

## FLOATING HOUSES AS REAL PROPERTY IN LATVIA - LEGAL ASPECTS

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### **Abstract**

The paper analysis the problems based on the fact that development of the real estate market make it possible for people to choose the most suitable accommodation not only in winter, but also in summer vacation. People interest of the floating house construction are increasing; therefore it is a time to evaluate and analysis the legal framework of the floating house construction, placement issues and the legal status of these houses in Latvia. The acquirers of the floating houses are raising questions if ownership of such houses will be able to enter in the Land Register, what kind of waters will be possible to place floating houses and what requirements are met to accommodate the floating houses on the water, the issues related to environmental protection and conservation, water treatment and waste management. There is an absence of floating houses construction, formation and registering regulation in Latvia, therefore the paper is a theoretical overview and analysis of the existing legal framework. The results of the research indicates the necessity of developing specific rules for the construction of floating houses, its formation process and determining the legal status of floating houses.

**Keywords:** floating house, property, structure

### **Introduction**

Floating houses is unpopular idea in Latvia, but this idea had discussed in some mass media where describes the different floating tea houses, tents or summer home on the raft are drifting in rivers of Latvia. Looking to the directions of development of the urban areas in foreign countries we also have to star a discussion in Latvia about the topic - the floating house.

Floating houses, as seen, for example, in the Sweden's are linked to the city utilities networks. To create a floating house means complete solution: first, the project developer at the edge of the reservoir should be built and established infrastructure to provide a floating house connections to the city main communications. Foreign countries are usually built special floating home stations with a certain number of access points. This is very labour-consuming process, which requires significant investments. And the second, the domestic house production technologies should be safe and certified. The idea of floating houses in Riga yet it is only a suggestion, but the demand has not been determined. It is necessary to take the initiative to encourage amendments in laws, to change legislative, to determine the protective zones of water - in both for the private and public industrial purposes. It is necessary to determine procedures for the construction of floating houses, how to attach it's to the shore and connected to infrastructure and communication, to ensure fire safety, and also to define and enter property rights, if the floating house is situated at the edge on public waters not on private waters.

The aim of the research is to review and analysis the formation and construction of legal framework of floating houses in Latvia.

The following objectives have been set to achieve the aim:

- 1) to describe the floating houses construction process;
- 2) to analyse the legal framework of immovable and movable property;
- 3) to identify the floating houses construction problems, formation and legal registration process.

### **Methods of the research**

The paper is based on analysis and generalization of scientific literature, analyse of legal acts Civil Law, Construction Law, National Real Estate Cadastre Law, Land Register Law, monographic, comparative, descriptive, and logical generalization.

### **Results and discussion**

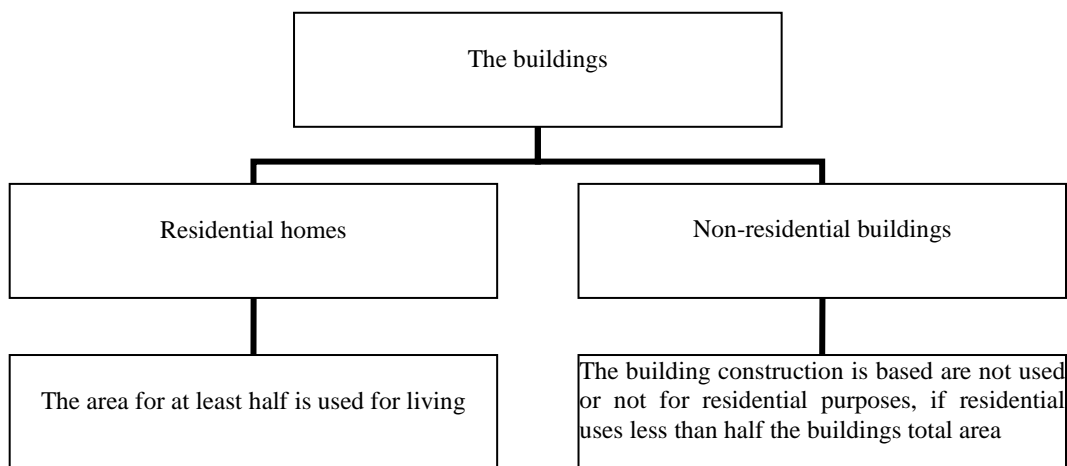
To identify and assess the legal status of the floating houses (movable or immovable property), if the floating house is a structure or navigable and to find out other issues of floating house, therefore it is necessary to explore and analysis the legislation of Latvia, which defines the general issues of

construction branch, as well as issues for the navigable resources, and how the existing legal framework could be applied the legal status of the floating house. There are several questions have to be answer:

- does the location of the floating house present a hazard to navigation, or other danger to vessels and/or individuals using the waterway?
- is the floating house docked or moored legally, if the needs for the mooring permit? Is the floating home is docked only in places where the station have been established?
- are there any pollution issues (sewage, garbage, etc.)? Are there any health/safety issues (clean fresh water supply, heat, fire escape, etc.)?

In view of the abovementioned problems, it is necessary to carried out the analysis of the existing legal framework. The legal definition of structure is given in Article 1 of the Construction Law, which states that the structure is a formation connected to the ground, which has emerged during the construction process that has a specific function. A parcel of land may be built on if the building thereof is in accordance with the territorial local government spatial plan, detailed plan and the building regulations contained within these plans and, upon entering into a contract it is co-ordinated with the owner of the parcel of land (if the building is not carried out by the owner of the parcel of land). (Construction law, 1995). It is concluded that the law governing the construction of building facilities that are built only on land not in waters.

According to the classification of structures, building is defined as a separate, long-term use, a covered building that is open for people and that is useful or intended for human or animal shelter or housing items (Fig.1).



**Fig.1.** Break-down of the buildings in Latvia

The buildings are divided into residential homes and non-residential buildings. Residential homes are buildings, from which the area for at least half is used for living. If residential uses less than half the buildings total area, it is classified as non-residential building. Non-residential building construction is based are not used or not for residential purposes. If at least half of the building's total area is used for residential purposes, it is classified as a dwelling house. It is concluded that the floating home, of which at least half the area used for residential purposes, it could be considered for housing.

Specification of an object of real estate govern National Real Estate Cadastre Law, which states that a structure can not be specified as an object of real estate if it is movable from one place to another without disassembling thereof or otherwise not damaging it externally. (National Real Estate Cadastre Law, 2005).

According to the Civil law tangible property is either moveable or immovable, depending on whether it may or may not be moved without external damage from one location to another. (The Civil law, 1937). According to Land Register Law immovable property shall be entered in Land Registers and the rights related there to shall be corroborated therein. (Land Register Law, 1993).

As pointed out by professor Jānis Rozenfelds a practical difference between immovable and movable property is the opportunity to make an entry in the Land Register or in the absence of such opportunity. (Rozenfelds J., 2004). For buildings, professor Jānis Rozenfelds points out that separated

building from the ground practically it becomes a material, movable property. Separating the building physically from the ground as the building is not possible. Separating the building from the ground it becomes a "materials package" or ruins. In assessing the problem from the point of view of legal aspect, then, of course, right to the building may sell, pledge or otherwise dispose of them in the real estate market traded building separately from the land. (Rozenfelds J., 2004).

According to the Civil law a building erected on land and firmly attached to it shall be recognised as part thereof. (The Civil law, 1937). Andris Grūtups indicate that a building erected on land means that the building can not be separated from the land without damaging or affecting its nature or its separation is associated with disproportionate costs. That connection must be with a (more or less) long-term nature. (Grūtups A., 2002). Due to the fact that the floating houses in the substance can be separated from the land without damaging it externally and without affecting its nature, as well as the separation is not associated with disproportionate costs, it is concluded that the floating houses can not be attributed to the Civil law and floating houses can not therefore be regarded as real estate. In addition to Andris Grūtups point out that the intention of the parties is an important parameter for an object to be recognized as movable structure – builder intention to establish the structure pro tempore and later separated. However, until the parties' intention as the determining parameter should take into account the building and land external links. Structure is regarded as part of parcel and owned by the property owner, even if the parties or builder intention was the building of movable object. (Grūtups A., 2002). Thus, it is definable, if the floating house is recognized as movable structure, then if a building erected on land that the floating house will be considered as a part of the land and will own the property owner. It follows that, if the floating house is considered a building and the building closely matches the land (the coast), then the building may become the land component of property, then, which owns part of the land along the coast, to which is closely connected to the building.

Base on the abovementioned, be concluded that National Real Estate Cadastre Law currently does not allows the floating house to specified as an object of real estate, because the floating house is movable from one place to another with disassembling thereof or otherwise damaging it externally. The information about floating houses is not possible to register in the National Real Estate Cadastre Information System. Given that the National Real Estate Cadastre Law currently prevents the formation of an object, then it also means that floating houses are not enter in the Land Register.

On Recording of Immovable Property in the Land Registers buildings (structures) shall be recorded in the Land Registers concurrently with the land. But there are defining what kind of buildings (structures) shall not be recorded in the Land Register:

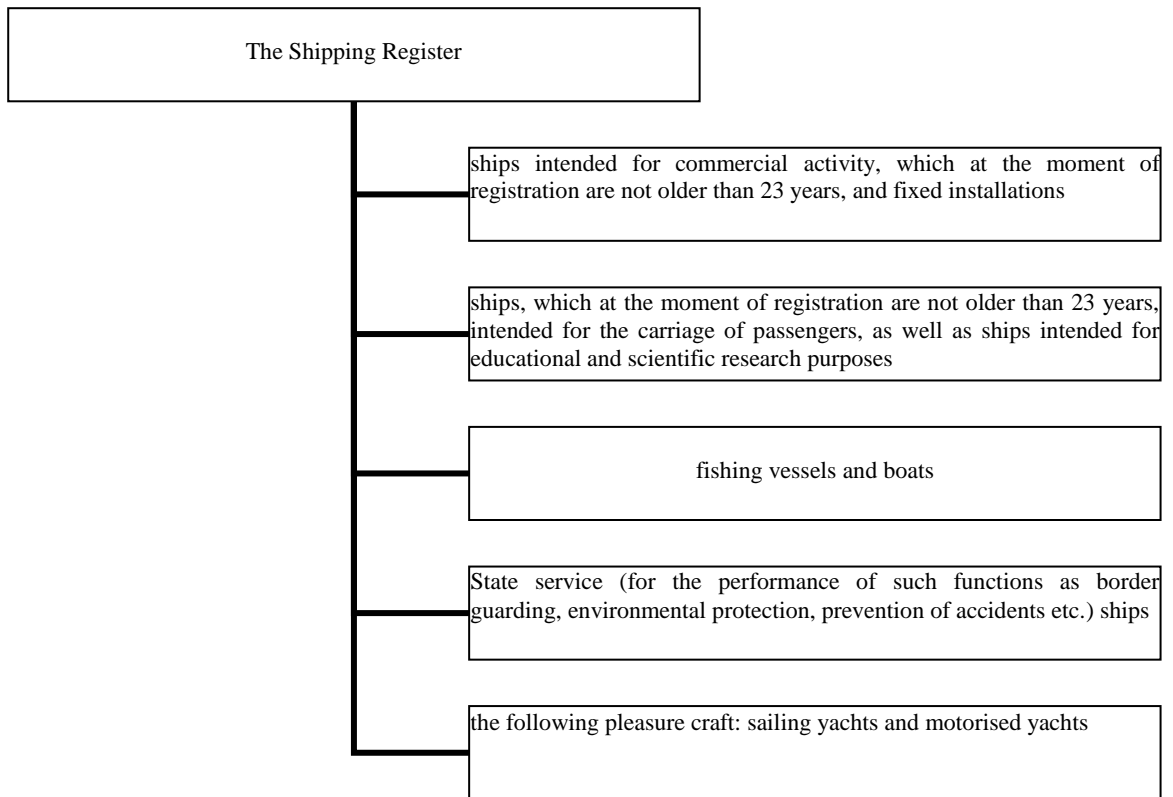
- 1) buildings (structures), in the technical building inventory file of which the signs of unauthorised construction work are indicated,
- 2) small buildings;
- 3) temporary structures;
- 4) surface and underground utilities, pipeline routes;
- 5) roads, streets, parking lots;
- 6) and other similar buildings. (On Recording of Immovable...., 1997).

It is concluded that the 'other similar buildings' can be applied to floating house without entering it's in the Land Register.

An exception might be the Law on Recording of Immovable Property in the Land Registers that establishes the principle the building must be recorded in the Land Register concurrently with the land. If the water and land owner wants to record in the Land Register the floating house located on owner land and in private waters, then the floating house could be entered in the Land Register. But if the floating houses are situated on public waters, then it is necessary to get a permission of public waters owner to record in the Land Register the floating house.

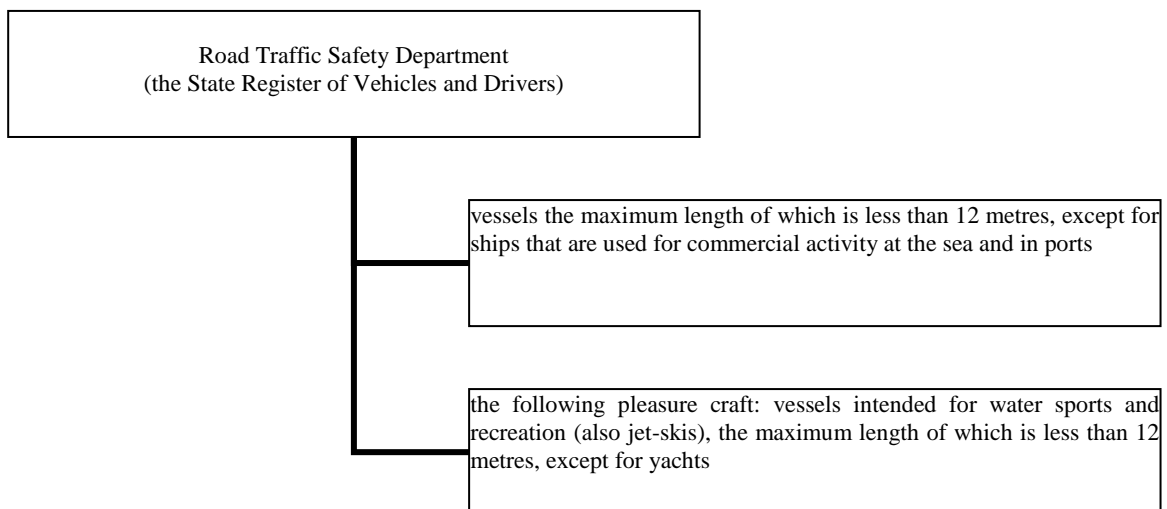
In the document published in the Official Journal of the European Union are define the minimum technical requirements applicable to vessels on inland waterways of zones. There are defining three concepts: floating equipment, floating establishment and floating object. **Floating equipment** is a floating installation carrying working gear such as cranes, dredging equipment, pile drivers or elevators. **Floating establishment** - any floating installation not normally intended to be moved, such as a swimming bath, dock, jetty or boathouse. **Floating object** - a raft or other structure, object or assembly capable of navigation, not being a vessel or floating equipment or establishment. (<http://eur-lex.europa.eu>)<sup>3</sup>

But the Maritime Code of Latvia ships are defining as a vessel - engineering technical device, structurally intended for utilisation on water. There is a similar public recording process for ships like the real estate in Latvia – the Shipping Register and Road Traffic Safety Department. Ships shall be registered in the Shipping Register (Fig.2).



**Fig. 2.** The kinds of recorded ships in the Shipping Register

The registration of vessels in the State Register of Vehicles and Drivers depends on the type of vessel, its size and other parameters (Fig.3). ([Maritime Code](#), 2003).



**Fig. 3.** The kinds of recorded ships in the State Register of Vehicles and Drivers

In Road Traffic Safety Department be recorded a craft, such as watercrafts, jet skis, motorboats and rowing boats (vessel intended for travel, using oars (rowing) or engine with a power of 3.7 kW), regardless of length. (Registration procedures of vessel..., 2008). So according to this definition, it is established that the rowing boats definition also applies to floating houses. In addition, these rules

permit the registration of rowing boats on a voluntary basis. Personal watercraft, motorboats and rowing boats in accordance with these rules are regarded as small-size vessel. Registering a small-size vessel, Road Traffic Safety Department will grant the registration number and small-size vessel owner (possessor) issue a registration certificate. Based on the above assessment, it is concluded that the floating houses should be registered in the Road Traffic Safety Department as a navigable feature.

Besides the floating houses could be a place of residence. According to the Civil law place of residence (domicile) is that place where a person is voluntarily dwelling with the express or implied intent to permanently live or work there. (The Civil law, 1937).

Declaration of Place of Residence Law stated a place of residence is any place (with an address) connected with immovable property freely selected by a person, in which the person has voluntarily settled with an intention to reside there expressed directly or implicitly, in which he or she has a lawful basis to reside and which has been recognised by him or her as a place where he or she is reachable in terms of legal relations with the State or local government. ([Declaration of Place of Residence Law](#), 2002).

Ship may eventually become unsuitable for navigation, but it can be moored to the shore and become a floating house, which could be used as a residence. However, the floating houses become a place of residence, to be necessary to follow the same rule as apply to residential homes. It is necessary to define the requirements for discharge of waste water, water supply, health and safety.

The Floating Home Association Pacific of Canada defines the floating home, means a floating structure which is all of the following:

- it is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling;
  - it has no mode of power of its own;
  - it is dependent for utilities upon a continuous utility linkage to a source originating on shore.
  - it has a permanent continuous hook-up to a shore side sewage system.
- (<http://www.housing.gov.bc.ca>)

National Association of State Boating Law of the United States of America floating houses define "Floating Domicile" means any vessel, home, craft or other structure, that is in or upon any waterway, wetland, marsh or floodplain, within the jurisdiction of (your state), whether such craft is moored, grounded, adrift, floating, sunk, or otherwise made fast to, or attached to the bottom, the shoreline, or any other structure, the craft having been designed, used, or intended to be used, whether as originally constructed or by retrofit, as a temporary or permanent residence, business, social club, and for whatever reason, is unsuitable for navigation on the waterways. (<http://nasbla.org>)

### **Conclusions and proposals**

1. It is necessary to develop specific rules for the construction of floating houses, should be determined the status of floating houses and formation procedures, to reduce conflicts between people who use waterways and public water.
2. Residential homes are buildings, from which the area for at least half is used for habitation, the building is defined as a separate, long-term use, a covered building that is open to people and that is useful or intended for human or animal shelter or housing items, so floating houses may be classified as residential homes, so that such buildings would hold for the Construction Law and General Construction framework.
3. In reviewing the rules together, it can be concluded that if the floating house is a movable structure, then linking it to the parcel, it will be recognized as part of the land and will own the property owner.
4. National Real Estate Cadastre Law currently does not allow the floating house to specified as an object of real estate, because the floating house is movable from one place to another with disassembling thereof or otherwise damaging it externally. The information about floating houses is not possible to register in the National Real Estate Cadastre Information System.
5. Floating house could be described as a dwelling house, so it should be seen as the building and declared the component of land, thus may be specified as an object of real estate and enter to Land Register.
6. If the floating houses in view of the movable structure, then it would be possible to record in Road Traffic Safety Department as a navigable feature, but if the floating houses close links with the land,

then it will be recognized as part of the land, owns the land owner and to be able to enter the Land Register.

7. The floating house is a building whose construction process should address several issues: the edge of the reservoir should be built and established infrastructure to provide floating house connections to main road networks, floating home production technologies should be safe and certified.

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### Резюме

#### ДАЙГА ДАМБИТЕ, ПЛАВУЧИЕ СТРОЕНИЯ КАК НЕДВИЖИМОЕ ИМУЩЕСТВО В ЛАТВИИ - ПРАВОВЫЕ АСПЕКТЫ

*Целью данной статьи является исследование общих вопросов строительства и правовых основ формирования плавающих жилых домов. Исходя из поставленной цели, в исследовании решены следующие задачи: 1) исследование вопросов строительства плавучих домов 2) провести анализ правовых аспектов недвижимого и движимого имущества 3) идентифицировать проблемы строительства, формирования плавучих жилых домов и их регистрацию в Земельную книгу. Данная статья является теоретическим исследованием в котором рассмотрено имеющиеся база нормативных актов относящихся к строительству плавающих жилых домов, к созданию строительных площадей водоёмах для возведения таких плавающих домов и возможное определение статуса этих строений. В работе исследован правовой вопрос: является ли плавающий жилой дом недвижимым имуществом, или оно является движимым имуществом, которое требуется или не требуется заносить в публичных реестрах. На сегодняшний день нормативные акты в Латвии не позволяют плавучих жилых домов определять как недвижимое имущество, что обусловлено тем что такое имущество возможно перемещать с одного места в другое без разборки и без повреждений. Исключением является случай когда плавающий жилой дом привязан к земельному участку принадлежащего собственнику земли, и тогда оно становится частью данного недвижимого имущества, данное условие позволяет такой объект заносить в Земельную книгу. Плавучий жилой дом является строением в процессе создания которого необходимо решать ряд вопросов: необходимо создать на берегу инфраструктуру обеспечивающую подключение к коммуникациям, очистным сооружениям. Создание плавающих жилых домов, их строительство должно соответствовать строительным нормативам и отвечать требованиям безопасности. В исследовании использована научная литература, законодательные акты Латвии. Некоторые выводы сделаны на теоретических и абстрактных оснований.*

**Ключевые слова:** плавучий жилой дом, недвижимое имущество, движимое имущество

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