

SERBIA: Real Estate

Amendments to the Planning and Construction Law

The Serbian Parliament has adopted amendments to the Planning and Construction Law¹. The amendments are primarily intended to speed up legalization procedures and the procedure to convert the right of use into ownership², which has to date yielded no results.

The discount on the groundwork fee for legalization of a family residential facility was increased up to 99%.

Regarding the conversion, new solutions have been introduced by the amendments concerning situations where the proprietor of the right of use on the land is different from the owner of the facility constructed on the land.

Furthermore, the right to conversion has been extended to those holding the land based on a lease agreement, even if they did not develop the land in accordance with the purpose for which the land was leased (provided the rent is fully paid) and to proprietors of the right of use on unconstructed land. In the latter case, no conversion fee is due unless the user is a company that was previously privatized or acquired as part of insolvency proceedings. **Conversion is also free of charge when** a facility with the accompanying right of use was acquired in public auction on market terms outside bankruptcy or enforcement proceedings and prior to 11 September 2009.

It is interesting to note that the last draft of the amendments explicitly banned conversion of land forming port. However, the final version prohibits conversion only where the relevant land is earmarked by a zoning plan for construction of a facility of public interest.

The amendments have recognized that the ban imposed on the construction of facilities on land which has not been converted into ownership is an inefficient solution. The drafters have therefore attempted to extend temporary permission to construct for another 12 months. However, the wording of the amendment is confusing in this respect and therefore this attempted extension is vulnerable.

¹ *Zakon o planiranju i izgradnji ("Sl. glasnik RS", br. 72/2009, 81/2009 - ispr., 64/2010 - odluka US i 24/2011)*

² See BDK Newsletter 2/2010 and 8/2010 available at <http://www.bdklegal.com/upload/BDK%20News%20letter%2002.pdf> and <http://www.bdklegal.com/upload/documents/newsletter/RealEstate/RE-08-2010.pdf>

The amendments also provide that the fee for changing the cadastral description of land from agricultural into construction land is no longer valid if the relevant land was regulated as construction land by the relevant zoning plan prior to 15 July 1992.

The amendments also allow urban parceling (*Serbian: urbana komasacija*), a procedure for the formation of new construction parcels out of cadastral parcels which are not suitable for rational usage due to their size and shape.

Certain permitting requirements have been relaxed. Investors can now commence construction upon the finalization of the construction permit in administrative proceedings (*Serbian: konačnost*), without having to wait for it to become indisputable in judicial proceedings (*Serbian: pravosnažnost*). Furthermore, a temporary construction permit can now be issued without a location permit being previously issued. Finally, the amendments provide that construction must be completed and operational permits obtained within 5 years from the issuance of a construction permit.

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