

Escheat Property: An Additional Source of Local Government Housing Stock

[There are instances were after the death of an owner, no legal successor to properties are found. This kind of situation is not uncommon in rural and remote areas, like some of the buffer zone areas. These properties are called escheat properties. The local council has the power as well as an obligation under the law to assume ownership of such properties through a legal process. Escheat can be a useful source of housing stock for the local councils for distribution to IDPs and other victims of the conflict.]

When Does a Property Becomes Escheat Property

The legal owner of the property passes away:

- without leaving a legal successor, or
- legal successor(s) don't claim for inheritance within the prescribed time, or
- legal successors(s) are disqualified by law for succeeding

Who Can File a Claim for Escheat Property

- Local councils or their departments (mandatory obligation to file claim);
- Creditor of the deceased
- If escheat includes agricultural plot, owners or users of neighboring land plot

Where to File a Claim

- to a court of general jurisdiction
- if for movable property, at the court of last place of deceased's residence
- if for immovable property, at the court where the property is located
- if movable property (TV) is located inside an immovable property (house), at the court where the immovable property(house) is located

When to File a Claim

- one year after the opening of inheritance
- opening of inheritance is defined as the day of the death or declaration of the death

Where Does Local Council Get Information

- from the inheritance register
- local council has power to address inheritance registrar for information about current inheritance cases
- information of inheritance register will show if a property is heirless, and if one year has passed

What Information Local Council Provide in Its Court Claim

- date and place of opening of inheritance
- description of the property
- evidence that the deceased had owned the property
- evidence that there is no successor, or that the successors had refused to inherit, or were legally disqualified from inheriting

When is the Property Transferred to Local Council

- If all conditions above are fulfilled, the court will pass a verdict declaring the property has escheat; and transfer the property to the name of the local council.

What if a Creditor Had a Claim Against the Deceased

- If the creditor participated in the escheat court process, and if
- The court has acknowledged creditor's claim
- Local council will satisfy the claim from the escheat property it acquired.

What if a Successor Appears with a Justifiable Claim After the Transfer

- Successor has to file a petition in the court through standard court procedure
- Subject to the satisfaction of the court, court may grant him/her the right to the property, or a right to monetary compensation where the property is disposed of by the local council

Law on Escheat. Articles 1277, 1221, 1220, 1231, 1280 of the Civil Code of Ukraine