



LEGAL BRIEFING – Real Estate

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The newly enforced provisions for construction in non-urban areas have already been amended.

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In the initial form of last December’s Spatial and Urban Planning Law (Law 4759/2020), art. 40§1(h) presented the following transitional provision for plots outside of city and settlement boundaries: if, until the the approval of a Local or Special Urban Plan or in any event within 2 years of the Law coming into effect, a pre-approval of a building permit had been issued for plots created between 17.10.1978 and 31.12.2003, these were deemed buildable on the sole condition that they had a minimum surface of 4,000 sq.m. In other words, the condition of a “face” on a public road, which is generally applicable in non-urban areas, was not a requirement for the issuance of a building permit.

Pursuant to art. 145§2 of the subsequent Law 4764/2020, this provision was abrogated. Absent a justification in the new Law’s Explanatory Report, the framework established after the repeal is open to question.

The legally orthodox interpretation would be that the repeal sets out to ensure compliance with the settled case law of the Council of State, according to which all plots in non-urban areas, regardless of the time of their creation, must be endowed with a frontage on a public space in order to be even and buildable.

Nevertheless, the pre-existing art. 23§3 of Law 3212/2003, which provided that the plots created before its enactment (31.12.2003) are subject to construction without the need of such frontage, is still, officially, in force.

With the abolishment of the transitional regime, it is highly possible that this tolerant regulation will be considered perpetuated, and the competent Building Services (Ypiresies Domisis) will continue to issue building permits for such plots. This speculation is reinforced by the fact that the aforementioned case law of the Council of State has existed for over a decade now, yet is still disregarded by Building Services throughout the country, often leading to the judicial annulment of building permits for this reason.

The issue is further complicated by the fact that the much-awaited new Spatial and Urban Planning Law does not directly address its relation to the existing legislation, namely the presidential decrees regulating the building conditions for non-urban areas. Thus it should not come as a surprise that the newly enforced bill is expected to be amended in the months to come.

