

REVOLUTION IN RESIDENTIAL DEVELOPMENT

On 22 August 2018 a new Act on facilitating the preparation and implementation of residential and accompanying investments came into force. The law significantly affects the existing spatial planning system in Poland and may cause major disruptions on the residential market.

ZONING BY DISCRETIONARY RESOLUTION

The regulation introduces a new method of establishing zoning requirements for housing investments in which a municipal council may pass a discretionary resolution. If such a resolution be adopted by a local council, the investment may be carried out regardless of the provisions of any master plan (*miejskowy plan zagospodarowania przestrzennego*) in place. There will be no need to obtain a zoning decision for land not covered by a master plan. The only requirement the planned investment needs to comply with in terms of zoning is to be non-contradictory with a study of conditions and directions of spatial development (*studium uwarunkowań i kierunków zagospodarowania przestrzennego*). However, this requirement does not apply to locations that in the past have been used for railway, military, postal or production services, as well as to any locations where no study has been adopted. The investor is still obliged to obtain a building permit and (when applicable) an environmental decision.

INVESTOR'S APPLICATION

A resolution passed by municipal council regarding a planned investment is fully discretionary. The law stipulates a list of documents to be attached to the application for a resolution by council consisting mostly of urban and architectural concepts together with visualizations of the planned development and descriptions of its basic technical parameters. The council is required to decide whether to allow an investment to be implemented within 60 days. Multiple resolutions (and applications) for the same land are allowed. A resolution will expire within 3 years if no final building permit is obtained in that time.

WHAT TYPE OF DEVELOPMENTS ARE APPLICABLE?

The resolution can be issued for projects consisting of at least 25 apartments located in a multi-family building and, in the case of single-family homes, not less than 10 houses. In order to take advantage of the benefits introduced by the Act, the planned investment must meet a number of additional conditions. For example, commercial and service usage of the land are permitted, but they cannot cover more than 20% of the investment's usable area. Additionally the development needs to be consistent with so called 'urban standards' introduced by the Act. In most cases this means that the investor needs to guarantee close access to public transportation, kindergarten and primary school, as well as recreation areas. If fulfilling those conditions is not possible, the investor will have an opportunity to enter into a separate agreement with the municipality regarding development of such facilities or contributing to the funds for development of such facilities.

ADDITIONAL SUPPORT PROVIDED BY THE ACT

The Act provides additional support to the residential investment process, including:

- instead of having the investor obtain various administrative consents, the Act introduces the institution of issuing administrative opinions at the request of a municipality mayor; if the authority is late in providing its opinion then the lack of a decision is treated as an expression of tacit consent;
- the rules of submission and deadlines for considering appeals against decisions on building permits for investments carried out on the basis of the Act have been amended to be more favorable to developers in comparison to the general provisions of the administrative procedure;
- for investments within city limits, regulations on the protection of agricultural land are not applicable;
- execution of accompanying investments, i.e., extension of utility networks or roads, will also benefit from facilitations.

The Act is expected to heavily impact residential development in Poland for the next 10 years (as the Act will expire by the end of December 2028). On one hand, it opens up the possibility of housing development for many locations that were previously unviable and considerably speeds up the investment process. On the other hand, it may result in serious inconsistencies in spatial planning of municipalities (taking into consideration the low threshold of 25 apartments). Furthermore, especially in more developed locations such as Warsaw, residential developers' land banks are expected to lose value. The impact on prices of flats is yet to be seen as demand for new residential premises is now greater than ever.

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