

Addenda:

To the Alternative Report of the Osaka Citizens' Association for the Right to Adequate Housing based on the Government's Response to the List of Questions, by Katsuyuki Kumano, the Osaka Bar Association

The author wishes to supplement the Information No. 1 (Information on any relaxation of the legal provisions defining the circumstances under which evictions may take place) with the following sections 3 and 4:

3. Further executive relaxation of the conditions on forced eviction

The Ministry of Land, Infrastructure, Transport and Tourism estimated the number of used condominiums with ownership older than 30 years at 120,000 at the point of year 2000, and at 930,000 by year 2010. (Please see 5, A Graph of the Cumulative Number of Apartment Houses with Ownership, published by The Ministry of Land, Infrastructure, Transport and Tourism). In the tentative plan for amendment, made by the Sectional Meeting, March 2002, "older than 30 years" was used as the criterion for deterioration of buildings and rebuilding (Tooru Yoshida,--at the time, Counselor of the Ministry of Justice, now, Judge of the Tokyo Appeals Court--, *One Question One Answer: A Commentary on the Amended Act on Building Unit Ownership*, pp. 7, 65-66, 2003).

The Act on the Land Lease stipulates that the duration of the Land Lease Right for the purpose of ownership of solid buildings such as made of stone or of brick, shall be 60 years, on the other hand, 30 years, only a half of it, was used as the criterion for deterioration of buildings and rebuilding in the discussion of the Sectional Meeting for amendment of the Act.

The development and construction industry had ardent expectation that the relaxation of requirement for rebuilding would bring them such benefit as some trillion yen market.

On January 4, 2012, *Nihon Keizai Shinbun* reported, "A bill is going to be submitted to parliament, to amend the Act on Building Unit Ownership which presently requires the consent of 4/5 majority of the constituents, in order to stimulate rebuilding aged condominiums with a relaxation of the requirement for resolutions into about 2/3."

On February 15, 2013, the Council for Regulatory Reform newly set up by the Abe cabinet listed the relaxation of the regulatory requirement for resolutions concerning reconstruction of condominiums in the agenda to be discussed.

4. The Supreme Court ruling on the "combined reconstruction" case of *Senri Momoyama-dai* Second Housing Complex concerning the Articles 62 and 70 of the amended Act on Building Unit Ownership.

(1) It was in the trial of the "combined reconstruction" case of *Senri Momoyama-dai* Second Housing Complex in the Osaka appeals court, and thereafter in the Supreme Court in 2009, where the defendants (appellants) had, only for the first time in the history of Japanese court, argued for the rights provided in the International Human Rights Treaties, especially the right to adequate housing in the International Covenant on Economic, Social and Cultural Rights. The trial was also the first to deal with the Articles 62 and 70 of the Act on Unit Ownership amended in 2002.

(2) Moreover, the relaxation of restrictions on forced evictions in fact resulted in victimizing the elder residents of *Senri Momoyama-dai* Second Housing Complex. Among the victimized were those who did not, against their will, oppose the resolution, and those who agreed to it and were relocated long

before they came to know the outcome of the trial. By the end of three years since the forced relocation, not a few male and female individuals had been hospitalized because of ill-health including cerebral hemorrhage, cerebral infarction, angina pectoris, or worsening of lower-back pain, or of psychosomatic disorder from stress, and eventually eleven persons had deceased.

(3) About the details of the critical examination of the ruling from the viewpoint of the residents, and also about the consequences of the relaxation of the regulation which would deprive vulnerable individuals, especially in older age, of the right to housing, please see 4 “What the Amendment of the Law for Unit-Ownership in Housing Complexes/Buildings Wrought on the ‘Final Abode’” (published in *Hogaku Seminar*; July 2008, translated by Kimiko Okada), and 3 “The Impact of the Supreme Court Judgment on the ‘Final Abode’: The ‘combined reconstruction’ case of *Senri-Momoyama* Housing Complex” (published in *Hogaku Seminar*; September 2009, translated by Kimiko Okada).

Also about the actual conditions of the forced eviction on the basis of the declaration of provisional execution, and its impact on the aged residents, please see the attached documentary DVD titled “A Documentary on a Forced Eviction; A Japanese case of violation of the right to adequate housing.”