 2009*



*Diagram 2.2 Amount of total income in 2009, to a budget of Osh city*

In this paper, we take the performance data of the city, which is reflected in indicators such as non-tax revenues to the local budget from the use and management of municipal property. In 2009, the use and disposal of municipal

property in the city budget received 11.05 million KGS. <sup>19</sup> It should be noted that the originally planned amount was income of \$ 8,882 million KGS. Exceeding its performance is the amount of 2,168 million KGS or 24.4%.

Formation of budget revenues from the use of municipal property in 2009 occurred on the following areas: income from rental of land 4,777,900 KGS; income from the sale of property 4754200 KGS, rental income from government buildings 549500 KGS income from advertising and design department for the lease of municipal land for promotional objects and distribution of outdoor advertising 968400 KGS.

That is 43.2% percent of revenue in the budget under “Non-tax revenue” comes from the lease of land, 4.9 % percent of the rent of public buildings, 43.02 % percent of the sale of the property and 8.7 % for the lease of municipal land for promotional objects and distribution of outdoor advertising.

If you turn to the table of the forecast plan for the use of municipal property, it can be concluded that the income from the lease of land obtained and made in excess of 140.3 % from the rental of public buildings 713.6 %, from the sale of property 88.04 % where is the observed decrease in the share of income by 11.96 % of the target. This is explained by the fact that the auction scheduled for the end of the year were transferred to the next year, and income from them is already taken into account the following year. Comparison of Income Division of advertising and design was not made, since this department was established only in 2009.

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<sup>19</sup>Data provided by the Office of the reports Osh municipal property in 2009

However, in order to get more objective information on the status of the use of municipal property of the city, turn to the figures, which show the work of the Office for the 2 quarter of 2010, which will allow us to compare results over time and to identify the state of affairs in general and the dynamics increase or decrease in income from the use of municipal Property.

This will allow us to evaluate and draw conclusions about effective or ineffective management and use of municipal property of the city

	1. Quarter of 2010 (January, February, March)		2. Quarter of 2010 (April, May, June)	
	Nominal	Factual Receipts	Nominal	Factual Receipts
<b>Land Leasing Department</b>	1740000	1954860	1740000	1006369
<b>PR &amp; Design Department</b>	330000	336141	570000	28431
<b>Municipal Property Department (lease of a buildings)</b>	225000	84100	225000	158200
<b>Sector on the Privatization and Organization of a Trades</b>	1852300	660500	2715900	1771700
<b>TOTAL</b>	<b>4147300</b>	<b>3035601</b>	<b>5250900</b>	<b>2964700</b>

*Table 3 Total sum of income for first and second quarters of 2010. Municipal Property Department of Osh city.*

It should be noted that in the first quarter of this year, in January, February, March months from land lease observed excess revenues in the amount of 214,860 KGS of the plan. The same pattern is seen with the income from the Department of PR and Design (for installation of facilities for rent advertising and distribution), where the excess of the plan was 36141 KGS. The picture is different with the rental of buildings, where the sum of the backlog from the original plan is the sum of 140,900 KGS. Sector privatization and tendering did not get in the 1st quarter of the amount of 1,191,800 KGS. Thus, the total deviation from the projected revenue totaled KGS 1111699KGS.

As for the second quarter in April, May and June 2010, here there is the following situation. At the department of leasing land there is a time reduction of income and loss of the amount of 733,631 KGS of the plan. The same is true with the income from the Department of Advertising and Design (for installation of facilities for rent advertising and distribution), where the backlog of the plan was 541,569 KGS. The lease of a building, had not received the amount of 66,800 KGS. Sector privatization and tendering , although in the 2nd quarter increased the amount of flow of 2.5 times in comparison with the previous quarter , but still did not get the amount of the plan in the amount of 9 44200 KGS . Thus, the total deviation from the projected revenue for the second quarter amounted to the sum of 2 286200 KGS. If you take the total comparative slice according to plan and the revenues that have been produced for two quarters, that is 6 -month period from January to June 2010 , it was received 6 000 301 KGS, while expected to receive 9 398200 KGS . Thereby deviation plan revenues amounted to 3 397899 KGS.

From all this we can conclude that the actions of the municipal property Osh to eliminate debt on lease payments and other revenues, indicate a lack of efficiency and organization of land privatization and trading. Generally if you rely on the figures for income, then all it is quite possible to assess how well the effective direction of use of municipal property of the city, because, on the one hand objects of municipal property are in economic turnover, and other municipal budget gets a certain amount of financial income, while usually annual. Providing designated revenues - purpose of the Office municipal property Osh Sum of non-tax revenues from rents on land, and the actions of the municipal property to eliminate debt on lease payments, indicate a lack of effective work on the use of land.

The analysis of efficiency of functioning of the bodies involved in the management of municipal property, shows overall direction due use of municipal property (rent). But this increase in performance and could be high.

Next, consider the problems that hinder the effective management of municipal property in Osh and offer some solutions to these problems:

1. For local economic development of the city of Osh basic resources are municipal land. The municipality land use as a source of additional income to the local budget. Practice shows that not only in villages but also in all the cities of our country, there are some problems in the field of qualified land management. One of the most topical issues of concern to people is the question of transparency and openness in the management of municipal land by local authorities.

To solve the inefficient use of land can offer the following:

- A full inventory of leases of municipal property, to identify unscrupulous tenants, followed by termination of the lease, if necessary;
- In order to ensure timely receipt of the budget rent for leased land , it is necessary for execution of contracts for the payment of municipal property between entities , regardless of their form of ownership, is assigned to the State Tax Inspectorate Osh ;
- The creation of a special commission to work on the recovery of arrears of rent for land and drafting claims in court;
- Regularly work to identify facts squatting municipal land and their freedom from illegal users.

At the same time in order to reduce and eliminate the loss of profit from the use and disposal of municipal land should:

- 1) Update on trading position due to changes in local laws and regulations.
- 2) Annually update and approve local authorities (kenesh) coefficients calculation of the rent for those who got to rent without bidding, as well as rental rates starting at exhibiting at auction sites for rent.
- 3) Identify and enter into a lease agreement with those individuals and entities that use the land without a lease. 2. on the territory of Osh city, and in general in other municipalities are undeveloped land or unfinished construction objects that spoil the modern look of the local infrastructure. This is due to individual land users neglect their responsibilities for the development of land tax and rent payments. For effective use of municipal land and control the timing of their development requires amendments to the Land Code of the Kyrgyz Republic in the withdrawal of the right to temporary use of the land without recourse through contractual relationships , in cases of undeveloped without valid reasons or lack of deadlines any buildings and structures .

3. Another problem that exists in the management of municipal property Osh city - a low level of income from the use of non-residential real estate , this is due to the fact that the quantity is small, and the objects that can be offered for rent need major repairs. For example, to January 1, 2009, of the 210 non-residential buildings of the municipal property of the city, were signed lease only 24 projects, amounting to 546.5 KGS. The collected amount was determined to be 468.5 KGS where arrears amounted to 77.9 KGS.

To increase the use of non-residential real estate fund in order to increase non-tax revenues to the local budget, you can attract potential tenants by offering them the following incentives:

- Exemption from rent in the amount of 10-30 % of the estimated value of the work;
- Increase of the lease depending on the amount of work performed;
- The possibility of reimbursement of costs for termination of the lease.

At the same exemption from rent for the entire period of repair (or the entire amount of the estimated cost of capital costs ) would be inappropriate : substantial losses to the budget , the tenant loses the incentive to reduce the cost and time of repair, the estimated cost of repair often will not meet its market value.

4. Next problem - is the availability of orphan objects that originated as follows: When compiling the list of objects to be differentiation and transfer to municipal ownership were not taken into account some of the objects as a result of these objects are not included in the assets of the city, and as a result have

not been registered Government Resolution "On the transfer of objects in the municipal ownership of city councils of cities of regional importance of the Kyrgyz Republic."<sup>20</sup>

Problem of unclaimed properties could solve a full inventory of objects, which involves the following steps:

1. The establishment owner of the property;
2. Determination of the functional purpose of use of the property;
3. Independent appraisal of the property;
4. The establishment of a technical condition and its status, if it is a residential property or nonresidential.

For a complete solution of this problem is necessary legislative act designed by City Hall of Osh prescribing actions needed to identify unclaimed objects, and events related to the registration of property rights. But other than that in this document should be specified for the task and the names of the officials who will be responsible for the execution of tasks.

But the solution to this problem is applied to the next unsolved problem is the lack of legal documents, as an ownerless objects, and some objects of municipal property.

Of this problem yields the following problem - this technical inventory of real estate.

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<sup>20</sup>Resolution of the Government of the Kyrgyz Republic "On the transfer of objects in the municipal property for city administrations cities of regional importance of the Kyrgyz Republic" dated October 8, 2001 N 608.

5. Another important challenge to the at present effective use of municipal property , is also a dilapidated housing and water supply and sewerage networks that distracting to repair significant funds . Here are two possible solutions:

- Increased costs for the overhaul that requires a sharp increase in the revenue side of the budget, and over the years, this need will only increase;
- Intensification of work with public authorities in order to attract public investment for capital repairs or complete reconstruction. That is demolishing dilapidated property and construction of a new highly profitable facility.

6. Particular importance in addressing the effective management of municipal property attached to the issue of direct participation in decision-making of property management. Unfortunately, not only the people are not aware of their rights and powers, but deputies and district councils. This is reflected in their behavior and manifested in the form of passive participation in decision-making. Thus, from the above it follows that the population of the municipality is also a source of power in the territory. And as the local community - is, in fact , the population living in the municipality , the local community - a source of power in the territory, and decision-making , including in relation to municipal property , here is carried out on behalf of the local community.

As a tool in solving this problem can propose the introduction of an approach which is widely used in some countries. It comes to assessing the quality of services provided to the population, through the introduction of civil card statements. Thus, we can evaluate the effectiveness of not only local authorities in Osh, but also companies in the territory of the local community, received the right to use property. This tool was first developed and tested in India. The

result was to improve the quality and transparency in the management and decision-making by local governments.

The population, on an annual basis will assess the quality of services in the Osh city. Results will be sent to the relevant authorities and management decision-making and to improve the monitoring of performance. In my opinion, this system it is possible to adapt to the conditions of our country. However, it must be emphasized that the effect will be achieved only when the interest of the public, local authorities, local public administration and the Government as a whole. In addition, for the effective implementation of this instrument is necessary to create conditions for the development of informal institutions to control and participation in decision-making: the associations of local organizations, courts of elders, youth organizations, through the strengthening of their role.

In general, in the efficiency of municipal property important qualitative development of the socio-economic development of the municipality, by making trainings, an advertisement in the most attractive investment spheres. As an example, the Bishkek city Development Program " Updated Capital" for 2009-2012, where one of the main objectives of the program is to improve urban governance, where the priorities are to improve the problem of the current legal framework; increase in revenues of the city budget; more efficient use of budgetary funds and municipal property, as well as improving the system of training, education and training of municipal employees. However, I would like to mention the most important aspects in the legal field, also requiring urgent consideration, as the quality of the solution of local issues:

1. Specifically, if for example consider the currently valid law of the Kyrgyz Republic «On the status of the city of Osh,"<sup>21</sup> it does not fully reflect the current state of affairs in the organization and practice of local government of the city of Osh. The law does not create an effective legal framework to promote growth of urban income from the use of municipal property of the city.

2. According to the Law of the Kyrgyz Republic "On Local Self-Government and Local State Administration " and the Land Code of the Kyrgyz Republic, the competence of the local government include the development and implementation of the Master Plan , the monitoring of compliance with the norms and rules of architecture and urban planning, land use and conservation .

At the same time, in accordance with the Law "On Urban Planning and Architecture of the Kyrgyz Republic" control over all forms of urban development activities, including the issuance of permits for construction of the facility, construction and acceptance of construction projects in operation, shall state body architecture and construction without the participation of local government. The responsibility for implementation of the Master Plan, improved appearance of the city and the creation of recreation for citizens rests with the local authorities. In this connection it is necessary to prepare proposals for amendments and additions to the Law of the Kyrgyz Republic "On Urban Planning and Architecture " in terms of delegating executive - administrative bodies of local self- government powers of the Osh city, and also transfer such jurisprudence in other cities of regional and national importance.

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<sup>21</sup>The Law «The status of the Osh city" Government House on June 11, 2003 № 97.

3. Necessary to introduce zoning, which is approved under a legal act of local government - Land use and development.

With the introduction of zoning a real opportunity to make it easier for many businesses and citizens procedure for obtaining permits, reduce bureaucratic "press" and to create a favorable investment climate. By zoning map developed with the division of the city into the following areas: - central, social and commercial business; - Residential; - Special; - Industrial; - Other.

For each zone and accordingly its member stations set not one but several types of permitted use, which is one of the basic principles of zoning. Availability list of permitted uses of land replacing one of its purpose, allows owners and investors dynamically change the appointment real estate subject to market demand.

Rules reduce the time of granting rights to land and obtain a building permit by eliminating unnecessary, redundant links, various bureaucratic obstacles.

The essence of zoning is that the lists of permitted uses include those activities that do not conflict with each other, do not violate the interests of neighbors and do not reduce the cost of the neighboring estate or complicate activities on the neighboring plot. Also, a higher level of access to information on land parcels that are subject to potential investment capital.

4. Financial issues registering municipal property.

Note that the registration of municipal property today in many municipalities stopped due to high costs, which must be held by the municipal budgets for

state registration of municipal property. At the same time, the state registration of ownership also includes accompanying measures State Registrar authority, which includes in particular the implementation of such works as inspection of the land and property, collection of measurements, compiling the technical certification of municipal property and other jobs that require additional payment in accordance with the price list of services State Registrar. Often such documents as local governments were not available, so in addition to the payment of state duties they will have to incur the cost of preparing such documents.

Thus, it is necessary to establish in law a significant benefit on State Duty, as well as to pay for additional services for local governments. As shown by the current situation with the registration of municipal property, municipal authorities have no financial opportunities such registration at their own expense, resulting in a set of objects and are not registered in accordance with the law in the territorial authority State Registrar. Determination of the amount of state duty and other payments to the symbolic sum of the action seems justified in the current circumstances and realities.

## CHAPTER V. CONCLUSION

### 5.1 Policy Implications

Municipal property along with local finances is the economic basis of local self-government. Therefore, the issues of formation of effective management and disposal of municipal property are a priority for municipalities. For newly created municipalities' particularly urgent problem of early and full legal support of the local authorities on municipal property management. Solving the problem of creating an effective system of municipal property management involves focusing normative, organizational and managerial efforts of local governments in the following main areas:

1. Ensuring proper (complete and timely accounting) municipal property and maintaining its registry, which includes a multi-dimensional (technical, economic, legal) a description of accounting objects.
2. Ensure optimal management decisions on disposal of municipal property (compliance weighted balance of social , fiscal and investment purposes) , including at its disposition , securing economic management or operational management , use or transfer of asset management, introducing as input when creating business entities, used as collateral for credit liabilities (mortgage) .
3. Ensuring proper maintenance and effective use of municipal property, including measures to improve the investment attractiveness of municipal real estate.
4. Ensure effective control over safety and the intended use of municipal property.

Regulatory activity of local governments in the regulation of relations on the management and disposition of municipal property should be based on existing legislation governing property relations. In its rulemaking proceeding, the local authorities have to rely on at this constitutional provision, enshrining their right to independently manage municipal property. Public authorities, administrative boundaries which are municipality cannot regulate directly the order management and disposal of municipal property.

## **5.2 Summary of Findings**

This thesis work is to make an emphasis on the importance of using the most suitable classification criteria in order to ensure an effective municipal property management. The results may contribute to the identification of reliable variables that can be used as a starting point for the strategic management of municipal properties.

In accordance with the Constitution of the Kyrgyz Republic of municipal property is recognized and protected equally with private, state and other forms of property. It must be borne in mind that in the civil law, there are special rules relating to state and municipal property. In other words, the legislator establishes certain features of the legal regime for state and municipal property.

Municipal ownership and management, is one of the main means of implementing social and economic policies of the municipality, as well as one of the subjects of management of local governments. To effectively manage the property of a single combined policy complexes administrative, economic and legislative actions and focus on balanced urban development.

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# 키르기즈 공화국의 조세수입 기획제도 개선을 위한 연구

Shaiimkulov Taalaibek

행정대학원 행정학 전공

서울대학교

본 논문은 지방정부의 역할 중에서 가장 중요한 문제 중 하나인 지방정부의 재산관리에 관해 연구하였다. 지방정부 재산관리가 중요한 이유는 그것이 단순히 재산을 관리하는 고위공무원들의 행위와 그 조직에 관한 문제에 국한되지 않기 때문이다. 지방정부 재산관리의 효과성에 따라 일반 주민들에게 전달되는 최종적인 서비스의 질이 달라지고, 또한 지방정부재산은 지역 경제 발전과 지방정부 조세수입에도 영향을 미치기 때문에 매우 중요한 이슈이다.

본 연구는 먼저 지방정부 재산의 법적 특징과 그 내용을 살펴보고, 나아가 가장 효과적인 재산관리를 위한 정책을 제안하였다. 이를 위해서 해외사례를 참고하였고, 또한 지방정부 재산관리에

성공하고 지역경제 활성화에 성공한 다른 도시의 사례도 참고하였다.

첫 번째 장은 키르키즈 공화국의 지방정부 재산관리에서 현재 나타난 문제점에 대해 먼저 다루고, 또한 지방정부 재산관리의 법적인 규정에 대해서도 살펴보았다.

두 번째 장에서는 지방정부 재산과 관련된 현재 규제의 프레임워크를 분석하고, 법적인 규제조항과 분야별 법적 프레임워크를 상세히 살펴보았다. 지방정부 재산을 관리하기 위해서 먼저 재산의 양과 질 그리고 상태를 파악해야만 한다. 따라서 현재 법규정은 지방정부가 재산목록을 작성하고 보관할 것을 의무조항으로 규정하고 있다. 본 논문에서는 지방정부의 소유권 현황을 소개하고 지방정부가 재산관리 행정에서 겪고 있는 어려움을 파악하였다.

세 번째 장에서는 법률간 충돌의 문제와 더불어 지방정부 재산과 관련이 있는 토지와 관련된 규제조항간의 충돌 문제에 대해 다루었다. Osh 시(市)를 대상으로 하여 관리의 효과성과 지방정부 재산의 처분 현황 등에 대해 분석하고 나아가 현재 문제점을 해결할 수 있는 대안을 제시하였다.

요약하자면, 본 논문은 이론적인 연구와 키르키즈 공화국의 지방재산 관리에 관한 심도 깊은 분석을 통해서 정책관계자들이 실제 현장에서 활용할 수 있는 실질적인 정책대안을 제안하였다.

지방정부 재산은 사회경제적 그리고 법적인 관계들이 복잡하게 관련되어 있는 집합체이므로 세출법안의 방식과 형태 그리고 내용 등을 특징짓게 되고, 또한 일반 주민들의 삶의 목적과 결과에도 영향을 미친다. 다양한 요인들이 자산간 관계에 영향을 미치고 있는데 그러한 영향요인들의 가변성이 자산간 관계의 변동성에 영향을 미친다. 개인과 여러 개인들의 관계, 단체 등이 요소, 조건 그리고 시설 등의 사용과 배분에 관여하고, 자산관계의 주체가 된다. 각 주체들은 그들의 개별적인 경제적 이해관계가 다르기 때문에 지방정부 입장에서 보자면 갈등의 원인이 될 수 있다. 모순관계들은 기업과 사회 기관들, 기업과 주민들, 다양한 개인들 등등 여러 관계에서 나타날 수 있다. 이러한 모순관계 중에서 특히 주목해서 살펴보아야 하는 것은 주요 주체인 지방정부와 사회 기관들 그리고 지방 주민들과의 갈등관계이다.

본 논문은 연구논문 작성의 요구사항을 충실하게 준수하며 주석과 그림 그리고 기타 필요한 것들을 제공하였다. 향후 연구에 많은 도움이 될 것으로 기대한다.

주요어: 지방정부, 지방정부 재산, 법률

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