

HOW CAN A CONSUMER PROTECTION ASSOCIATION INFLUENCE THE LEGISLATIVE PROCESS?

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The Association for the Protection of Consumer Rights of Apartment and House Owners (WiE, Germany) demonstrates this as a brilliant example. When drafting the Law on the Modernization of Residential Property, which came into force in this country on December 1, 2020, the Association influenced the parliamentary debate, forcing developers and legislators to take into account the interests of residential property owners.

This experience of promoting the interests of owners, presented by WiE experts in the framework of the PROM HOUSE project "Professionalization of housing management in Kazakhstan and Uzbekistan", can be useful for our NGOs protecting the rights of consumers and owners of residential premises. Here are some snippets of this experience. As a reminder, PROMHOUSE is implemented by the Housing Initiative for Eastern Europe (IWO), Berlin with the financial support of the European Union. On the German side, the coordinator is the European educational centre for the housing and real estate industry, Bochum. From the Uzbek - Association of Professional Managers and Housing Services Organizations, Tashkent.

THE PREPARATION OF THE DRAFT LAW WAS PASSED BEYOND CLOSED DOORS

The previous Law "On the Right of Ownership of Housing" in Germany could not fully provide answers to numerous questions arising in the practice of managing residential real estate. WiE has been pushing for massive, consumer-oriented reform of the Law for years.

When work began on the bill, the proposals of WiE and other organizations for wide public involvement in its discussion were ignored by the developers. The preparation of the Law aimed at residential property owners took place without their participation, behind closed doors. The approach to the development of the law was of a purely legal and academic nature.

The basis was not the interests of the owners and their practical problems, but the management efficiency of residential real estate. The proposals were based on a systemic change in the



common property management model. Management functions were to be transferred to joint households (associations of homeowners, OSZH). At the same time, broader powers were given to managers. The new legal concept created an imbalance: the strengthening of the rights of the manager was not compensated by the practical mechanism of management and control on the part of homeowners.

Protecting the interests of residential property owners, the WiE Association conducted a survey among them “How can we get joint home ownerships on its feet?”, which was attended by about 3500 respondents. The owners pointed out important issues for them, demonstrated interest in the legislative process, rejected reforms that were bypassing themselves. They perceived the proposals to strengthen managers as unpromising and demanded an increase in their decision-making and control rights. The results of the survey set the direction for all further actions of the WiE Association.

PUBLIC HEARING MOVED TO THE BACKGROUND

The association defined its position in two documents stating that the simplification of the management of the OSH should take place without strengthening the role of the manager and that homeowners should retain the right to vote. Reform requirements were outlined in the Affordable Housing policy document. It has been published by many consumer associations. This cohesion should have been a signal to the legislator that it is necessary to make the new Law more consumer-friendly.

The WiE, which advocates for residential property owners, presented extensive criticism of the entire reform: 88 pages with 16 key change requests and numerous proposals. However, the broad public discussion with apartment owners was pushed into the background by the drafters of the Law.

The Association continued to receive questions from consumers, including those related to the assessment of damage caused by unqualified activities of managers. As a result, WiE presented the survey results in this direction. She actively studied international experience, sent letters to various authorities, drawing attention to the negative consequences of the new provisions contained in the bill. However, the request for its radical revision still remained unheard.

WiE has persistently continued to work in this direction. A petition against the reform project in just 5 weeks - in the midst of the coronavirus crisis - collected the signatures of 8,230 homeowners. More than 2,000 comments to the draft law have become a good illustration of the opinions of homeowners about the planned changes.

When the draft law, proposed by the German Federal Ministry of Justice, became available for review, the WiE association again focused on broadly informing owners and the public about it. As a result, the Bundestag's legal committee decided to hold public hearings on reform issues, to which Gabriele Heinrich, the head of the WiE association, was also invited as an expert. The Association reiterated its position, pointing out the shortcomings of the draft law.

THE ASSOCIATION'S STRATEGY HAS BEEN RESULTS

At the last second, a number of important changes were agreed and taken into account. In particular, it was possible to significantly limit the powers of managers to make decisions without the consent of the owners. The tenants' council was entrusted with the task of overseeing the



activities of the managers. Joint households can recall the managers at any time, including without a good reason. Management contracts expire six months after their withdrawal. Thus, the balance of power in the residential real estate sector was restored in favor of the owners.

Other innovations include provisions on structural changes to buildings. Now OSZh can allow owners to implement construction projects related to a barrier-free environment, electromobility, protection against hacking and high-speed Internet. Now a simple majority of votes is enough to make decisions on modernization and energy rehabilitation.

Facilitating the procedure reduces the waiting time. Managers can, without the decision of the owners' meeting, take secondary measures that do not lead to significant joint ownership obligations. The general meeting may, by its decisions, limit or expand all the rights and obligations of managers. Control over the activities of the manager is carried out by the Council of Owners, etc.

At the same time, the opportunity was missed to solve a number of problems related to the management of residential property. This applies to annual reports, reporting forms, planning of measures for the preservation of the building, incentives for the digitalization of joint households. The new legal system did not fit into the possibility of direct claims of individual homeowners to other owners or managers, etc. The self-government process was not simplified, but rather complicated, experts say.

The strategy of the WiE Association has produced results: the bill was significantly improved to take into account the rights of homeowners, despite the fact that lawmakers could no longer or did not want to change course.

In general, according to experts, the process of reforming the law lacked transparency: informing and educating owners about the pros, cons, risks and ways of implementing procedures. This process could have been more successful with the direct participation of homeowners. The WiE would like him to not only implement a smooth system, but also provide owners with instructions on how to use it.

The experience of the WiE Association can be useful to our public organizations for the protection of consumer rights. Unfortunately, they did not participate in the development of new housing legislation, although their voice and position could well be heard by developers and legislators. The Association of Organizations of Professional Managers and Maintenance of the Housing Fund of Uzbekistan and the Association of Homeowners' Associations in Tashkent participated in the preparation of the Law "On Management of Apartment Buildings". But they represented the interests of homeowners through the prism of HOAs and UOs. The rights of homeowners in the process of developing the bill were represented by the popular in Uzbekistan Internet community "HOA and how to live with it" on Facebook, represented by its administrator Maxim Chernikov. Homeowners could voice their views on reform issues on the SOVAZ portal, where the draft Law was posted for discussion.

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