

Legal opinion

Erecting “houses” in family allotment gardens

According to the preamble to the Act on family allotment gardens dated 13 December 2013 (henceforth “the Act”), family allotment gardens contribute significantly to the social, leisure and recreational needs of society, and especially families with children, retirees and disabled persons. They provide an environment conducive to the pursuit of active and healthy living and, as green spaces, are important for sustainable urban development.

In practice, however, many allotments in Poland have structures built on them that appear no different from houses erected on regular building plots. This article will provide basic information on what structures may be legally built in family allotment gardens, and what are the consequences facing those who erect structures that are not permitted.

Under the Act, “allotment” is the primary spatial unit of a family allotment garden community. Its surface area cannot exceed 500 square metres. The purpose of an allotment is to satisfy the gardening, leisure and recreational needs of its holder and his family members.

Article 12 of the Act stipulates that nobody can reside, conduct economic activity or perform other gainful work on an allotment. So what to make of all these structures that look a lot like houses?

It also follows from the Act that the only structures that can be built on allotments are gazebos, i.e. free-standing recreational/leisure buildings that meet the following requirements:

- gross covered area up to 35 square metres
- up to five metres tall for pitched roofs, and up to four metres tall for flat roofs

Porches, terraces or verandahs are not included in the calculation of a gazebo’s gross covered area as long as their total surface area does not exceed 12 square metres.

An allotment holder who erects a gazebo, or any other structure, that does not meet the above requirements risks having their allotment lease terminated by the garden community. Allotment holders can apply to construction inspection authorities for certificates confirming their gazebos’ compliance with the Act’s requirements.

Therefore, when considering building in a family allotment garden, one should keep in mind the maximum permitted size of any structure; but one should also remember that the prohibition against residing there will apply whatever structure has been erected. Furthermore, each family allotment garden has its own local regulations, which indicate the rules for the development and use of the allotment and the functioning and development of the family allotment garden that allotment users have to abide by.

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