

Problems of Common Property Management in the Housing Sector

Aigul A. Guseinova, Albina N. Afanasyeva

Abstract: The main specifics of the implementation of the right of common property today is determined by the collective nature of the creation and sale of property, and not by the feature of the property subject (divisibility or indivisibility of property). Accordingly, in order to implement the collective feature of common property, people shall unite, creating self-government organizations. There are judgments about the organization, which are often identified with the term "system", in the educational and scientific literature. Such an establishment of the system concept is more general than the term of organization. The ideas about the organizations created by people to manage common property are the most complex.

Self-government is the main type of activity that allows for the fair distribution of the good and the burden of common property among participants in common property. It is this process that shall be designed and implemented as self-government, so that all conditions are sufficient for the collective to achieve common property and satisfy personal needs of each of them using common power.

As a result, it is necessary to create a self-government organization to implement common property. The emergence (creation) of such an organization is the first necessary condition for the implementation of common property. If an organization is not created from among all participants in the common property, then the common property cannot be implemented.

Thus, in this article, model representations of the simplest self-government organization will be introduced, which are necessary to solve the problems of decision-making and the implementation of common property.

Keywords: common property, organization, self-government, model, property rights.

I. INTRODUCTION

In a self-government organization, people collectively exercise power over each member of the organization and turn their organization into a single social body in relation to external persons.

In order to build and use the institution of autocracy to meet collective and personal needs, participants in such activities have to divide the entire process of building and exercising self-government into a number of technological stages and activities [1].

Conventionally, we can distinguish the following stages and different types of activities that are related to each other by causal relationships:

- 1) development and adoption of a strategy with subsequent definition in the highest law of the organization;
- 2) organizational and managerial support of the strategy by:
 - creation of organizations necessary for the strategy implementation (activities of all contractors);
 - implementation of management activities sufficient to implement the strategy (activities of the highest executive).
- 3) executive activity of self-government objects (activities of all ordinary contractors).

Conventionally, these three groups of different types of activities are called system functions.

In self-government, the participants and ordinary contractors shall be the same individuals. Self-government (autocracy) is built only on this basis [2].

The more individuals involved in the creation of a self-government organization and the construction of autocracy and the more difficult their tasks and goals are, the more difficult is the problem of maintaining autocracy and equality of its participants, especially in the housing sector [3]. Given the range and nature of housing problems that need to be addressed by the participants of a self-government organization (for example, a partnership of homeowners), the authors are forced to conditionally divide self-government organizations according to their functional structure into simple and complex ones. To understand the process of implementing self-government on common property in the housing sector, the most essential will be to analyze the simplest self-government organizations.

The purpose of this paper is to develop a set of model representations of the simplest self-government organization, necessary for the implementation of equal participation in autocracy and the solution of decision-making problems.

II. METHODS

The main research method is modeling and using models to identify and analyze the desired patterns. Models are constructed in such a way that they are adequate to realities or close to them. We modeling, we use analysis. As part of the analysis, we will design various models of property content. Thus, we will take into account the social state of a person, establishing his/her authority over a thing, adequate to experience. For a qualitative concretization of the model elements of the self-government organization, we applied scientific modeling and systematic generalization of its results confirmed by experience. Also, within the framework of modeling, we implemented statements, justifications, and used scientific assumptions called hypotheses.

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III. RESULTS

The simplest self-government organizations shall be divided into: organizations with direct self-government; organizations with formal self-government; symbolic organizations with formal self-government.

Thus, for the implementation of equal participation in autocracy, it is necessary to build a simple self-government organization that meets the following criteria.

The first criterion for the condition of the simplest organization is a numerical one [4]. In accordance with this criterion, we introduce the concept of the simplest self-government organization: "The simplest self-government organization is a self-government organization consisting of the smallest possible number of functionaries".

The minimum number of participants in such an organization is determined by the minimum number of system functions, whose performance shall be stipulated when creating such an organization:

- 1) implementation of the general expression of will by adopting the laws of the organization;
- 2) exercise of the function of the highest executive, which ensures compliance with and enforcement of the laws of the organization;
- 3) exercise of the functions of an ordinary contractor under the control of a chief contractor.

The need to implement these three functions determines the minimum number of functionaries, forming the simplest self-government organization [5]. Therefore, the definition of such an organization will take the following form: "The simplest self-government organization is a self-government organization consisting of three functionaries".

If these three functions are distributed between three individuals, then the self-government organization is stable. If these functions are distributed between two individuals, then the organization will be unstable without any strong specific connection between the entities. For example, when deciding on a general meeting of the partnership of homeowners.

The model of the simplest self-government organization is the basis for building models of more complex self-government organizations. Therefore, we will arbitrarily call such a model "the principal model of self-government organization".

The authors were unable to find objective model representations of self-government organizations in the reference, educational and scientific literature [6–9, 11, 14], and therefore it is necessary to analyze this type of organization through modeling. Like other researchers and analysts, the authors had to deal with the problem of transition from the physical space of human interactions to the functional space. Without such a transition, the authors failed to understand the essence of self-government and build the desired models.

IV. DISCUSSION

In order to understand what a self-government organization is, it is necessary to move from a physical space into a functional one. Thus, it is necessary to strictly and consistently distinguish between different functionaries and specifically consider cases where the same individual can act as different functionaries. In the organization, each person shall perform the function that is defined to him/her when creating the organization and carrying out admission to the organization [10–15].

When creating an organization, the participant's function is determined by the conditions (laws) of creating the organization. In the organization, the functionary shall carry out the proper function. If the real functions of the participants in the organization do not coincide with the proper functions, then the organization is destroyed. The chief contractor in the organization ensures the coincidence of experienced (real) functions with the proper (planned) functions, that is, it exercises control.

In self-government organizations, various executive activities (production, consumer, educational, etc.) can be carried out. We are not interested in the nature (purpose) and features of performing activities, but in the distribution of power in a self-government organization between its various functional members.

In the simplest case, three functions shall be implemented:

- 1) development and adoption of a common decision as the organization's law (function of the legislator of the organization);
- 2) enforcement of the organization's law (function of the main will of the organization);
- 3) implementation of the organization's law by each of its members (function of an ordinary contractor).

In the simplest self-government organization, all its members (individuals) perform the first and third functions, and one of the individuals (members of the organization) performs, in addition to the first and third functions, the second function [12].

If one and the same individual performs different functions, then such functionaries are connected into the so-called communications in the simplest model, using which a person passes from one functional state to another.

The function is transformed when moving through communication and as a result of transition from one functional state to another.

In a self-government organization, the nature of relationship between the organization members, their functions and their relationship separate members of the organization from outsiders.

All the functions of the participants and their relationship form the internal laws of the organization.

Members of the organization can carry out other types of life and activities that are not related to their functions in the organization.

Therefore, by introducing model ideas about self-government organization, it is necessary to introduce an idea about the functional space of the organization.

The functional space of a self-government organization is the space of interactions of the participants in the organization, in which the organization's laws operate.

This space is characterized by a functional boundary. All types of activities of the organization members, which are defined by the agreement of participants, form the functional space of the organization. All other activities of the same people are located outside the functional space of the organization. Its participants are free in their life and work beyond such a border (outside the organization's space) [13]. Inside the organization's functional space, its participants shall comply with the organization's contractual laws. In this case, two situations may arise:



1) members of the organization limit their freedom in the interests of the organization only on a voluntary basis without imposing any material or other sanctions for violation of the functions of the organization member (informal organization);

2) participants in the organizations formalize their functions, assume formal responsibilities and bear responsibility for the violation of their proper functions; members of the organization receive non-freedom and are charged sanctions for its violation (formal organizations).

The main difference between an informal organization and a formal organization is that in an informal organization, the functions of the participants and their legal capabilities, as well as the legal status of the organization as a whole, are not fixed and do not limit the freedom of participants, including freedom of entry and exit from the organization. All participants in an informal organization equally retain their freedom of activity; there is no (formal) lack of freedom [12]. In a formal organization, (formal) non-freedom is introduced, which restricts the rights and freedoms of members of the self-government organization. The functions and legal statuses of the organization members are formalized by the constituent law of the organization and are fixed for the duration of the organization. They are associated with the legal status of formal organization as an integral social body. Structural functional elements and all kinds of relationships between them form the subject-functional structure of self-government organization, i.e. closed circuit.

As a result of the formation of such a chain of communications and managerial influences, the following situation arises: ordinary contractors, being both legislators in the organization, exercise collective autocracy over each member of the organization [13].

Self-government is such a distribution of leadership and executive functions between members of the organization that allows a team of participants managing the individual activities of each member of the organization (to exercise autocracy).

V. CONCLUSION

Thus, the fundamental model of self-government organization contains all the structural and functional elements and all the relationships that, in principle, are necessary and sufficient for self-government.

When creating a self-government organization in the case of acquisition of common movable property, the cause of organization's occurrence becomes more complex - the need for common ownership and the achievement of each participant's goals through informal, but contractual, distribution of goods and the burden of common property among participants.

In the formation of common property, a self-government organization arises only in the case of forming common joint property [12-17]. With this property, all participants are considered equal. If common property is created on the so-called shared basis with the formation of different values of shared ownership, then self-government degenerates due to the loss of equality. Participants in common property with a greater share than other participants can make decisions without regard to the interests of other members of the organization.

The conditions for the formation of self-government organization and its withdrawal from the creation of common property are complicated by the need to make and withdraw its contribution to the common property, to enter or withdraw from the participants in common property. If disputes arise, withdraw from the organization requires the resolution of disputes in court [4-18].

The creation and functioning of self-government in the case of creation of common real estate (common economy) becomes even more complicated. The most typical cases are the creation of a common housing sector, for which a common joint property is created without establishing a legal entity. Thus, by introducing model ideas about the simplest self-government organization, the authors described the subject-functional structure of the self-government organization, which are necessary and sufficient for self-government in the housing sector.

VI. SUMMARY

The following should be noted in the summary. An important specific of the lack of freedom in the formal organization is the fact that, within the framework of formal self-government, a team management subsystem is always and mandatory created, which can break away from self-government and generate authoritarian management instead of self-government. Such a danger is typical for the self-government organizations with a large number of participants, in which it is necessary to create complex self-government systems [10-16].

The basis of freedom is the receipt of personal benefits using common property and the use of these benefits without prejudice to common property. The ratio of borders and the size of burden and benefit, arising from the exercise of common ownership of common property, is one of the most important aspects of the housing problem. The problem of freedom of legal relations reinforces the need to distinguish between unfreedom and freedom, gives rise to the problem of justice of legal relations.

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