

Bill of amendments to the Building Law

The governmental bill of amendments to the Act of 7 July 1994 – the Construction Law and to selected other acts (the “Bill”) was submitted to the Polish parliament in August 2014. The Bill is expected to shorten and simplify procedures governing the building process.

One of the key proposed changes is the introduction of the catalogue of construction works performed based on notification to which a construction design must be attached. The catalogue includes planned construction projects involving:

1. the construction of a single-family building whose impact area does not extend beyond the boundaries of the lot or lots on which the building has been designed;
2. redevelopment of a single-family building unless it leads to a change resulting in increasing the present impact zone of the building.

Documents which are currently required in the building permit application procedure have to be attached to the notification containing the construction design. Pursuant to the amendment, the investors will be able to decide which procedure to follow – they will also have a choice of the building permit application procedure.

Furthermore, the Bill seeks to limit the number of mandatory components of the construction design by abolishing the requirement to attach representations of the competent organisational units to the effect that electricity, water, heating and gas supplies and sewage collection services are available at the project's site, representations on conditions for connection of structures to water supply, sewage disposal, heating, gas supply, electricity, telecommunications grids and roads as well as

representations issued by the competent road management authorities to the effect that the site can be accessed from a public road, excluding regional or national roads.

Another key change to be enacted by the Bill is that it seeks to restrict the principle whereby construction works may be commenced based on the final decision permitting construction. The Bill contains a provision pursuant to which construction works may commence based on a non-final, enforceable decision permitting construction but only in the event the investor is the sole party involved in the building permit application procedure. Furthermore, the decision on the building permit must be consistent with the investor's application. The change can accelerate the project by about 14 days.

Investors will also no longer be required to announce the construction work commencement date. The government considered the procedure as superfluous as it is unnecessary to require the investor holding the final decision on the building permit to perform one more administrative action. However, the requirements relating to the notification procedure have been maintained, such as that the investor must hold such documents as the site manager's representations that a safety and health plan has been drawn up and that the manager agrees to take site management responsibilities and, in the event an investor's supervision inspector has been appointed – a representation by the investor's supervision inspector

on acceptance of the investor's supervision responsibilities.

There is also a clarifying change proposed by the Bill whereby the manner is determined to establish the date of the competent authority's opposition, in the form of an administrative decision, against a notification of the intention to carry out construction works, including notifications with the construction design attached, and a notification of the intended change in use of a building structure or a part thereof. To date, judicial decisions of the Supreme Administrative Court have presented several lines of jurisprudence on this issue. The change proposed in the Bill clarifies that the opposition date shall be the date of dispatching the relevant decision via an office of the postal operator or the date of recording the opposition into the IT system.

From the perspective of investors, a viable solution will be that the Bill manifestly states that it is admissible to mark down certification fees stipulated in the Tax Ordinance Act, though only in extraordinary, justified cases due to unexpected circumstances. The very same measure is used in situations where tax reliefs may be applied to reduce taxes and other public liabilities.

Furthermore, the Bill limits the number of building structures which must obtain a permit to use the premises before the structure can be used. This change will apply to craft workshops, motor vehicle service stations, car washes, garages up to five car spaces, storage facilities and railway buildings.

What should be emphasised is that this is the beginning of the legislative process and the objectives of the Bill can still be modified. However, the legal initiative is a step in the right direction as it will relieve the burden on investors who are involved in the construction process.

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