

# Building Act makes slow progress


**EXPERT FILE**
**LADISLAV CHUNDELA**

On March 14, the Chamber of Deputies finally approved the new Building Act, which will become effective Jan. 1, 2007. Lawmakers promised that the whole approval process conducted by the Building Authority will be sped up and simplified, but investors and developers remain skeptical.

The new legislation addresses many problems with the application of the current Building Act, but doesn't dramatically change the quality of services provided to the public by the Building Authority (stavební úřad), as the public had expected.

The underlying concept of the new legislation, which is without any doubt a good idea, is that more complex buildings ought to be examined by the authorities more thoroughly than simpler ones. To apply this principle in practice has, however, made the new Building Act more complicated than ever before.

The Building Authority sometimes has a hard time applying the current law, which has been effective for 30 years. We therefore assume that they will often be reluctant to accept the quickest and easiest solution pro-

posed by investors, and will prefer to stick with traditional methods.

## No one-stop shop

It's unfortunate that attempts to put more power into the hands of the Building Authority have failed. It is and will continue to be dependent on the expert opinions of many other authorities and agencies such as sanitation officials, transport authorities, environmentalists, and fire departments. The powers of the Building Authority themselves are quite narrow by comparison.

Investors' hopes for a one-stop shop for receiving building approval haven't been fulfilled, as this would require local authorities to be completely reorganized and the Building Authority to be staffed with experts from all the relevant areas. No one has been courageous enough to implement such a reform. There hasn't even been sufficient support for relatively moderate proposals, suggesting that an investor could file an application with the Building Authority, which would then collect all relevant statements and approvals from other authorities on their own.

Several aspects of the new legislation should be particularly interesting for investors. First of all, the new Building Act makes it possible to apply simultaneously for both a planning permit and a building permit, on the condition that the master plan for the respective area has been approved.

It's currently necessary to apply first for the planning permit, which sets out basic conditions for the placement of a particular building on a plot of land, and then for a building permit, which deals with the technical details of the building. For each permit, a plan is necessary and an investor needs to obtain new approvals from all the authorities involved. Moreover, other parties, such as neighbors or environmental groups, can file appeals against each of the permits. It would therefore be a great benefit to investors to be able to obtain both permits at once.

## Notification, not permission

In promoting the bill to the public, the Ministry of Regional Development announced that for the construction of family houses of up to 150 square meters, it would no longer be necessary to receive permission, and a notification submitted to the Building Authority would suffice. The new Building Act, however, makes these notifications far more complicated than before. In particular, detailed design plans must be prepared, shown to all neighbors, and approved by all the authorities involved, moreover, all neighbors must be notified. Under these new rules, notification is almost as burdensome for the investor as a traditional building permit.

On the other hand, the new law also defines a role for a new independent profession — authorized inspectors — who are entitled to review

plans for many types of buildings. If an authorized inspector finds the plans in order, the investor doesn't need to apply for a building permit and can start work after merely notifying the Building Authority. This could, in the future, relieve the Building Authority from much of their work load, and speed up the approval procedures.

One of the most controversial provisions in the new legislation concerns the pre-emptive right of municipalities, regions and the state to acquire land designated by a master plan for the development of roads, utilities, public parks and other facilities in the public interest at a price set by an authorized court surveyor.

This provision poses a significant limitation on ownership rights, and it will be necessary in all real estate transactions to put this issue on the checklist for due diligence. Even if a public facility is planned on only one part of the land to be transferred, then the entitled municipality, region or state has the right to decide whether to exercise its pre-emptive right to acquire the land within six months.

There are many other features of the new Building Act that will be significant for investors, but not all of these issues could be covered here. It remains to be seen how beneficial the new legislation will be. ■

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