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Евразийское правовое пространство: взгляд молодых ученых

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В сборнике представлены статьи студентов, магистрантов, аспирантов, молодых ученых, в том числе в соавторстве с преподавателями, по итогам проведения «Евразийского молодежного юридического форума 18–19 мая 2017 г.», в которых авторы выявляют наиболее актуальные и дискуссионные проблемы материального и процессуального права в государственно-правовой, гражданско-правовой, уголовно-правовой и международно-правовой сфере и предлагают пути их решения.

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CORRECTION OF ERRORS IN THE UNIFIED STATE PROPERTY REGISTRY AS A WAY TO PROTECT PROPERTY RIGHTS.

In the process of state registration of property rights, mistakes are frequently made. These errors can appear by a variety of reasons and may result from the lack of experience and professional training of the officials. They also have a different legal bearing and, consequently, a different legal effect.

The procedure to correct errors correction which may be lead in the general form, is set forth in Art. 61 FL. "On state registration of real estate" [1]. The law distinguishes between clerical errors and registry errors.

An error in writing or a typing one, grammatical or arithmetical one, any similar error committed by the registration authority during the cadastral registration and (or) state registration of right and resulting in inconsistency of information contained in the USRE, it must contain in the documents according to which information entered in the USRE, is considered to be a clerical error.

An error which is repeated in the USRE but firstly appears is demarcation plan, technical plan, territory map or survey act, this firstly made by the person who completed the cadastral work, or error contained in the documents sent or submitted to the registration agency by other persons and (or) bodies in the process of information invasion as well as in any other way is a registry error.

Some factors that could cause an error are listed in a letter of the Ministry of Economic Development of the Russian Federation [2]

- clerical error (error in writing, misprint, grammatical or arithmetical error, or a similar error);
- an error made by a cadastral engineer while performing cadastral work (cadastral error in the statement);
- an error committed by a person who carried out land management work on the previously registered land plot. The list of mistakes was compiled by the Ministry for the State Cadastre of Russia which existed separately from the USRE. Since January 2003...

State Cadastre of Real Estate has become an integral part of the USRE, the above list of errors can be recognized for the USRE.

Legal literature offers a more detailed qualification of the errors contained in the USRE [3, p. 17]. They are classified:

1) by the source of occurrence: if the source of policies in measurements, that is, errors that arise due to technical errors and errors that arise due to the quality of measurement, violation of the principles of meteorological control, erroneous parameters of the coordinate system, rounding off in calculations and counting;

2) by the nature of the process of the accounting and public authorities activity, - the failure of the base; errors of database conversion; technical errors which were not previously identified and subsequently led to cadastral errors; XML errors, resulting in a recovery with an intersection; availability of declarative sites of each cadastral works was carried out;

- subjective mistakes, that is mistakes of the interpretation of the boundary by the owner, surveyor and subcontractors, interpretation of the fence axis, related to the identification of stakeholders, provision of false information, inefficiency of a cadastral engineer;

3) by the stage of land boundary survey:
- at the time of surveying a neighboring land plot;
- at the time of registration of the fundamental construction project on the land plot;
- at the time of removal of points in kind;
- at the time of privatization and "cutting" of the land plot;
- in the process of complex cadastral work;
- by the order of elimination:
- in accordance with the procedure established by law (extrajudicial procedure);
- on the basis of a court decision (judicial procedure).

In some cases, you can do to correct the type of the error in the following way:

1) making a contract for the performance of cadastral work (surveying);
2) the departure of surveyors to the terrain and the location of borders;
3) the creation of the measurement of the site by a cadastral engineer and the identification of the intersection;
4) applying to the cadastral registration body and the land management data collection fund to obtain an archival record of cadastral and cadastral state;
5) analysis of coordinates in the...