

November 2015

In focus: Building Legalization Law

On November 20th 2015, the National Assembly of the Republic of Serbia adopted the Building Legalization Law which entered into force on November 27th 2015 (hereinafter referred to as: the “**Law**”). By entering into force of the Law, the Law on Legalization of Buildings (“Official gazette of RS” no. 95/13) and the Law on Special Conditions for the Registration of Property Rights for Objects Constructed Without a Building Permit (“Official gazette of RS” no. 25/2013 and 145/2014, hereinafter referred to as: the “**Law on special conditions**”) shall cease to be in effect.

The objective for adoption of the Law is creating more favorable conditions for the legalization of a large number of illegally constructed buildings which remained non-legalized due to complicate procedures, the disregarding of legal deadlines by the competent authorities, as well as high legalization expenses which citizens were obliged to bear.

I Area of application of the Law

The Law regulates the conditions, procedure and manner of legalizing buildings, parts of buildings, auxiliary buildings and other buildings constructed in the capacity of main buildings without a building or construction permit.

The Law does not apply to buildings constructed without a building or

construction permit when the above mentioned permits were not necessary for construction, for buildings which were issued temporary building permits, or for buildings which were issued a decision on building permit and the same are used without a usage permit, whose owners shall register property rights in a manner and under the conditions prescribed in more detail by the Law on Planning and Construction.

II Subject of legalization

The Law regulates buildings that are the subject of legalization, establishing that the subject of legalization, among others, is:

- a building for which an application for legalization was submitted by 29.01.2014, in accordance with a previously applicable law, as well as a building for which said application was not submitted and which is visible on a satellite imagery from 2015;
- a building for which an application was submitted and a building which has registered property right, all in accordance with the Law on Special Conditions;
- a building constructed on the basis of a building permit, i.e. construction permit and verified with a main project where, during the construction works, there

were deviations from the above mentioned permits/construction permits.

On the other hand, the subject of legalization cannot be a building constructed on land unsuitable for construction, a building constructed in an area for public use, a building constructed in a zone of protection of natural resources and protection zone, a building constructed of material that does not guarantee security, as well as a building for which a competent authority rejected the application for legalization by a valid decision, in accordance with earlier regulation which regulated legalization.

III Procedure for building legalization and necessary documentation

The procedure for building legalization in charge of construction, the competent authority of the autonomous province, i.e. unit of local self-government (hereinafter referred to as: the “**competent authority**”).

The Law prescribes different manners of initiating the procedure, depending on the status of the building which is the subject of legalization, differentiating between buildings for which the application for legalization was submitted, buildings for which the said application was not submitted, and buildings for which the application for registration of property rights was submitted in accordance with the Law on Special Conditions, and which has not been finalized, in which cases the competent authority initiates the procedure *ex officio*, and buildings whose owners have registered property rights pursuant to the Law on Special Conditions, in which case

the building owners are obliged to submit the application for legalization within six months from the day of entering into force of the Law.

From the point of documentation necessary for building legalization, **the Law prescribes only the obligation of submitting proof of appropriate rights of the owner of the illegally constructed building on the land or building, and the report on the existing condition of the building with study surveying works.**

Before collection of the above mentioned documentation, **the competent authority is obliged to determine, in a prior procedure, whether all previous conditions have been fulfilled**, such as the requirement that the competent authority hasn't rejected the earlier submitted application for legalization by a final decision.

When the competent authority establishes that all previous conditions have been fulfilled, as well as that the owner of the illegally constructed building has the appropriate right in terms of this Law, the owner of the illegally constructed building is obliged to submit the **report on the existing condition of the building with study surveying works.**

The content of the report on the existing condition of the building differs depending on class, area, purpose and manner of building use, and usually contains an image of the derived condition, statement of the authorized designer that the building meets the basic requirements in terms of capacity and stability, as well as a statement by the owner of the illegally constructed building whereby he accepts possible risks of using

the building, which statement has been introduced as a mandatory element, having in mind the minimum of technical documentation required by the Law.

Building owners who have submitted the application for legalization by January 29th 2014, along with technical documentation prescribed by a previously applicable law, the contents of which correspond to the content required for the report on the existing condition of the building with study surveying works, shall not be obliged to submit the report on the existing condition of the building.

In case the report on the existing condition of the building with the study surveying works is not compiled in accordance with the Law, and the building owner fails to correct it within 60 days from the day of receiving the notice, the competent authority shall reject the application by conclusion. The owner of the illegally constructed building has the right to initiate an administrative dispute, if the ministry in charge of construction business decided on the application, i.e. the right to appeal if another competent authority decided on the application.

In case the competent authority establishes that building legalization is possible and the owner of the illegally constructed building pays and submits the legalization tax within the time limit prescribed under the Law, the competent authority renders the decision on building legalization.

The Law obliges the competent authority to, ex officio, within 3 days from the day the

decision became final, deliver the same accompanied by the study surveying works, to the competent real-estate cadaster. Owners of illegally constructed building do not pay the tax for registration of property rights.

IV Legalization tax

The Law provides significantly lower legalization taxes, prescribing fees which range from 5.000,00 RSD to 50.000,00 RSD for the legalization of family buildings, i.e. fees in the range from 250.000,00 RSD to 3.000.000,00 RSD for the legalization of residential buildings and business-residential buildings which consist of several or more apartments, depending on the area of the building.

The owners of the separate parts of the building shall pay the tax proportionally to the area of the separate parts of the building.

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