

URBAN PLANNING, PLANNING OF RURAL SETTLEMENTS ГРАДОСТРОИТЕЛЬСТВО, ПЛАНИРОВКА СЕЛЬСКИХ НАСЕЛЕННЫХ ПУНКТОВ



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Legal Problems of Reconstruction and Redevelopment of Premises

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Abstract

Introduction. The article examines the issues related to the amendments to the housing legislation that came into force on April 1, 2024 regarding regulating relations for reconstruction and redevelopment of premises in apartment buildings. The topic is relevant as the changes made in scientific and educational literature have not been properly comprehended. The aims of the work include the analysis of legislative innovations and development of proposals for improving the standards of the Housing Code of the Russian Federation.

Materials and Methods. The object of the research is the legal institute of reconstruction and redevelopment, its relationship with reconstruction and with the system of technological inventory of the housing stock. The following methods are used: general scientific (dialectical materialistic), specific scientific (logical (analysis, synthesis), concrete historical, systematic method) and other scientific discovery methods.

Research Results. The paper sets forth specific proposals for changing the standards of the housing and communal services of the Russian Federation in order to eliminate the problems of legal regulation of reconstruction and redevelopment.

Discussion and Conclusion. The results of the study hold a promise of being implemented into the current housing legislation and enable us to improve the mechanism of legal regulation of reconstruction and redevelopment.

Keywords: reconstruction, redevelopment, reconstruction, technological inventory, housing stock

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Оригинальное эмпирическое исследование

Правовые проблемы переустройства и перепланировки помещений

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Аннотация

Введение. В статье рассматривается проблематика вступивших в силу с 01.04.2024 года изменений жилищного законодательства в части регулирования отношений по переустройству и перепланировке помещений в многоквартирных домах. Значимость темы обусловлена недостаточным уровнем осмысления внесенных изменений в научной и учебной литературе. В числе целей работы — анализ законодательных новелл и выработка предложений по совершенствованию норм Жилищного кодекса Российской Федерации.

Материалы и методы. Объект исследования — правовой институт переустройства и перепланировки, его соотношение с реконструкцией и связь с системой технического учета жилищного фонда. Используются: общенаучные (диалектико-материалистический), частно-научные (логические (анализ, синтез), конкретно-исторический, системный метод) и другие методы научного познания.

Результаты исследования. В работе сформулированы конкретные предложения по изменению норм ЖК РФ, направленные на устранение проблем правового регулирования переустройства и планировки.

Обсуждение и заключение. Результаты, полученные в ходе исследования, имеют перспективу имплементации в действующее жилищное законодательство и позволяют усовершенствовать механизм правового регулирования отношений по переустройству и перепланировке.

Ключевые слова: переустройство, перепланировка, реконструкция, технический учет, жилищный фонд

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Introduction. New additions to the housing legislation regarding reconstruction and redevelopment of premises that came into force on April 1, 2024, have not been comprehended by scholarly community: at least anyone with an interest in the topic searching the Internet for relevant publications fails to get any satisfactory results. One explanation from the Federal Registration Service (Rosreestr), a couple of reviews in the reference legal systems and a summary of the adopted changes on the websites of regional prosecutors' offices are probably the only available reading a year following the introduction of the norms of interest.

The relevance of the topic is also due to the almost complete absence of the latest publications on state technological inventory of the housing stock. However, it must be noted that this is for a reason as how is one supposed to write about something that is no longer there? At the same time, the concept of "technological passport of a premises" is still to be found more than once in the text of Chapter 4 of the Housing Code of the Russian Federation (hereinafter referred to as the HC of the RF)¹, and "accounting of the housing stock", "state accounting of housing stock" also including technological inventory and certification are part of housing relations as a subject of housing legislation (Paragraph 5 of Article 4(1); Article 9(5) of the HC of the RF).

The analysis of the new additions to the legal regulation regarding reconstruction and redevelopment is inseparable from the study of the current state of the state inventory of the housing stock. This will allow us to arrive at conclusions that will hopefully be instrumental to the law enforcement officer, but more so to the legislator, if, of course, they find it necessary to make use of these.

Materials and Methods. The methods to be used are conventional for the humanities. Along with the basic general scientific dialectical materialistic method, which involves the study of a phenomenon in its constant evolution, logical methods will be extensively used in the research, i.e., a system of techniques that are a comprehensive objective reality and explore its internal structural relationships: analysis and synthesis, induction and deduction. Such techniques as classification, generalization, analogy, and comparison play a major role in the system of applied logical methods (particularly while considering the differences between redevelopment and reconstruction). The comparison method will help us to identify the distinctive features of the legal regulation of relations on reconstruction and redevelopment before and after the changes to the HC of the RF. Using the historical and legal method, the problems of state accounting of the housing stock and the system of technological inventory will be examined.

In our case, the modeling method will be employed to design the most viable ways to resolve situations that are frequent in practice and require simplification and removal of unnecessary legal restrictions. The study is structured as

¹ *Housing Code of the Russian Federation*. Code of the Russian Federation № 188-FZ from 29.12.2004. URL: <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102090645> (accessed: 10.03.2025).

follows: first, individual issues of redevelopment and then those pertaining to reconstruction are considered. The proposals made in the course of the study in order to improve the institute of reconstruction and redevelopment are grouped in the final part of the article as the conclusions.

Research Results. According to the Federal Law No. 608-FZ from 12/19/2023 "On Amendments to the Housing Code of the Russian Federation and the Federal Law on State Registration of Real Estate"² which came into force on April 1, 2024 the concept of redevelopment has undergone significant changes.

In the previous edition of Article 25(2) of the HC of the RF, the redevelopment of a room was concisely defined as "a change in its configuration requiring changes to the technological plan of a premise in an apartment building."

The current version of Article 25(2) of the HC of the RF has a lot to say on that, "Redevelopment of premises in an apartment building is a change in the boundaries and (or) the area of such a premises and (or) the formation of new premises, including in cases provided for in Article 40 of this Code, and (or) a change in its internal layout (including with no changes to the boundaries and/or area of the premises). As a result of the redevelopment of the premises, the boundaries and/or the area of adjacent premises might also be changed. Redevelopment entails the need to introduce changes to the information of the Unified State Register of Real Estate on the boundaries and (or) the area of the premises or to conduct state cadastral registration of the formed premises and state registration of the right to the formed premises." In turn, Article 40 of the HC of the RF mentioned in the definition discusses the unification of a few adjacent premises: now this is a particular case of redevelopment.

Setting aside the question of how appropriate it is to define the redevelopment of a premises as a "change in its internal layout" (through "buttery butter"), the following is to be noted:

1. The legislation has so far failed to eliminate a serious oversight from back in 2018, when such an object of housing rights as an apartment building was unintentionally removed from the scope of the rules of the HC of the RF on redevelopment and reconstruction.

It is to be remembered that Federal Law No. 558-FZ from December 27, 2018 "On Amendments to the Housing Code of the Russian Federation in Terms of Regulating the Rules Governing the Reconstruction and (or) Redevelopment of Premises in an Apartment Building"³ replaced the words "residential premises" with the words "premises in an apartment building" in the standards of Chapter 4 of the Housing Code of the Russian Federation. It was with a good purpose in mind that it was done.

According to the explanatory note to the draft of this federal law (the number of the draft law on the website "Legislative Support System" is 107661-7)⁴, the legislation sought to extend the rules on redevelopment and reconstruction to non-residential premises in an apartment building, "There is currently a legislative gap in the legal regulation of the issue of redevelopment of non-residential premises in apartment buildings that are not classified as a common property in these houses leading to abuse by the owners of non-residential premises while arranging them. In some cases, supervisory authorities cannot hold accountable owners of non-residential premises in apartment buildings who are engaged in illegal redevelopment of their premises and take other measures to prevent these actions."

Editing of the words "residential premises" with the words "premises in an apartment building", on the one hand, equalized residential and non-residential premises in an apartment building, but, on the other hand, removed residential buildings from the scope of the standards on redevelopment and reconstruction, which, being a type of objects of housing rights, are residential premises as well!

The rules on redevelopment and reconstruction now do not formally apply to residential buildings. The extension of the analogy of the law in this case is not acceptable, as these rules are of a public law nature and thus do not allow for either an extended interpretation or their application to objects not explicitly specified in the law. A serious legal gap emerged: today, even the transfer of an apartment building from stove heating to gas, which is certainly a reconstruction and might be associated with redevelopment, is not in compliance with the standards of Chapter 4 of the HC of the RF! There are lots of examples where owners of residential buildings are interested in reconstruction and redevelopment:

² On Amendments to the Housing Code of the Russian Federation and the Federal Law "On State Registration of Real Estate". Federal Law № 608-FZ from 19.12.2023. URL: https://www.consultant.ru/document/cons_doc_LAW_464790/ (accessed: 10.03.2025).

³ On Amendments to the Housing Code of the Russian Federation Regarding Regulating the Rules Governing Reconstruction and (or) Redevelopment of Premises in an Apartment Building. Federal Law from 27.12.2018 № 558-FZ. URL: https://www.consultant.ru/document/cons_doc_LAW_314689/#dst100024 (accessed: 10.03.2025).

⁴ Draft Federal Law "On Amendments to the Housing Code of the Russian Federation Regarding Regulating the Rules Governing Reconstruction and (or) Redevelopment of Premises in an Apartment Building" №107661-7. URL: <https://sozd.duma.gov.ru/bill/107661-7> (accessed: 10.03.2025).

changing the boundaries of premises in an apartment building; installing or eliminating window and door openings; increasing the area of an apartment building; equipping the house with new types of landscaping, etc. If such actions were always safe, it would be possible to agree with a voluntary appeal of the owner of the apartment building to the Federal Register with a plea to change the characteristics of the object, but the lack of minimal control by the local authorities coordinating the reconstruction and redevelopment might result in both harmless abuse by the owners and serious implications. In the meantime, the executive authorities are stating that there is a legal gap and the explanations provided are vague. Hence in the letter from the Ministry of Economic Development of the Russian Federation from 04/22/2019. No. OG-D23-3767 says, "Regarding reconstruction and (or) redevelopment of other premises — non-residential or residential, but not located in an apartment building, there is no special regulation in the Urban Planning and Housing Codes»⁵.

In view of the above, it is proposed that the effect of Chapter 4 of the Housing Code of the Russian Federation is extended not only to premises in apartment buildings, but also to residential houses.

2. "Redevelopment entails the need to introduce changes to the information of the Unified State Register of Real Estate (hereinafter — USRRE) on the boundaries and (or) the area of the premises or to conduct state cadastral registration of the formed premises and state registration of the right to the formed premises" is stated in Article 25(2) of the HC of the RF.

The literal interpretation of the above standard means that changes are subject to the USRRE only in the following cases:

- changing the boundaries and/or area of the premises;
- designing new premises.

As the redevelopment of the premises is possible, including with no changes in the boundaries and (or) the area of the premises, as explicitly stated in the first sentence of Article 25(2) of the HC of the RF, there is a question of the need to introduce changes to the USRRE in the event that the redevelopment does not involve a change in such a significant parameter for the USRRE as the area or boundaries.

For example, redevelopment might involve installing a doorway or arch in a curtain wall, dismantling doors in a pantry in order to create a niche, etc. actions that do not cause a change in the area and boundaries of the premises. In this case, it seems reasonable to consider the approval of the act of the acceptance commission as the moment of completion of the redevelopment, as in the case of reconstruction, without forwarding the documents to the the Federal Registration Service (Rosreestr).

Considering that the USRRE does not even reflect the number of rooms in the premises, it is fairly possible to look at the option of completely removing from the norms on redevelopment any actions that have no impact on the supporting structures and do not change the boundaries and area of the premises. At the same time, it is advisable to reflect in the law a ban on changing the design configuration of ventilation ducts and chimneys, auxiliary rooms with gas equipment, as well as the boundaries of bathrooms and toilets (except in the case of their combination or located on floors under which there are no living quarters).

According to a private survey, albeit not a very representative one, at least 40% of citizens have had redevelopment done at least once⁶. Approximately the same order of numbers is indicated by realtors analyzing their practice of real estate turnover⁷.

It seems that with the suggested approach to redevelopment, the scope of redevelopment legislation will be narrowed down to the following:

- changing the area of the premises when their boundaries change;
- forming new premises;
- using load-bearing structures.

This will relieve the financial and administrative burden on the owners of the premises⁸ and the legislation as well as facilitate the work of local governments and the Rosreestr.

⁵ *On the Documents Used to Prepare the Technological Plan of a Premises, an Object of Individual Housing Construction during Redevelopment (Reconstruction) for State Cadastral Registration.* A letter from the Ministry of Economic Development of the Russian Federation № OG-D23-3767 from 22.04.2019 <https://base.garant.ru/400767521/> (accessed: 10.03.2025).

⁶ *New Rules for Redevelopment and Registration of Real Estate are to Come into Force on April 1: What is in Store for Tenants.* URL: https://vk.com/wall-24199209_20644244 (accessed: 11.03.2025).

⁷ *Almost half of Russia's apartments have been redeveloped and remodeled.* URL: <https://sevastopol.su/news/pochti-polovina-kvartir-v-rossii-s-pereplanirovkami-i-peredelkami> (accessed: 11.03.2025).

⁸ *More than 10% of Apartment Buyers in New Buildings Redevelop Right Away.* URL: <https://www.vedomosti.ru/realty/articles/2019/05/20/801931-novostroikah-pereplanirovku> (accessed: 11.03.2025).

3. One of the problems of modern legislation is the insufficiently clear distinction between the concepts of "redevelopment" and "reconstruction".

The definition of reconstruction is contained in Paragraph 14 of Article 1 of the Urban Planning Code of the Russian Federation, "Reconstruction of capital construction premises is a change in the parameters of a capital construction premises, its parts (height, number of floors, area, volume), including superstructure, reconstruction, expansion of a capital construction premises, as well as replacement and (or) restoration of load-bearing building structures of a capital construction premises, except replacement of individual elements of such structures for similar or other elements that improve the performance of such structures and (or) restoration of these element"⁹.

It is plain to see that the concept of reconstruction partially overlaps with that of redevelopment provided in the HC of the RF. For example, reconstruction involves changing the parameters of both the entire capital construction premises and its parts which are the premises in an apartment building. The parameters that can be changed during the reconstruction of a part of the building include, among others, the area and volume. The problems of distinguishing between these concepts are commonly tackled in the literature [1–3].

Based on a formal and logical comparison of the scope of the concepts of "reconstruction" and "redevelopment", it becomes clear that redevelopment encompasses reconstruction, but is not limited to it, the scopes of these concepts overlap to an extent.

In which case can the actions of the owner be qualified as redevelopment, and in which ones as reconstruction?

Of great interest is therefore the Review of legal practices on disputes related to reconstruction and redevelopment of premises in an apartment building approved by the Presidium of the Supreme Court of the Russian Federation on 12/13/2023¹⁰ (hereinafter — Review).

The reconstruction in the Review includes, in particular, the following:

- designing of an extension to the apartment on the ground floor;
- designing a separate entrance by destroying some of the exterior wall of the house;
- combining a few apartments into one;
- divided an apartment into two separate ones;
- converting the terrace of the technical floor into a premises.

It is known that the Review was adopted a year before the change in the norms of the HC of the RF. This further accentuates the urgency of searching for a new approach to the differentiation of the concepts of "reconstruction" and "redevelopment". It seems correct to suggest the following.

As the concept of reconstruction contained in the Urban Planning Code of the Russian Federation excludes from its scope the replacement of individual elements of load-bearing structures with similar or other elements to improve the performance of such structures and (or) the restoration of these elements, individual operations with load-bearing structures that do not impact their full scope are not formally deemed as reconstruction.

Hence considering the current wording of Article 25 of the HC of the Russian Federation, e.g., it would be wrong to qualify the opening in the load-bearing wall of an apartment building as reconstruction rather than redevelopment.

In its Review, the Supreme Court of the Russian Federation is unequivocally in favour of applying the legal regime of reconstruction to any actions involving the supporting structures of an apartment building. Hence the installation of a doorway in a load-bearing wall for a separate entrance to a non-residential building, transferred from a residential one, entails, in the view of the court, the recognition of such actions as reconstruction and the need to obtain a building permit in compliance with Article 51 of the Urban Planning Code of the Russian Federation, as Paragraph 4 of Article 17 of this article excludes the need to obtain a construction permit only if changes to capital construction premises or their parts do not impact the structural and other characteristics of their reliability and safety. This is how the court argues its position (Paragraph 4 of the Review), "Due to the fact that the construction of a separate entrance to a premises is associated with the destruction of part of the wall of an apartment building and might impact the structural and other characteristics of reliability and safety of the house, such work is deemed possible by means of major repairs or reconstruction of an apartment building, the production of which is regulated by legislation on urban planning, including pertaining to architectural

⁹ Urban Planning Code of the Russian Federation. Code of the Russian Federation No. 190-FZ from 29.12. 2004. URL: https://www.consultant.ru/document/cons_doc_LAW_51040/ (accessed: 11.03.2025).

¹⁰ Review of Legal Practices on Disputes Related to Reconstruction and Redevelopment of Premises in an Apartment Building. Presidium of the Supreme Court of the Russian Federation from 12/13/2023. URL: <https://www.vsrp.ru/documents/all/33237/> (accessed: 11.03.2025).

and construction design, state expert evaluation of project documentation, issuing permits for the construction and commissioning of the premises."

In this case the owner of the premises received an approval from the local governments for redevelopment in compliance with Chapter 4 of the HC of the RF, but the Supreme Court of the Russian Federation considered that the approval of the project was not acceptable. That was despite the fact that both the approval of redevelopment and construction permits are issued by the same local governments and, which is quite likely, by the same officials!

According to the logic of the court, any interference with load-bearing structures in the course of redevelopment is not acceptable and is subject to regulation by reconstruction standards with all the implications, which largely restrains the scope of redevelopment standards and practically paralyzes it (development of the project documentation — expert evaluation — construction permit — all the owners' consent — reconstruction - commissioning permit into operation).

In order to optimize the procedures, tackle the administrative barriers and unnecessary restrictions of the rights of the owners of premises, it is suggested that only such a change in the internal parameters of a premises in an apartment building should be attributed to reconstruction accompanied by one in the external parameters of this house (extension, superstructure, etc.). We therefore agree with Paragraph 3 of the above Review examining the case when a person erected an extension to an apartment belonging to them located in an apartment building by means of a common capital wall, as well as by installing a doorway by dismantling part of the outer wall of this house below their apartment window. We assume that the court was right to point out that "such actions changed not only the internal parameters (configuration) of the dwelling, but also the expansion of the entire capital construction premises — an apartment building (particularly, its area increased)." A similar situation is described in Paragraph 8 of the Review on the addition by the owner of a part of the technical floor and the completion of another one, which also resulted in some changes in the parameters of the entire apartment building and should certainly be classed as reconstruction.

We believe that due to the change in the legal regulation of redevelopment, a lot of positions of the Supreme Court of the Russian Federation expressed in the Review will obviously be adjusted.

In order to regulate the legislation, it is suggested that references to the reconstruction of premises and common property are completely excluded from the HC of the RF and the concept of "reconstruction" is applied only to an apartment building as a whole.

It is thus suggested that Article 36(3) of the HC of the RF is rephrased as follows:

"3. Reducing the area of the premises that are part of the common property in an apartment building is possible only with the all the owners' consent by means of reconstructing it."

The suggested revision to the standard in practice is long overdue. Firstly, it will exclude the application of urban planning legislation to redevelopment, and secondly, it will make it no longer necessary to obtain 100% consent of the owners in the case of any, even minor, reduction in the size of the common property (which in law enforcement practice is regarded differently — volume, quantity, area): replacement of a half-meter section of the pipeline, two bricks on the parapet, etc.

Part 2 of Article 40 of the HC of the RF should be rephrased as follows:

"2. If the reconstruction, reconstruction and (or) redevelopment of a premises is not possible without attaching some of the area that is part of the common property in an apartment building, the all the owners' consent in an apartment building must be obtained for such reconstruction, reconstruction and (or) redevelopment of a premises".

The land plot in the suggested version of the standard is intentionally omitted, since if the redevelopment "breaks through" beyond the boundaries of the existing contour of an apartment building, it will inevitably be classed as reconstruction. If necessary, issues of land use can be resolved by interested parties at the owners' general meeting, which does not require a unanimous decision (Paragraph 2, Article 44(2) of the HC of the RF — land use restrictions).

4. There is no longer a requirement to amend a technological plan of a premises in an apartment building in the concept of redevelopment. This is one of the novelties that needs to be reflected on.

As was seen above, the concept of "a technological passport of a premises" is repeatedly found in Chapter 4 of the HC of the RF, and "accounting of the housing stock", "state accounting of the housing stock", including technological inventory and certification, are part of housing relations as a subject of the housing legislation (Paragraph 5, Article 4(1), Article 9(5) of the HC of the RF).

In Paragraph 4, Article 26(2) of the HC of the RF a technological passport of a reconstructed and (or) redeveloped premises in an apartment building is indicated as a document submitted to the local government body for reconstruction (redevelopment) approval.

According to Article 25(1) of the HC of the RF, reconstruction of a premises in an apartment building is installation, replacement or transfer of engineering networks, sanitary, electrical or other equipment requiring changes to a technological passport of a premises in an apartment building. Hence a technological passport is still mentioned as part of the reconstruction concept.

What is a technological passport, what is its legal status and significance for the reconstruction and redevelopment relationship? Let us try to answer these questions in this section of the study.

In compliance with Paragraphs 3, 4 of the Standard on State Accounting of the Housing Stock in the Russian Federation approved by a Decree of the Government of the Russian Federation from 10/13/1997 No. 1301, state accounting of the housing stock in the Russian Federation includes technological inventory, official statistical accounting and accounting inventory¹¹.

The foundation of the state accounting of the housing stock is technological inventory conducted in compliance with the regulatory legal acts in the field of state technological accounting and technological inventory of capital construction premises.

Specialized state and municipal organizations are tasked with technological inventory of the housing stock — unitary enterprises, services, departments, centers, bureaus (hereinafter — BTI). The second major document in the field of technological inventory is the Instruction on Housing Stock Accounting in the Russian Federation (approved by a Decree of the Ministry of Land Policy, Construction, Housing and Utilities (Minzemstroy) of the Russian Federation from 08/04/1998 № 37)¹². It contains the procedure for conducting technological inventory, designing technological passports, and requirements for their content.

The legislation does not contain a legal definition of a technical passport, however, from the analysis of regulatory material, it can be concluded that a technological passport is a document with the results of a technological inventory.

The Instruction indicated provide the forms of technological passports of a household, building and residential premises, respectively, in its appendices 11, 12, 13.

At first glance, there do not seem to be any problems with the legal foundation for issuing technological passports, except a subtle yet significant nuance: in compliance with Article 47(8) of the Federal Law "On Cadastral Activity" (formerly known as "On the State Cadastre of Real Estate"), regulatory legal acts in the field of state technological accounting and technological inventory of capital construction premises are valid only until January 1, 2013¹³.

This decision of the legislator has been known since 2009 when this standard first appeared in the text of the law. Apparently, a temporary backlash was planned in advance in order to reform state technological accounting. However, those 3 years were unproductive. Moreover, even today we can safely declare there is no system of state technical accounting of housing stock in place whatsoever, which occasionally becomes a subject of discussion in high offices. For example, a round table held on October 31, 2023 in the Federation Council of the Federal Assembly of the Russian Federation, with a title that speaks for itself, "On the Formation of a System of Technical Inventory of the Housing Stock: Problems and Solutions," stated there was no system of technological inventory of the housing stock in place¹⁴. The recommendations of the round table contain a reference to the list of measures to design a system of technological inventory of the housing stock developed by the Ministry of Construction of the Russian Federation for up to 2029. Given the common bureaucratic practices, concrete decisions in the field of technological inventory are unlikely to be made earlier than this.

Is there currently a legal foundation for technological passports which are mentioned in the HC of the RF time and time again?

¹¹ On State Accounting of the Housing Stock in the Russian Federation. Decree of the Government of the Russian Federation № 1301 from 13.10.1997. URL: <https://docs.cntd.ru/document/9049996?ysclid=m7eoybt1ia410823836> (accessed: 11.03.2025).

¹² On the approval of the Instructions on Accounting of the Housing Stock in the Russian Federation. Decree of the Ministry of Land Policy, Construction, Housing and Utilities (Minzemstroy) of the Russian Federation № 37 from 04.08.1998. URL: <https://docs.cntd.ru/document/901739482> (accessed: 11.03.2025).

¹³ On Cadastral Activity. Federal Law № 221-FZ from 24.07.2007. URL: https://www.consultant.ru/document/cons_doc_LAW_70088?ysclid=m8a3m2i7tm262917606 (accessed: 11.03.2025).

¹⁴ Recommendations of a Round Table "On the Formation of a System of Technological Inventory of the Housing Stock: Problems and Solutions." Approved at a meeting of the Federation Council Committee on Federal Structure, Regional Policy, Local Self-Government and Northern Affairs (protocol № 320 from 20.11.2023.). URL: <http://council.gov.ru/activity/activities/roundtables/150380/> (accessed: 12.03.2025).

This question should perhaps be answered in the negative. The standard of Article 47(8) of the Federal Law "On Cadastral Activity" on the termination of the application of regulatory legal acts in the field of state technological accounting and technological inventory of capital construction premises has been valid since January 1, 2013.

Despite the fact there is no direct repeal of the Regulation on State Accounting of the Housing Stock in the Russian Federation approved by a Decree of the Government of the Russian Federation from 13.10.1997 No. 1301, and the Instructions on Accounting of the housing stock in the Russian Federation (approved by a Decree of the Ministry of Land Policy, Construction, Housing and Utilities (Minzemstroy) of the Russian Federation from 04.08.1998 No. 37), these acts should undoubtedly be considered invalid.

According to a recent letter from the Ministry of Construction of the Russian Federation from 08/20/2024 No. 47894-AF/04, our assumption is substantiated, "... the BTI authorities have lost the function of state technological accounting and (or) technological inventory... Therefore as of January 1, 2013 Decree No. 1301 has not been used for state cadastral registration of real estate objects, technological inventory and technological passports of such real estate objects are not provided for by current legislation."¹⁵. The literature has time and time again emphasized the importance of resuming the work of a comprehensive mechanism of state technological accounting and technological inventory [4, 5].

Nevertheless, up to present the former state and municipal enterprises of technicological inventory reorganized from 2025 into privately owned organizations have been using the above regulations. The conclusion that regulations in the field of state technological accounting are in force is found in the educational literature and some publications [6, 7].

It can be understood where practitioners from the BTI system who survived the scrapping of the technological inventory system are coming from: technological passports are still in demand, and in the regulatory sense, the performers simply have nothing to hold onto. This is not the case, however, for theorists who are "reviving" dead documents [8].

In this case, an analogy with the Civil Code of the Russian Federation springs to mind, which still contains rules on mandatory state registration of real estate transactions repealed on March 1, 2013 by Federal Law No. 302-FZ from 30/12/2012 "On Amendments to Chapters 1, 2, 3 and 4 of Part 1 of the Civil Code of the Russian Federation"¹⁶. Section 3 of Article 574 of the Civil Code of the Russian Federation, which for more than 10 years contained an invalid standard on state registration of an agreement on donation of property, was edited only in the late 2024, and it was only due to the need to establish notarization of such transactions¹⁷.

There is currently no existing regulatory act in the field of state technological accounting of the housing stock and technological inventory. It should be noted, though that the legislator chose what was by no means the best decision from the view of legal technology to repeal such regulations.

In the light of the latest developments in the housing legislation based on the results of the redevelopment, it is no longer necessary to introduce changes to a technological passport of a premises. Instead, a new technical plan is designed and submitted to the Federal Registration Service (Rosreestr) [9].

It should be remembered that in compliance with Article 24(1) of Federal Law No. 218-FZ from July 13, 2015 "On State Registration of Real Estate", a technological plan is a document that reproduces specific information entered into the Unified State Register of Real Estate and provides information about a building, structure, premises, parking space, an unfinished object or a single immovable complex required for the state cadastral registration of such a real estate object.

Therefore a technological plan is a document of the state cadastral registration that in its role and structure does not replicate a technological passport.

It makes sense to design it during redevelopment only when the characteristics of a premises change and are essential from the view of state cadastral registration. It was thus previously suggested that any actions are deemed as redevelopment that do not impact the supporting structures and do not change the boundaries and area of a premises.

The conclusion will be made straight away based on the analysis of the basic and additional information about the real estate object provided in the real estate cadastre (Article 8 of the Federal Law "On State Registration of Real Estate"), as

¹⁵ *On Specifications of the Standards of the Legislation Regulating State Accounting of the Housing Stock in the Russian Federation*. Letter from the Ministry of Construction of the Russian Federation № 47894-AF/04 from 20.08.2024. URL: https://rulings.ru/acts/Pismo-Minstroya-Rossii-ot-20.08.2024-N-47894-AF_04/ (accessed: 12.03.2025).

¹⁶ *On Amendments to Chapters 1, 2, 3 and 4 of Section 1 of the Civil Code of the Russian Federation*. Federal Law № 302-FZ from 30.12.2012. URL: <https://base.garant.ru/70291432/> (accessed: 12.03.2025).

¹⁷ *On Amendments to Article 574 of Section 2 of the Civil Code of the Russian Federation*. Federal Law № 459-FZ from 13.12.2024. URL: <https://ivo.garant.ru/#/document/411108286/paragraph/1/doclist/3634/2/0/0/гражданский%20кодекс%20рф%20часть%202:4> (accessed: 12.03.2025).

well as the Requirements for preparing a technological plan (Rosreestr decree No. P/0082 from 03/15/2022¹⁸), Requirements for identifying the area of a building, structure, premises, parking space (Rosreestr decree from 10/23/2020 No. P/0393¹⁹): regarding redevelopment, a technological plan is only concerned with the area of the premises, the location of window and door openings along the outer perimeter of the walls, as well as the internal walls (partitions), and that of the premises.

The remaining characteristics of the premises changed during the redevelopment make no difference to the real estate cadastre and technological plan.

In general, such a simplified approach should be considered fairly useful.

The role of a technological passport considering the reform of legislation on redevelopment is reduced to a document provided to local governments at the stage of submitting an application for approval of redevelopment and is informative in its nature. After all, local governments will have nothing to compare the current and design condition of the premises with unless there is a technological passport.

However, considering that there has been no regulatory framework for designing technological passports since 2013, as well as liberal requirements for the content of the technological plan, it is suggested that Paragraphs 4, and Paragraph 2, Article 26(2) of the HC of the RF (list of documents provided by the applicant for reconstruction) are rephrased as follows, "a technological plan of the reconstructed and (or) redeveloped premises in an apartment building". If implemented, the proposal will make it possible to make use of both technological passports designed before 01/01/2013 and modern technological plans while submitting an application.

So far, the standards of the legislation on redevelopment have been our focus. Let us now move on to reconstruction.

Legal regulation of reconstruction has experienced no changes. As before, reconstruction refers to installation, replacement, or transfer of engineering networks, sanitary, electrical, or other equipment that require changes to a technological plan of a premises in an apartment building (Article 25(1) of the HC of the RF).

The above pretty much applies to reconstruction, but the specifics of this institution are to be considered. Here, a technological passport appears both on the list of documents sent by the applicant for approval, and as a document to be modified based on the results of the reconstruction.

It should be noted that the standards of Chapter 4 of the HC of the RF are formulated so that making changes to a technological passport based on the results of the reconstruction is not tracked in any way. In compliance with Article 28(3) of the HC of the RF, reconstruction of a premises in an apartment building is considered completed from the date of approval of the act of the acceptance commission. At the same time, the law does not require the applicant to submit to the acceptance commission an updated technological plan indicating the results of the reconstruction, which we think should be addressed.

While discussing reconstruction, we are again compelled to refer to a technological passport as a "living" document.

Based on the definition of the concept of reconstruction, it requires changes to a technological plan. In order to make sense of the essence of reconstruction, it has to be investigated what changes should be reflected in a technological plan. This, in turn, suggests an answer to what a technological plan typically contains. After all, it is only after learning about it that we will be able to grasp the reconstruction impact.

To this end, let us turn to the Instructions on the housing stock accounting in the Russian Federation (Decree of the Ministry of Land Policy, Construction, Housing and Utilities (Minzemstroy) from 08/04/1998, No. 37) as it is the only solution there is.

Hence, for example, according to Paragraph 3.16 of the specified Instructions, the following is to be found on the floor plan:

- stoves, kitchen fireplaces;
- pits, loading hatches, manholes of basements and basement floors;
- heating boilers, etc.;
- sanitary and fire-fighting equipment (water taps, sinks, bathtubs, toilets, gas and electric stoves, etc.).

Pipelines for cold and hot water, sewerage, heating, gas, etc., as well as central heating radiators are not shown on the floor plans.

¹⁸ On the Form of a Technological Plan, Requirements for Preparing it and the Information Contained. Rosreestr decree № P/0082 from 15.03.2022. URL: <https://www.garant.ru/products/ipo/prime/doc/403720102/> (accessed: 13.03.2025).

¹⁹ On the Approval of the Requirements for Accuracy and Methods for Identifying the Coordinates of the Characteristic Points of the Boundaries of a Land Plot, Requirements for Accuracy and Methods for Identifying the Coordinates of the Characteristic Points of the Contour of a Building, Structure or an Object under Construction on a Land Plot, as well as the Requirements for Identifying the Area of a Building, Structure, Premises, Parking Space. Rosreestr decree № P/0393 from 23.10.2020. URL: <https://base.garant.ru/74912016/f7ee959fd36b5699076b35abf4f52c5c/> (accessed: 13.03.2025).

According to Paragraph 3.19 of the specified Instruction, "the floor plans are to indicate heating appliances, ventilation appliances, ventilation ducts (unless they are made in the wall), bathtubs, toilets, sinks, washbasins, etc."

As heating devices are mentioned in Paragraph 3.19 of the Instructions, it is not entirely clear which devices these are, as Paragraph 3.16 states that radiators are not shown. Apparently, these are boilers, columns, etc. devices, as technological plans have always been designed with no locations of radiators, etc. heating devices included as understood in the classical meaning of GOST 31311-2022 "Heating Devices"²⁰.

The next group of information to be indicated in a technological plan is found in the Parameters of the technological description of the main structural elements of a building (Appendix 2 of the specified Instructions), as well as in the forms of a technological plan (Appendices 11, 12, 13 of the specified Instructions). Using the legal concept of reconstruction, we selected information from them about those objects with which operations such as "installation, replacement or transfer of engineering networks, sanitary, electrical or other equipment" can be performed:

- heating stoves and kitchen fireplaces — area of tile cladding, plaster, a type of hearth (gas, electric, solid fuel);
- heating is the source of heat supply: a thermal power plant; an industrial boiler house; a quarterly, group or local boiler house; a water-heating gas device; an individual boiler or a boiler mounted in a heating furnace;
- electric lighting — open or hidden wiring;
- gas supply — mains (natural) or bottled gas;
- water supply — from the city's central network or a local source;
- sewerage — discharge into the city network or a local sump;
- bathtubs — cast iron, steel, plastic, etc.;
- hot water supply is centralized or provided with local water heaters.

This is perhaps an almost complete list of what might be impacted during reconstruction and there is thus the need to introduce changes to a technological plan.

As can be seen, even the transfer of radiators and other types of heating devices, as well as of pipelines of engineering systems, in the strict sense, does not apply to reconstruction, if its legal definition is to be literally interpreted.

It is rightly noted in the literature that "in the HC of the RF there is no sufficient information on the types of work pertaining to reconstruction and redevelopment, which, in turn, makes these categories evaluational and results in additional difficulties for law enforcement" [10].

The above indicates that there are problems with formally qualifying individual actions as reconstruction, and in conditions of paralysis of the regulatory framework for technological inventory, it is directly impossible for certain works to be classified as reconstruction.

The following are suggested as a solution:

1. Defining in Chapter 4 of the HC of the RF the concept of remodeling premises in an apartment building and an apartment building as "installation, replacement or transfer of engineering networks, sanitary, electrical or other equipment defined by a regulatory legal act of the federal executive authority responsible for developing and implementing state policies and regulation in the field of housing and communal services", eliminating the need to introduce changes to a technological plan.

2. We consider it necessary to identify a list of reconstruction cases at the federal level in order to design a uniform approach to solving reconstruction problems nationwide. The experience of the regulation of the relations of reconstruction in the city of Moscow can be taken as an example, which, albeit controversial, can be generally deemed positive. Therefore in the decree of the Government of Moscow from 25.10.2011 No. 508-PP "On Organizing Reconstruction and (or) Redevelopment of a Premises in Apartment Buildings"²¹ an attempt was made to summarize the experience of reconstruction and provide a list of cases that fall under the concept at hand.

3. Considering the approval of the act of the acceptance commission as the moment of completion of the reconstruction, however, obliging local governments to send the act and the draft of the reconstruction to Rosreestr for marking in the USRRE about the reconstruction, for which it is necessary to make appropriate amendments to the Federal Law "On State Registration of Real Estate" and departmental acts of the Rosreestr.

²⁰ GOST 31311-2022 „Heating Devices“. URL: <https://gostassistant.ru/doc/8515d4f8-cbd3-412a-96f9-bbc8ebb180fe> (accessed: 14.03.2025).

²¹ On Organizing Reconstruction and (or) Redevelopment of Premises in Apartment Buildings. Decree of the Government of Moscow № 508-PP from 25.10.2011 URL: <https://docs.cntd.ru/document/537907820?marker=7D20K3> (accessed: 13.03.2025).

Discussion and Conclusion. Summing up the results of the study, it is noted that the use of the categories "reconstruction" and "redevelopment" is complicated by the lack of a system of state technological accounting and technological inventory of the housing stock, and a number of practical solutions necessary for adoption before the restoration of this system have been thus suggested. In addition, we suggest the following:

1. Extending the effect of Chapter 4 of the HC of the RF not only to premises in apartment buildings, but also to residential houses.
2. Considering completely removing from the legal regulation of redevelopment relations any actions that do not impact the supporting structures and do not change the boundaries and area of the premises.
3. Defining as reconstruction only such a change in the internal parameters of a premises in an apartment building accompanied by a simultaneous change in the external parameters of this house (extension, superstructure, etc.). Applying the concept of reconstruction only in relation to an overall apartment building.
4. In the legal regulation of reconstruction, it is suggested that a technological passport is no longer used and a list of cases falling under the concept of "reconstruction" is identified at the federal level.

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