

Changes regarding protection of farmland within administrative boundaries of cities

The protection of farmland located within the administrative boundaries of cities has turned full circle. The regulations pertinent to the protection of farmland have reverted to their 2008 state.

The provisions of the Farmland and Woodland Protection Act of 3 February 1995 ceased to apply to farmland situated within the administrative boundaries of cities as of 1 January 2009. Therefore, an investor applying for a building permit for development on land that was farmland but was also located within the administrative boundaries of the city or town was not required to apply for farmland conversion beforehand. This was certainly a factor that greatly facilitated and accelerated the investment process.

However, Article 5b which provided for the exclusion of protection for farmland located within the administrative boundaries of cities and towns was removed from Chapter 1 of the Farmland and Woodland Protection Act by way of the Act of 11 July 2014 amending the Environmental Protection Act and certain other acts. Yet, Chapter 2 of the Farmland and Woodland Protection Act contains a new Art. 10a stipulating that the provisions of Chapter 2 shall not apply to farmland within the administrative boundaries of cities and towns.

Accordingly, starting from 5 September 2014, farmland situated within the administrative boundaries of cities and towns that is intended for development projects does not require conversion from farm use to non-farm use in the local zoning plan, but it is necessary to obtain a permit for non-farm use of farmland before the building permit is issued. The existing provisions of Chapter 3 of the Farmland and Woodland Protection

Act remain effective in this respect – they stipulate that a permit for conversion of land from farm use to non-farm use is required for agricultural areas composed of soils of mineral or organic origins of classes I, II, III, IIIa and IIIb and agricultural areas composed of soils of organic origins of classes IV, IVa, IVb, V and VI. Therefore, if a project site contains agricultural areas classified as soil of class IV, IVa, IVb, V or VI which is of mineral origin, then it is not necessary to request farmland conversion of the land's use from farm use to non-farm use.

Anyone who has obtained a permit for the conversion of land from farm use to non-farm use is required to pay the applicable charge and the annual fees. The obligation arises on the date of the actual farmland conversion to non-farm use, with a proviso that the principles for determining the fees and charges are detailed in the Act. In the event of disposal of land for which a farmland conversion permit has been obtained, but the actual conversion has not taken place yet, the duty to pay the charges and the annual fees is on the buyer who has effected the land's conversion. However, the seller is required to notify the buyer of the duty. In the event of disposal of land that has already been converted to non-farm use, the duty to pay the annual fees is transferred to the buyer and, likewise, the seller is required to notify the buyer of the duty. The regulations stipulate that if the seller has been the addressee of the decision permitting land con-

version and they have not used the decision, the buyer is not required to obtain a new decision in their own name. Pursuant to the explicit provision of the Act, the obligation to make the charge for farmland conversion is transferred to the buyer as well. As a result, the new land owner is exempt from the obligation to seek a new farmland-conversion decision, but they must make a one-off fee whose value has been determined beforehand. However, it should be emphasised that the succession of the said right and obligation would not be permitted were it not for the explicit provision of the Act.

The situation is slightly different with the obligation to pay the annual fees, which is also a duty related to farmland conversion. The obligation to pay the annual fees stems from the Act, not from the decision converting the land use from farm use to non-farm use. Accordingly, there is no legal succession stemming from an administrative decision involved here. The obligation to pay the annual fees is transferred to the buyer by operation of law, and it is not related to whether the buyer has been informed of the duty beforehand or not. Either, there is no provision in place that authorises anyone to issue a decision determining the fee payable by the buyer of the land.

In conclusion, it should be emphasised that the conversion of land's use from farm use to non-farm use is a two-phase process. First, the local zoning plan must be amended whereby the land use is converted from farm use to non-farm use. Then, a decision must be obtained to allow the actual farmland conversion which can be effected only with respect to land that was previously meant to be used for non-farm development (in the local zoning plan). However, while it is not necessary to make any changes with regard to land use in the local zoning plan in the case of land located within the administrative boundaries of cities and towns, the actual farmland conversion is now again obligatory, which requires the investor to pay a one-off charge and the annual fees.

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