

Procedures preceding the commencement of the use of a structure. Inspection of the competent authority

The investment process ends before the commencement of the use of a building structure. However, to start using the structure, there are certain actions that need to be completed beforehand.

A structure whose construction requires a building permit to be obtained or a notification to be filed (for free-standing residential single-family buildings whose impact area does not extend beyond the boundaries of the plot or plots on which the building has been designed; power lines with a specified voltage, water supply networks, sewage disposal networks, heating networks, telecommunications networks) can start to be used after notifying the competent authority of completing the construction on condition that the authority does not file an objection, by way of decision, within 14 days of receiving the notification. The regulations do not explicitly define reasons based on which the authority may file an objection, but it is accepted in judicature that competent authority can object if e.g.: the investor has significantly departed from the approved building permit design or from other conditions of the building permit; the investor has not supplemented the notification of completing the construction process despite a request of the competent authority; or the entity intends to start using the building structure despite not completing all the construction works.

Moreover, prior to using the building structure, it is necessary to obtain a decision permitting the use of the premises if: the building structure requires a building permit and it is included in any of the following categories: V, IX–XVIII, XX, XXII, XXIV, XXVII–XXX, as defined in annex to the Construction Law (which include cultural and sports buildings, educational buildings, buildings used as places of worship, healthcare buildings, social security buildings, public administration buildings, prisons and correctional facilities, tourist accommodation buildings, retail and food service buildings, industrial buildings and hydro technical structures). Decision permitting the use of a structure is

also required after the completion of legalisation or recovery proceedings or if the investor intends to start using the building structure prior to completing all construction works, i.e. before completing the construction. Moreover, the investor is also required to notify the National Sanitary Inspectorate (Panstwowa Inspekcja Sanitarna) and the State Fire Service (Panstwowa Straz Pozarna) of completing the construction of the building structure and its intention to use it. These authorities take their position on the structure's consistency with the building permit design.

The investor is required to attach the following documents to the notification on the completion of construction work or to the application for permit to use the structure: an original copy of the construction building diary; statement of the construction site manager confirming that the completed work is consistent with the building permit design and with the terms and conditions of the building permit and the applicable regulations and statement that the construction site (as well as the road, street, the neighbouring property, building or residential premises – if they have been used) have been restored to proper condition and good order; statement on the proper development of neighbouring areas; reports from tests and checks; as-built geodetic survey; confirmation of the acceptance of service connections; certificate issued by the wojt (commune head), the burmistrz (mayor) or president of the city/town on compliance with the terms and conditions of the local zoning plan and other applicable laws and regulations.

Following mandatory inspection, the competent authority will issue decision permitting the use of the building structure, in which it may define the terms and conditions for using it or make the use thereof con-

ditional on completing specific construction work within a specified time. The mandatory inspection should be completed within 21 days of receiving the request (or supplemented request) for inspection. The authority is required to notify the investor of the date of the mandatory inspection within 7 days of the request being served. Importantly, the investor is required to participate in mandatory inspection on the specified date. Based on the findings of the inspection, the competent authority will prepare a report in three copies. One copy of the report is delivered to the investor, the second copy is supplied to a higher-level authority, and the third copy is kept by the competent authority. The report prepared in accordance with the standard form should contain, in particular, personal details of persons who participated in mandatory inspection and information necessary to determine the course and findings of the inspection, including: the address and category of the building structure, information on the structure's compliance with the approved building permit design and other terms and conditions specified in the building permit.

If any irregularities are found during mandatory inspection, a penalty is imposed; the penalty is calculated by multiplying the fee (PLN 500), the factor of the structure category and the factor of the structure size (the structure factor and the size factor are defined in annex to the Construction Law). Moreover, if penalty is imposed, the competent authority will refuse to issue decision permitting to use the structure. If the outcome of mandatory inspection is positive, the competent authority issues decision permitting the use of the building structure.

It should also be borne in mind that using the structure without the required permit constitutes violation of the law. Therefore, in case of doubt, legal advice should be sought to ensure that all procedures required from the investor are complied with and that third parties involved complete their responsibilities in accordance with applicable laws and regulations.

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