

CHANGE IN PERPETUAL USUFRUCT IS COMING

Starting from January 1, 2019, the rights of perpetual usufruct of plots built-up with residential buildings will be transformed into ownership rights. The draft of the new act, which aims to support citizens in obtaining the ownership rights of real estate developed with residential buildings, has already been adopted by the lower house of the parliament of Poland.

OBLIGATORY TRANSFORMATION

The proposed regulation stipulates an automatic transformation of every plot of land which is built-up with residential buildings. This regulation applies to both single-family houses and multi-apartments buildings (in which at least half of the premises is used for residential purposes), affecting up to 2.5 million usufructuaries. Moreover, according to the draft act, the establishment of new rights of perpetual usufruct for the purpose of residential development will no longer be allowed.

HOW MUCH WILL IT COST?

Under the new act, instead of the current annual perpetual usufruct fees, future landowners will pay annual transformation fees for a period of 20 years from the date of the transformation. The fee amount will be equal to the perpetual usufruct fee applicable on the transformation date, however, some significant discounts may be granted. For example, in cases where the land is currently owned by the State Treasury, the new owner will be entitled to a 60% discount if he decides to pay the entire transformation fee in the first year. The discount will be lowered by 10% for each consecutive year, i.e., if the property owner decides to pay off the entire transformation fee in the second year then he will be entitled to a 50% discount. This discount is only available to owners who are natural persons. With regard to lands owned by local municipalities, local governments may decide on granting similar incentives at their discretion. The transformation fee may be subject to indexation once every three years in line with the property price index determined by the main statistical office (*Główny Urząd Statystyczny*). Information about the claim for payment of the fee will be disclosed in land and mortgage register maintained for real property subject to transformation.

OBJECTIONS OF LOCAL GOVERNMENTS

Although the project is widely supported, there is some opposition from local government organizations. They claim that depriving the municipalities of their property would be unconstitutional. They indicate that in 2015 the Constitutional Tribunal decided that provisions extending the range of entities entitled to request a transformation of perpetual usufruct were unconstitutional. However, it is quite possible that this time the tribunal will not object to the new legislation.

EXPECTED TIMELINE

The draft act is now being considered by the upper house of the parliament and then it must be signed by the President. Both the ruling party and the opposition support this project and therefore we expect that it will be adopted very soon.

About WOLF THEISS

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