

Management of Owner-Occupied Apartments in Ukraine: A Way to Balance between Landlords and Tenants

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Abstract

In Ukraine, unlike in other countries, apartments, but not plots, have been defined by law as the real property. As a result, in 2012, the share of giveaway privatization has been the highest and the household solvency has been the lowest. Thus, the apartment buildings in Ukraine have ended up being in the poorest conditions and have needed expensive repairs. Invariably, they have had to be funded by the new owners.

After 2014, when the costs of housing utilities rose, the insolvency and debts of owners as tenants have led to the needs for substantial state subsidies. In fact, in the cases where additional repairs were needed, the expenses have also risen very high, necessitating state financial assistance.

Unfortunately, both types of state financial assistance contradict the initial idea of efficient housing ownership and also the requirement to avoid public funding capitalization by the landlords. The scale of the problem in Ukraine requires massive re-privatization, complicated by the inefficient system of housing ownership and management.

In this context, this research examines the multi-story residential buildings. In these buildings, there is a way out being considered by defining the residential real estate assets as enterprises in terms of the Ukrainian Civil Code and its owners as a business association in terms of the Economic Code. It compares the limitations both of Ukrainian models of condominiums and of housing associations with the modern corporate organizations and management structures, in order to propose improvements.

The study proposes a combined model for the property management functions which has been defined at the top management level representing the common building owners' interests separated from the current building maintenance and facility management functions. Indeed, they have been transferred to the executive level of private or municipal housing management companies which deliver services to the tenants. In a new model, the interests of the different tenants as owners are integrated on the top, and the interests of the owners as tenants and consumers are generalized at the level below.

The paper shows how the interests of owners and tenants could be balanced within the proposed housing management model taking into account the need for building maintenance and utility services payments. They should be made by insolent tenants who are still assets owners. The special management functions of making payments by the equivalent shares of property are proposed to eliminate the contradictions between the aim to minimize customer's expenses and the need to preserve the owner's assets as well as to finance the assets of utility services infrastructure.

It concludes that the application of the new model and appropriate management functions to transform the external funding for utility payments and repairs into the shares of the housing company. The financial task of smooth property transition makes the proposed model quite different from the Finnish housing company where the unit property cannot be divided.

Keywords: tenants, debts, enterprises, apartments, houses. Ukraine.

Introduction

The issue

In Ukraine, privatization of the housing stock in 2014 was aimed at enabling the formation of housing assets and “efficient owners” which could ensure proper maintenance and operation of apartments, buildings and land, and also to provide in the long run, the renovation of the housing stock on the basis of the market. There was also a strong hope for an economic growth at the macro level and for a rational behavior of owner-occupiers at the micro level.

Instead, it required the revision of housing policies and the reduction of private ownership limits of apartment buildings, given the difficult economic situation and the exclusion of the state from the maintenance and repair of the houses. The delay of ownership legislation and the unwillingness of homeowners to manage their properties aggravated this situation. In fact, the large scale of property transfers could cause social complications, although the task of the state is to create flexible and smooth legal, organizational and financial mechanisms to facilitate efficient housing delivery and maintenance.

In this context, this paper aims to offers a combined model for property management functions, representing the common interests of building owners, separated from the functions of ongoing building maintenance and facility management.

The hypothesis of the study is that a model of housing company in the form of a limited liability company (up to 100 people) or a joint stock company, for a larger number of members could be the most convenient option in the Ukrainian situation.

The Structure of the Paper

The paper begins with a description of the poor condition of residential buildings in Ukraine after the privatization of apartments and giveaway of them by their tenants. Hegedüs et al., (1996; 2005) provide good insights from the East European experience presented here. However, unlike in Eastern Europe, Ukrainian legislation (The Law of Ukraine “About Privatization of the State Housing Stock”, 1991), and mainly its statements concerning supremacy of the apartment over the house and land as a real property object, was faulty and has badly influenced all subsequent government decisions in housing management. This has caused practical management problems because the responsibilities of the owners, or land lords require house maintenance functions, including the provision of housing sustainability. This requires the owner's funding both for the construction of the apartment building and for the maintenance of it and the plot. This funding must be justified based on accounting data and the owner's solvency.

Afterwards an analysis of the long-lasting genesis of Ukrainian housing ownership system and the consequent problems caused by the distorted sense of real estate object as

apartment, instead of building and land is presented. It articulates the definition of a condominium as apartment ownership and joint unshared ownership of other premises, instead of its divisions by shares, which has led to the optional creation of 'Home Co-owners Associations' (HCOA).

The paper then progresses to a discussion of the interests of owners and tenants which could be balanced within a new housing ownership and management model, taking into account the need for utility services payments and building repair finances, which should be made by insolvent tenants who are still asset owners. The paper proposes special management functions of making payments by the equivalent shares of property, to eliminate the contradictions between tenant's cash expenses and the need to preserve owner's properties, as well as to finance the assets of utility services infrastructure.

Literature Review

Research into the management of residential buildings in Ukraine are in abundance depending on the availability. According to Nikolaiev and Babak (2018), the attention of most Ukrainian professionals working for international donors is still drawn mainly to difficult interactions between apartment owners. Shcherbyna (2017) points out that they deal with the organization of their meetings, formation of co-owners' associations, involvement of professional housing managers, and debts collection, etc.

Horne et al. (2022), Han et al. (2022), Karpestam and Palm (2022), Yoon and Oh (2022) have focused on housing ownership and management models to find the right decisions of different problems comparing domestic and foreign housing management systems. Ball et al. (2010) noted that despite common features, each country has its peculiarities which are reflected in the relevant housing management model.

Nikolaieva (2012), Panteleiev (2018), Kucherenko (2019) have also dealt with the manifestations of the new approach to housing ownership and consequent management changes. They have pointed out that the high cost of being a property owner, worn out houses and the possible need to re-transfer pure residential real estate to efficient owners causes serious problems. In contrast, Hegedüs et al., (2014) and Shcherbyna (2019) provide a deep analysis of legal and economic problems of building management and effective management methods focused both on owners and tenants. Babak (2021) clearly shows the paradox of apartment owning: when a developer sells apartments as separate real estate objects, the value of the house in accounting seems to dissolve, which formally removes it from the subsequent management. Nikolaiev and Kucherenko (2019) also has discussed the erroneous policies on state housing subsidies which support the property owners but leave the issues of housing stock funding unresolved.

Interestingly, Lujanen (2010) has shown that the Finnish model of housing ownership could overcome all these problems. However, there is a serious lack of comparative research into the management of condominiums or other forms of joint ownership for apartment buildings. In this context, it is argued that Lujanen's approach (2010) to the Ukrainian situation could be useful in dealing with the issue described.

Research Methods

This research adopts a methodological approach: the ordinary corporation model both to home co-owner's organizations and to real assets management which should effectively combine the interests of shareholders as landlords or owners, with interests of tenants as consumers, and also with management. It is based on the research of Lujanen (2010) who describes the common building management problems in the context of wrong apartment ownerships across the globe, in particular in decision-making processes, provisions for repair, utility services payments and transparency. It intends not only to overcome the specific limitations of domestic model but also to eliminate its negative consequences and to simplify the property transition.

In order to carry out a system analysis, Nikolaieva (2013) has composed an institutional structure of the Ukrainian house ownership and management. She shows that owners, managers

and real estate objects never comprise an entire legal and economic system, except in cooperatives and in the case of un-privatized apartments. This paper utilizes this structure to execute this research (Fig. 1).

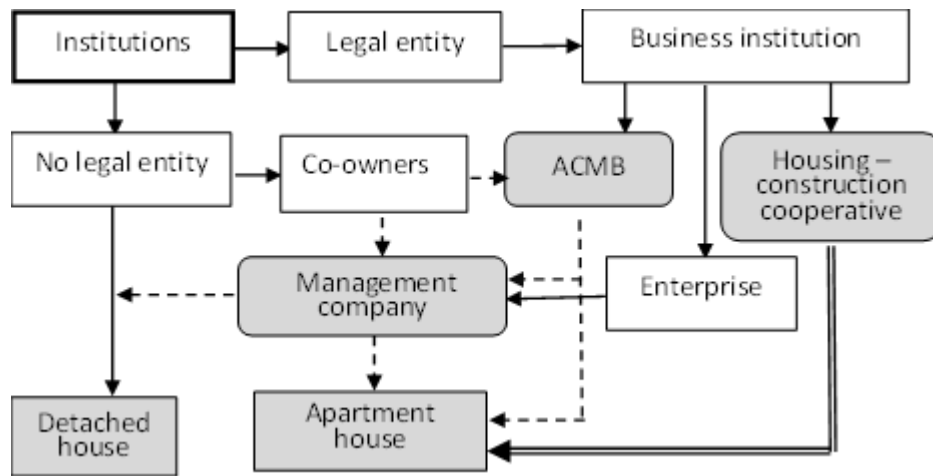


Fig. 1: Institutional housing ownership and management system of Ukraine

Source: Nikolaieva (2013) revised and supplemented.

Legend — structural connections; ---- functional optional connection; — property connections.

Similarly, Babak (2021) has developed an approach focused on residential buildings and their life-cycle management by components: plots, buildings, and apartments (Fig. 2). To account for the costs of these, an analogy with the enterprise was used, in the definition of the Civil Code of Ukraine (2003).

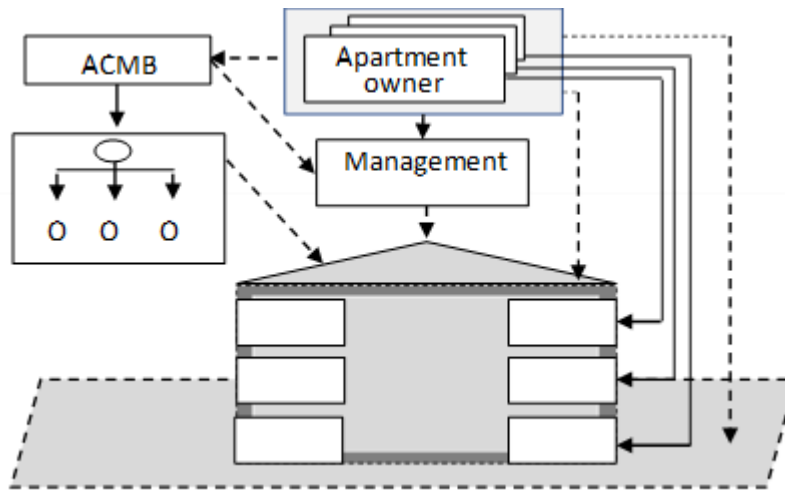


Fig. 2: Building as an object or an enterprise

Source: Babak (2021) revised and supplemented.

Note: —> definite relations and mechanisms; ----> optional relations or indefinite mechanisms.

The model of an object, i.e., a property complex or an enterprise shows several areas of legal uncertainty. Thus, the subjects of ownership could not be organized in association; building as assets stays separately from owners and management and is not even reflected in registration and accounting.

Instead, Shcherbyna (2019) has considered mainly the top parts of the Fig. 2. He considers the subject of ownership and management, organization of co-owners of the house as a business company, and an analogue of a limited liability company or a joint stock company in accordance with the Economic Code of Ukraine (2003). At the same time, he points out that

shareholders play the dual role of co-owners of the house and tenants in apartments who are also consumers of housing and utility services. He offers a model which reflects both the owner's and tenant's relations with the management (Fig. 3). In addition to actual management functions, this model includes property management and assets management.

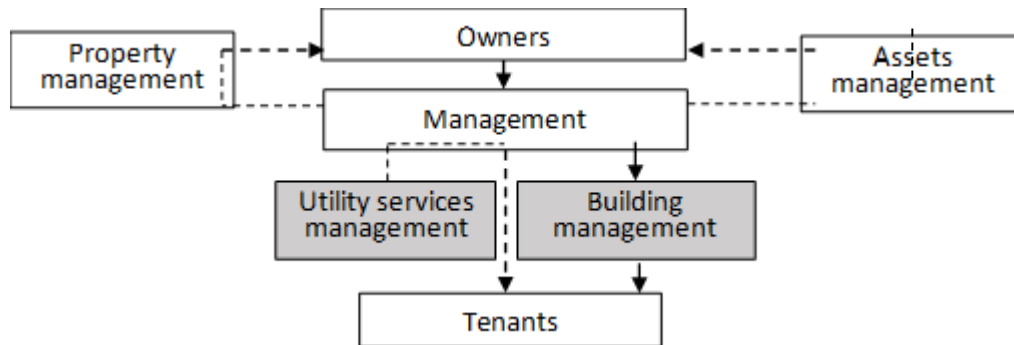


Fig. 3: Owner's & Tenants and management as subjects or company
Source: Shcherbyna (2019) revised and supplemented.

The final task of the research is to eliminate the shortcomings of the existing system, to combine all the above-mentioned approaches in one economic model and to adapt it to better housing management and easier property transactions if necessary. Thus, a slender system of real estate and management connections are created with definite subject-object relations.

Findings and the Discussion

Distorted Housing Ownership and the Owners' Inefficiency

At the beginning of 2021, the housing stock in Ukraine amounted to 1015 million sq. m including 625 million sq. m in cities (Shcherbyna, 2020). According to the Table 1, the total number of apartments in cities exceeds the number of households by 1.3 million, which indicates the existence of additional flats occupied by a large number of families. Therefore, this housing stock should be analyzed potentially as a significant resource (11.5% of apartments) which could be in the private renting market.

Table 1. The structure of the housing stock and the distribution

Indicators	Houses		Apartments		Households		Tenants	
	million	%	million	%	million	%	million	%
Total	9.2	100	17.4	100	14.8	100	41.6	100
In cities	3.3	35.9	11.3	64.1	10.0	67.6	29.0	69.7
						explain the difference		Explain the difference

Source: State Statistics Service of Ukraine, 2020.

The recent information on the distribution of households by type of housing, as of early 2019, is presented in Fig. 4.

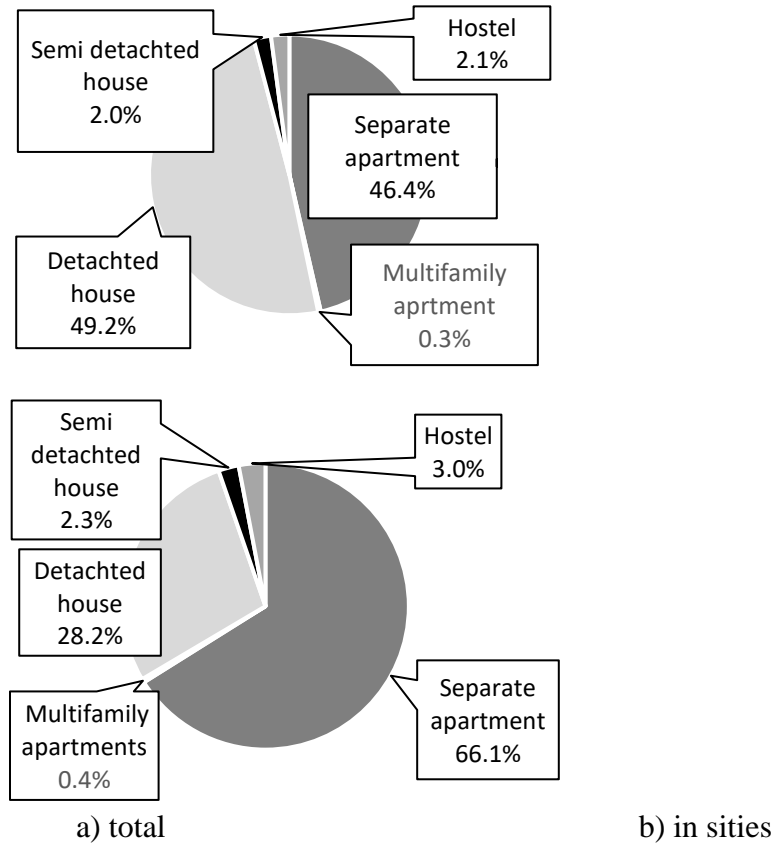


Fig. 4: Types of households' apartments
Source: State Statistics Service of Ukraine, 2019.

The shares of the total number of households using housing of different types of ownership are shown in Fig. 5. 99% of households in cities use private housing: owned (91.9%) or rented (7.1%).

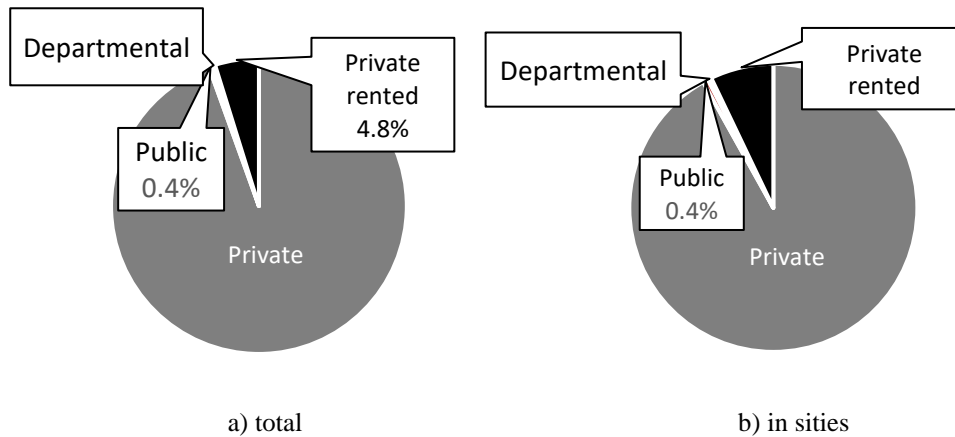


Fig. 5: Types of housing ownership
Source: State Statistics Service of Ukraine, 2019.
Note: * "Departmental" means owned by institutions.

For comparison, in the EU in 2019, 53 % of the population lived in detached houses, while 46 % lived in flats (1 % lived in other accommodation). In cities, 72 % of the EU population lived in flats and 28 % in houses. For towns and suburbs, the proportions were 58 %

and 42 % respectively, while for rural areas, 82 % of the population lived in a house and only 18 % in a flat. In 2019, 70 % of the population lived in their private houses, while the remaining 30 % lived in rented housing in Ukraine. The highest share of housing ownership were observed in Romania (96 %), Hungary (92 %) and Slovakia (91 %) (Housing in Europe. Statistics visualized, 2020).

Thus, about 72% of households in EU cities and 58% in towns live in flats in apartment buildings (over 66% in Ukraine), 70% of households are owner-occupiers (over 95% in Ukraine). 30% of all households live in rented housing (5,5% in Ukraine), and 10% live in social housing (0,7% in Ukraine). The main economic contradictions arising from these comparisons are that Ukraine has the highest share of homeowners, and the highest share of owner-occupied housing, while private and social renting are lower.

These data do not provide, however, a clear answer to the question as to how much living spaces, houses, and apartments are occupied by their owners. These data, depending on the quality and condition of houses and apartments, would determine the effectiveness of these owners, the need to purchase, maintain and housing repairs, and the need to pay for housing and utility services (Buil et al., 2015). Lack of information complicates the vision and assessment of the problem at the national and local levels. It requires the organizations to obtain such information, and apply appropriate approaches to the analysis of household statistics.

It should also be noted that, from the point of view of the complexity of the relationship between the form of ownership and complexity of management, among the total number of apartment buildings, it is necessary to consider primarily multi-storey buildings with a large number of apartments. However, in the absence of this information, houses can be classified by the number of floors. Thus, according to the latest detailed information from the Ministry of Regional Development of Ukraine at the beginning of 2014 (Passport of Housing and Municipal Economy of Ukraine, 2014), the housing stock amounted to 1,096.6 million sq. m, accounting for 10.18 million houses and 19.37 million apartments. Of the total number, apartment buildings accounted for 2.5%, while multi-storey buildings (5 or more floors) accounted for only 0.8% (Fig. 6).

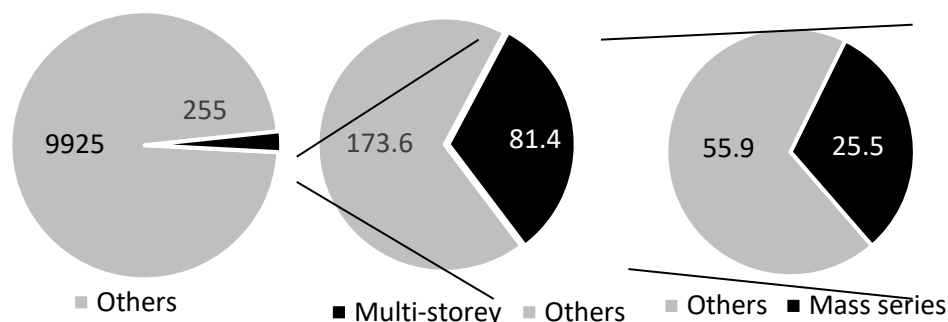


Fig. 6: Multi-apartment and multi-storey buildings in Ukraine
Source: Composed by author.

According to Babak (2021), from 20 to 25.5 thousand houses (31.5% of multi-storey buildings) are “mass series” typical houses built in the 1960-1970s. They account for 72 million sq. m, or 7.1% of the total housing stock area. In other words, it is 23.7% of the total area of the apartment buildings. This information is essential to evaluate the problems of the management organization because the co-owners of such houses don’t want to establish associations. In January 2020, the number of housing owners’ associations in all multi-storey apartment buildings accounted for only 33 thousand units which covers about 44% of such buildings. They need to look for solutions both for already existing organizations within the current imperfect management model and for unorganized owners.

The number of households in residential buildings grouped by years of construction shows the problems of their further maintenance by co-owners (Table 2).

Table 2: Distribution of households by houses of different years of construction

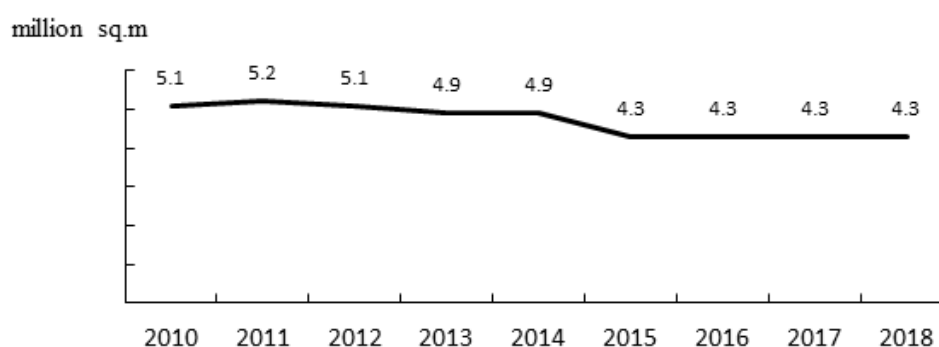
Years	All households	Households in cities
Before 1950	6.0	5.3
1950s	11.3	9.9
1960s	20.8	19.0
1970s	25.0	25.5
1980s	25.2	28.5
1990s	9.0	8.8
After 2000	2.7	3.0

Source: State Statistics Service of Ukraine, 2019.

Thus, houses in the pre-war and post-war urban areas, built by the end of the 1980s, inhabited by 82.9% of all households, reached the deadline for comprehensive overhaul to be carried out after 2000. In addition, a significant part of such housing is obsolete and needs modernization and reconstruction, based on European standards of housing quality and domestic construction norms. The actual physical wear and tear of different houses, and their values are difficult to determine, because houses with privatized apartments are not reflected in accounting.

If we take into account the methodological recommendations, then the buildings with physical wear of 60-80% are considered dilapidated, and more than 80% are considered to require emergency repairs. However, this requires appropriate mass inspections, rather than forced fact-finding on a few objects with obvious defects, as it happens in practice (Panteleiev, 2018).

The emergency housing stock is shown in Fig. 7. However, (Table 2), the volume of fully worn-out buildings could be much higher. Nevertheless, the majority of houses could be still repaired, modernized or reconstructed.

**Fig. 7:** Decrepit (please check this word) and emergency housing stock

Source: State Statistics Service of Ukraine, 2019.

Finally, let's look at the cost of renovation. According to a sample survey by Panteleiev (2018) for several high-rise buildings in Kyiv, the minimum cost of ordinary capital repair accounts for about 30 Euros per sq.m. As more than 80% of all apartment buildings in cities need not only major repairs, but also comprehensive energy efficiency measures, additional costs of expanded packages could rise by next 50 Euros per sq.m, totalling to 80 Euros in total. In Germany, the cost of the modernization of similar buildings in 2015 was 165 Euros per sq. m, of which 113 Euros accounted for standard energy efficiency measures, with an expanded package of measures amounting to 343 Euros in total. 291 Euros were intended for energy efficiency (Staniaszek, 2015).

This leads to the conclusion that both the assessment of wear and tear and the real financial needs for major repairs and modernization require representative statistics, which are lacking in Ukraine. Unfortunately, they are not in the accounting data, and are not kept in houses with privatized apartments, as we have already mentioned. We estimate that accumulated needs for urgent repair of 400 million sq. m of worn out but still costly city housing accounted for at least 20 billion Euros, which is equal to 20 years of housing construction expenses in actual prices and volume. At the same time, even the worn-out real estate could cost 60-80 billion Euros.

Most apartment owners in worn-out buildings are unable to finance major repairs and modernization, even with government support (Shalbolova et al., 2021). This is evidenced by the payments for housing and utility services. Last year, utility prices have risen significantly. For example, gas prizes increased by nearly 6 times, electricity: 4 times, central heating: 10 times and hot water: 5 times. That is why half of the Ukrainian households became insolvent and applied for utility subsidies. The state allowances increased from 0.8 billion Euros in 2015 to 2.6 billion Euros in 2018, and being too heavy for the state budget decreased to 1.3 billion Euros in this year budget. A total of 11 billion Euros have been spent in 2015-2020, which is 2 times more than the total housing construction cost in this period. Despite these subsidies, the household's utility debts have constantly increased and have reached nearly 3 billion Euros at the beginning of 2021 which amounts to about three times more than the last year for all new housing construction expenses.

Impasse of the Ukrainian Quasi-condominium and the Way Towards a Housing Corporative Model.

While analyzing the current problems of residential real estate, it is necessary to recognize that in the socialist past, the land and housing stock were state-owned. Thus, the very concept of real estate as a plot of land with a building, or a building with a plot of land, did not exist. As a result, in the transition to market relations in the housing sector, privatized apartments have been mistaken for real estate in isolation from land and buildings.

In the first stage (1991-2000), ownership rights were formed only for spatial objects in an apartment building: private ownership of apartments or non-residential premises and joint undivided ownership of their owners for common premises and ancillary buildings on the land. The owners of the privatized apartments have acquired the obligation to maintain them in accordance with their share in the area of the apartments in the building. The function of maintenance and repair of the house was assigned by law to "state utility enterprises". The management of common areas in houses with partly privatized apartments remained unresolved along with the participation of the former owner in the first capital repair after privatization, housing taxation and use of the adjacent territory.

In the second stage (2001-2014), the organizations of co-owners of the house were formed. The Civil Code of Ukraine (2003) expanded the list of common property objects with supporting structures of the houses and other elements. The obligations of the co-owners additionally included: carrying out current and capital repairs, reconstruction and restoration, technical re-equipment of the premises or their parts; inspection of the house during its life cycle; timely payment for consumed services; and the liability for improper operations.

The Law of Ukraine "About Housing and Communal Services" (2004) defines the principles of state policy, in particular: ensuring sustainable development of settlements; self-sustaining operation of enterprises, institutions and organizations of housing and utility services; achieving the level of economically justified costs for the production of such services; regulation of prices in cases specified by law; taking into account the achieved level of socio-economic development, natural features of the region and technical capabilities; ensuring equal opportunities for access to minimum standards of housing and services for consumers regardless of social, property status, age, location and form of ownership; compliance with established standards; ensuring social protection of low-income citizens. The law unjustifiably separated the service of "maintenance on balance" such homes where condominiums were not

created, imposed an obligation to provide utility services to apartments, while the maintenance of indoor networks remained the responsibility of housing and utilities companies.

At the third stage (since 2015), other amendments to the legislation once again expanded the list of common property of the house, namely added: load-bearing, enclosing structures of the house, the right to the land plot on which the apartment house and the buildings and constructions belonging to it and its adjoining territory are located (Law of Ukraine "About Features of Implementation of the Property Right in the Apartment House", 2015). The law abolished the balance of the house. In 2017, the Law of Ukraine "About Housing and Communal Services" (2004) was updated. It stipulates that the building manager is obliged by the decision of the co-owners and within the funds allocated by them to organize the major repairs.

The study helps to distinguish the periods and different approaches to the models of utility services provision to the apartment or to the house. From the standpoint of the house as a single real estate, the provision and management of services at the building level has obvious advantages. At the same time, the issues of ownership of land plots and adjacent territories have never been finally settled in the legislation, as well as the state program of financing the first repair after privatization was not realized.

At the same time, accumulated needs for urgent capital repair of 400 million sq. m of worn out but still costly housing accounted for at least \$20 billion, which is equal to twenty years of housing construction costs in actual prices and volume. The financial sources are not identified, while even the worn-out real estate could cost \$60-80 billion. These circumstances indicate the economic and financial crisis in the housing sector, which is due to the inefficiency of property relations and management in apartment buildings.

A Way Forward

Lujanen (2010) has indicated traditional options for funding maintenance and capital repair. These include the use of funds accumulated over a period of time due to contributions of owners justified by the relevant plans; one-time targeted cash contributions; grants from the state or local authorities; loan at the financial markets or from government bodies.

Now, let us consider the acceptability of various existing forms of joint ownership management in Ukraine not only for this purpose but also for debt payments and transmission of property to efficient owners.

The first model, similar to the Ukrainian one, is called dualistic, since in the classic sense, it combines two property objects: a land plot with a house in joint shared ownership and an apartment owned by an individual. The second model is called the unitary one, since co-owners own a single object which consists of a land plot with a house and all its premises and the exclusive right of permanent use of a particular apartment. This type of joint ownership does not physically divide its objects into an apartment and a land plot with a building (Shalbolova et al., 2020). The unitary model is a new form of house ownership and is used in Europe in the most socially developed countries. In the third model of Finnish housing company, all real estate belongs to a single legal entity, i.e., a company, where the shares determine exclusive right to use a particular apartment.

As we have proved in previous sections, the dualistic model of "inverted condominium" in Ukraine should be transformed into one of the above-mentioned models. Its transformation into regular dualistic model means mainly the introduction of building legal registration and accounting, sharing the building and plot ownership, making apartment the secondary real estate object. Under conditions of insolvency of apartment owners in the worn-out old buildings, neither contributions nor loans could be possible, and mass budget subsidies, as we have showed, are socially unfair. Thus, the classic dualistic models could not help. The transition to the second model has the same obstacles. Hence, doing nothing, the only way out for owners could be to sell or to rent out their dwellings. Herewith, it is important to provide the opportunity for tenants to stay longer in their dwelling and not to be required to pay missing money for housing and utilities.

Thus, the third corporation model, instead, allows not only to raise funds but to gradually transform the shares of insolvent owners into funds to pay for the building maintenance and operation of dwellings, or, on the contrary, to transmit the ownership to investors who can bear the appropriate responsibility (Fig. 8). Of course, staying in shared property apartments means partly renting it using the same financial mechanism.

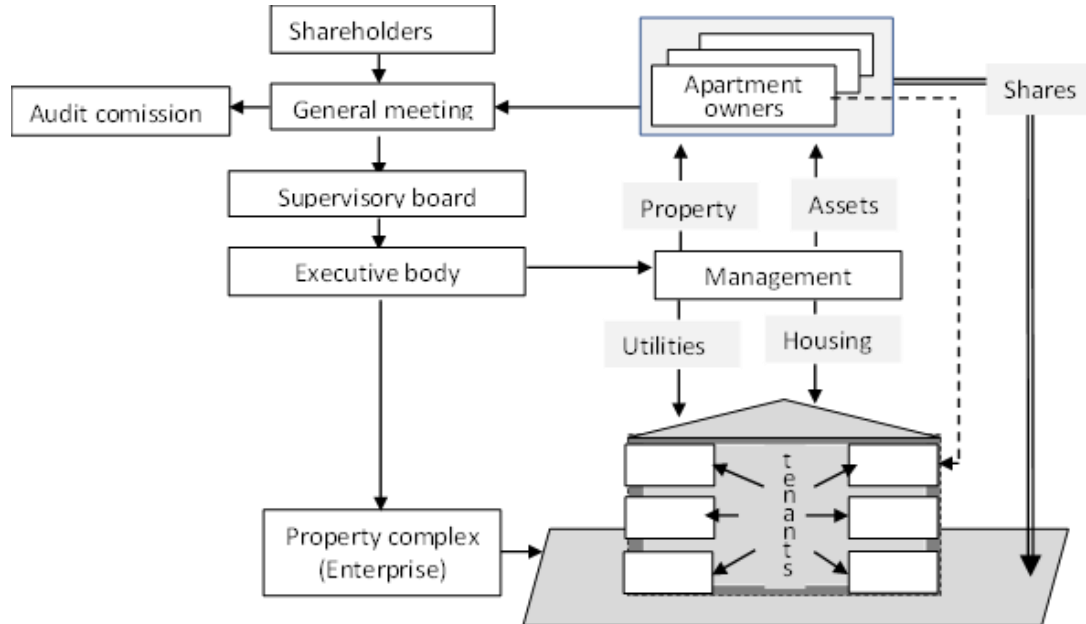


Fig. 8: Ownership and management in housing corporation model

Source: Composed by author.

In a joint-stock company, the ownership right to the company belongs to its shareholders, and the ownership right to the property belongs to the company itself. Consequently, in a joint-stock company, there is a separation of the ownership of the legal entity from the ownership of the property, or the enterprise. It is this circumstance, the nature of property relations that is the key in the interpretation of the concept of corporation. Thus, residential property ownership in the legal form of a housing company will also make possible to obtain a company's ownership of a land plot (currently, under the conditions of joint ownership in Ukraine, it is impossible); to register through the corporation the ownership on real estate with a land plot; to clearly define the shares and their values (instead of joint undivided ownership) (Ginters et al., 2014; Shalbolova and Kenzhgaliyeva, 2018). In future, it would be possible also to carry out digital transactions with part of shares divided by tokens treating shares as intangible assets. The proposed model will supplement the housing system (Fig. 2) which could be introduced both in houses under construction and in the existing ones, especially those 59.9 thousand of multi-storey apartment buildings in which co-owners are not still organized in associations.

The corporative model in Fig. 8 also shows how a management company could act as a potential investor. It is recommended that a professional managing body must participate as a co-owner in housing property management. So far, the application of the described model would balance the needs for utility payments and major repairs funding with investments of the future effective owners. Social housing could be developed in case of public investments and market renting housing in case of private funding. The return on investments could be obtained through the rent of shared apartments.

Conclusions

The Ukrainian model has shown a lack of proper attention to the house as the main object of value. Instead, foreign models have evolved from joint partial ownership of land and a house with derived individual rights to use (own) an apartment, to joint ownership of a share in a

house with apartments ending with ownership of a share in a housing enterprise. The latest model and its Finnish form of joint stock company could be recommended especially for the future and in the Ukrainian situation. This requires the transfer to the professional managers of the complex functions of real property management. In this case, a special type of owner-manager-consumer business will be formed, where the management functions will be closer to assets management and property management. An important area of activity of management companies should be to assist consumers in increasing their solvency and owners – in increasing the value and efficiency of the use of real property.

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