

# PROPERTY AND FINANCIAL FOUNDATIONS OF THE MAKHALLA IN LIGHT OF THE LATEST LEGISLATIVE REFORMS OF THE REPUBLIC OF UZBEKISTAN

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**Abstract.** Based on the current legislation of the Republic of Uzbekistan, this article provides a comprehensive civil-law analysis of the property basis of the activity of the makhalla as a citizens' self-government body. The relevance of the topic is determined by the provisions of the Constitution of the Republic of Uzbekistan as amended on April 30, 2023, the approval of the Development Strategy of New Uzbekistan for 2022–2026, and the adoption of a number of subordinate legal acts that have significantly changed the legal regime of makhalla property and the procedure for its financing. The purpose of the study is to provide a doctrinal and normative characterization of the legal regime of makhalla property, the composition and sources of its financial resources, as well as the civil-law forms of their disposal.

**Keywords:** makhalla; citizens' self-government bodies; property basis; makhalla property; Fund for Solving the Socio-Economic Problems of the Makhalla; civil-law status; non-governmental non-profit organization; financial basis.

The makhalla represents an institution unique within the post-Soviet legal space, combining a historically established form of community self-government with a modern civil-law entity vested with the rights of a legal person. The adoption of the new version of the Constitution of the Republic of Uzbekistan, approved by referendum on April 30, 2023, significantly strengthened the constitutional and legal guarantees of the activities of citizens' self-government bodies and predetermined the need to reconsider the property-law status of the makhalla within the system of subjects of civil law.

The approval, by Presidential Decree No. UP-60 of January 28, 2022, of the Development Strategy of New Uzbekistan for 2022–2026, as well as the declaration of 2026 as the “Year of Makhalla Development and Social Prosperity,” marked a qualitatively new stage in state policy, within which the makhalla is assigned the role of the basic unit of grassroots self-government endowed with real property resources. The establishment in each makhalla of a Fund for Solving the Socio-Economic Problems of the Makhalla, in accordance with the Resolution of the President of the Republic of Uzbekistan “On Measures to Strengthen the Role of the Makhalla Institution in the Life of Society and Further Expand Its Financial Capabilities” of August 16, 2022, has raised a number of controversial issues for civil-law scholarship concerning the forms of ownership of makhalla property, the range of subjects involved in property relations, and the limits of disposal of such property.

The purpose of this study is to conduct a systematic civil-law analysis of the property basis of makhalla activity. To achieve this objective, the study seeks to determine the place of the makhalla within the system of subjects of civil law, reveal the composition and legal regime of makhalla property, examine the sources of financing of its activities and the legal nature of the Fund for Solving the Socio-Economic Problems of the Makhalla, analyze civil-law forms of property disposal, and compare the Uzbek model of property support for the makhalla with foreign experience, thereby formulating proposals for improving the current legislation (*de lege ferenda*).

**Constitutional-Law and Civil-Law Status of the Makhalla.** According to Article 127 of the Constitution of the Republic of Uzbekistan, as amended on April 30, 2023, citizens' self-government bodies are citizens' assemblies in settlements,

villages, and auls, as well as in makhallas of cities, settlements, villages, and auls, which elect a chairperson (aksakal) and his or her advisers for a term established by law. This constitutional provision grants the makhalla the status of an independent institution of both a public-law and civil-law nature, not included in the system of state authorities.

A detailed regulation of this status is contained in the Law of the Republic of Uzbekistan “On Citizens’ Self-Government Bodies.” In accordance with Part 2 of Article 8 of this Law, citizens’ self-government bodies are not part of the system of state authorities and have the right to independently resolve issues of local significance based on the interests of citizens, historical features of development, as well as national values, local customs, and traditions.

The key provision determining the property-law status of the makhalla is Article 26 of the Law “On Citizens’ Self-Government Bodies.” According to Part 1 thereof, the property of citizens’ self-government bodies includes facilities of public, social, domestic, and other purposes created, acquired, or transferred to them in accordance with the procedure established by law, as well as vehicles, economic inventory, and other movable and immovable property.

It follows from this provision that the property of the makhalla is formed in three ways: (1) through the creation of facilities using its own funds and funds provided by third parties; (2) through acquisition on the basis of civil-law transactions (sale and purchase, exchange, donation, etc.); and (3) through transfer of property in accordance with the procedure established by law, primarily on the basis of acts of state authorities and administration bodies (acts transferring state property into the ownership of the makhalla). The list of property objects is open-ended, which corresponds to the general principle of civil law allowing any objects not withdrawn from circulation.

From the perspective of property law, makhalla property falls under the general classifications established by the Civil Code of the Republic of Uzbekistan. Immovable property of the makhalla includes, first of all, makhalla buildings, cultural centers, libraries, youth centers, teahouses for senior citizens, and sports facilities. Movable property includes vehicles, inventory, furniture, computer equipment, and other equipment.

The question of the form of ownership of makhalla property is of particular doctrinal significance. Article 167 of the Civil Code of the Republic of Uzbekistan recognizes two forms of ownership—private and public. At the same time, the Law of the Republic of Uzbekistan “On Property in the Republic of Uzbekistan,” which formally remains in force, defines makhalla property in the relevant article as property possessed, used, and disposed of by the primary units of citizens’ public self-government.

The prevailing position in Uzbek civil-law doctrine is that makhalla property constitutes a special type of public property, differing from state property in terms of its subject composition (the subject being not the state but a territorial community of citizens) and its intended purpose (use exclusively in the interests of residents of the relevant territory). An alternative position, based on a literal interpretation of the Civil Code, suggests classifying makhalla property as property owned by a legal entity and therefore as a type of private ownership of legal entities.

Taking into account the constitutional status of the makhalla as a citizens’ self-government body that is not part of the system of state authorities, and at the same time considering its public functions and purpose-oriented activity, the first of these viewpoints should be supported. The makhalla possesses, uses, and disposes of its property not in its own private interests but in the interests of the collective of citizens residing in the relevant territory, which brings its property-law regime closer to the model of public ownership of a territorial community.

Part 2 of Article 26 of the Law establishes the principle of inviolability of the property of citizens’ self-government bodies: “The property of citizens’ self-government bodies is inviolable and protected by law.” This provision corresponds to the general constitutional principle of inviolability of property and grants the makhalla full property-law protection against encroachments by both the state and third parties.

An additional guarantee of the property independence of the makhalla is Part 2 of Article 27 of the Law, which provides for a prohibition on the seizure of financial resources of citizens’ self-government bodies. The immunity of funds held in the makhalla’s bank accounts from seizure means that coercive

enforcement measures initiated by public authorities outside the framework of civil or procedural law may not be applied to them. This provision constitutes a significant deviation from the general rules governing the enforcement of judicial acts and is aimed at ensuring the uninterrupted performance by the makhalla of its social functions.

### **Financial Basis of Makhalla Activity.**

The financial basis of the activity of the makhalla is regulated by Article 27 of the Law “On Citizens’ Self-Government Bodies.” According to Part 1 thereof, the financial basis of the activities of citizens’ self-government bodies consists of: (1) their own funds; (2) local budget funds; (3) charitable donations from legal entities and individuals; and (4) other funds provided for by legislation. The citizens’ assembly and its kengash independently manage the financial resources in the bank account, while the kengash reports quarterly to the citizens’ assembly on the use of financial resources.

This list, relatively concise in its composition, was substantially expanded and detailed by the Resolution of the President of the Republic of Uzbekistan of August 16, 2022, “On Measures to Strengthen the Role of the Makhalla Institution in the Life of Society.” This act provided for the establishment in each makhalla of a Fund for Solving the Socio-Economic Problems of the Makhalla in the form of an extra-budgetary fund of budgetary organizations that is not a legal entity.

The sources of formation of the Fund’s resources include:

- funds received from the sale of state-owned immovable property located within the makhalla, with an area of up to 2,000 square meters, through direct electronic online auction sales based on an online application submitted by the assistant khokim of the district (city) for entrepreneurship development, employment promotion, and poverty reduction in the makhalla, after deduction of appraisal and sale expenses;

- funds obtained from leasing makhalla property in accordance with the established procedure;

- funds allocated from additional sources of local budgets on the basis of decisions of district (city) Councils of People’s Deputies;

- funds allocated from local budgets for improving makhalla infrastructure based on the recommendation of the assistant khokim of the district (city) for

entrepreneurship development, employment promotion, and poverty reduction in the makhalla;

- charitable donations from individuals and legal entities;
- technical assistance funds from foreign (international) financial institutions and other foreign organizations (loans, grants, gratuitous aid, and others);
- other sources not prohibited by legislative acts.

The main areas of expenditure of the Fund’s resources include: repair and restoration of internal roads, electricity and natural gas networks, drinking water supply systems and sewerage systems within the makhalla; construction, major and current repairs of the makhalla building, sports grounds, teahouses for senior citizens, youth centers, playgrounds, libraries, and cultural centers; landscaping and greening within the framework of the nationwide project “Yashil Makon”; and provision of material assistance to socially vulnerable and low-income families.

From the standpoint of civil-law doctrine, the legal nature of the Fund raises legitimate questions. The direct indication that the Fund is not a legal entity, combined with the fact that it is established as an “extra-budgetary fund of budgetary organizations,” creates a problem in determining the subject of property rights and obligations with respect to the Fund’s assets. Since the Fund lacks independent legal personality, the bearer of rights and obligations concerning its assets should be recognized as the makhalla itself as a legal entity within the meaning of Part 3 of Article 8 of the Law “On Citizens’ Self-Government Bodies.” Accordingly, liability for obligations arising in connection with the use of the Fund’s assets should be borne by the property of the makhalla.

According to Part 3 of Article 26 of the Law, citizens’ self-government bodies have the right to transfer property objects they own for temporary or permanent use to legal entities and individuals, lease them, alienate them in accordance with the established procedure, and perform other transactions involving such objects in accordance with legislation. This provision establishes a broad range of civil-law forms of exercising the powers of an owner, which corresponds to the general provisions of Article 164 of the Civil Code of the Republic of Uzbekistan regarding the content of ownership rights.

An analysis of the applicable provisions of the Civil Code allows the following principal civil-law forms of disposal of makhalla property to be identified:

1. Lease Agreement (Property Lease). The leasing of makhalla property is the most common form of its commercial use and at the same time one of the main sources of formation of the resources of the Fund for Solving the Socio-Economic Problems of the Makhalla. General provisions of the Civil Code of the Republic of Uzbekistan on lease agreements apply to leases of makhalla property, taking into account special procedural requirements established by subordinate legal acts.

2. Gratuitous Use Agreement (Loan for Use). This form is used when transferring social and domestic facilities for use by public organizations, associations of veterans, women's groups, and other entities carrying out socially significant functions. The gratuitous nature of the agreement is determined by the socially beneficial orientation of the borrower's activities.

3. Sale and Purchase Agreement. Alienation of makhalla property through sale is permitted "in accordance with the established procedure," which presupposes compliance with special procedural requirements, including electronic auction sales.

4. Donation Agreement. The makhalla primarily acts as the donee (beneficiary): charitable donations from legal entities and individuals are expressly identified in Article 27 of the Law as one of the sources of the financial basis of its activities. Donations are generally earmarked, which entails the obligation of the makhalla to use the received property in accordance with the purpose specified by the donor.

5. Other transactions not prohibited by legislation, including contracts for work and services, insofar as they ensure the fulfillment of the makhalla's functions in the improvement of territories, maintenance of social and domestic facilities, and social support of residents.

Particularly important are the restrictions established with regard to the disposal of makhalla property. These restrictions are both internal-corporate (in a broad sense) and public-law in nature.

First, according to Article 11 of the Law, decisions on major issues concerning the disposal of property fall within the competence of the citizens' assembly as the supreme self-government body.

Second, the purpose-oriented nature of makhalla property implies a prohibition on its use contrary to its public and social purpose. The sale of makhalla real estate is possible only in accordance with the established procedure and provided that the proceeds from such sale are directed toward the purposes established by legislative acts, in particular to the Fund for Solving the Socio-Economic Problems of the Makhalla.

Third, supervision over the legality of the disposal of property is entrusted to the audit commission of the citizens' assembly and to state bodies authorized to oversee the activities of non-profit organizations.

### **Conclusions**

The conducted civil-law analysis makes it possible to formulate the following principal conclusions:

First, the property basis of the activity of the makhalla includes movable and immovable property of social, cultural, domestic, and economic purposes, the composition of which is defined by Article 26 of the Law. The principle of inviolability of the property of citizens' self-government bodies (Part 2 of Article 26 of the Law) and the immunity of financial resources from seizure (Part 2 of Article 27 of the Law) serve as important guarantees of the property independence of the makhalla.

Second, the Fund for Solving the Socio-Economic Problems of the Makhalla, established pursuant to the Resolution of the President of the Republic of Uzbekistan of August 16, 2022, is an important instrument for strengthening the property independence of the makhalla. At the same time, the absence of legal entity status raises questions regarding the subject of property rights and obligations and the procedure for bearing liability. It is proposed to consider granting the Fund the status of an independent legal entity or legislatively establishing a special regime for the segregation of its assets within the property of the makhalla.

Fifth, the civil-law forms of disposal of makhalla property (lease, gratuitous use, sale and purchase, donation, and other transactions) are applied on the basis of

the general provisions of the Civil Code of the Republic of Uzbekistan, taking into account the restrictions established by the Law “On Citizens’ Self-Government Bodies” and subordinate legal acts.

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