

Tell me where you shop, and I'll tell you where you live

Many people dream of being close to any of the popular discount chains shops. It turns out that living "really close" to a favorite shop is no longer a fantasy, but a real direction of urban development. Placing retail facilities in the ground floor of multifamily residential buildings is not a new trend. But until now, it was rather the store that was built next to the apartments. Will this tendency now reverse and will apartments be constructed in addition to commercial facilities?

More and more residential developments are being built over commercial buildings - both new and existing. The idea combines urban planning with pragmatism: we do not waste space, we use existing infrastructure. The catch is that such mixed land use must be provided for by the zoning conditions applicable to the location. However, this is not a common case. Rather, we are either dealing with the designation of land for a larger commercial facility and associated parking, or for multi-family residential development. The latter variant often allows for ground-floor retail facilities, but rarely larger than the popular chain store that probably already exists in every new block of flats.

A fresh approach to the subject on the Polish market was presented lately by the Warsaw retail chain from under the banner of a food co-operative, applying for the determination of the location of a residential investment project under the housing special legislation of July 5, 2018 on facilitations in the preparation and implementation of housing investments and accompanying investments (the so-called "Lex Deweloper"). Successful passage of the procedure allows the implementation of housing projects regardless of the findings of the local zoning plan. This can be done if the investment is in accordance with the municipality's general plan and does not conflict with the resolution on the establishment of a cultural park. In addition, as part of a residential development, a commercial and service part is allowed - from 5% to 20% of the usable area of apartments. Thus, in this case, a grocery store of this well-known chain is to be expected in the lead role.

Abroad, such ideas have been around for some time. Also in an even more bold way, to build apartments on the roofs of operating stores - adapting already existing commercial buildings. Such plans have been announced by German market chains, among others, which are testing this solution as a model for student micro-apartments and institutional rentals. The first such investments have already been developed in Germany and the UK, where full-fledged

estates, rental apartments and even nursing homes have been built above supermarkets.

In Poland, in the case of "bypassing" planning conditions under the "Lex Developer" mode, location standards must still be met in terms of, for example, access to public transportation, distance from an elementary school, the minimum number of parking spaces, the size of the biologically active area or the maximum height of the development. These issues must be taken into account already at the stage of preparing the urban-architectural concept and the location application.

What will be the fate of the investment planned in Warsaw's Wola district? If the investment meets the requirements set forth in the Lex Developer, and the city council adopts a resolution on its location, such resolution replaces the zoning decision and binds the body issuing the building permit - regardless of the existence or findings of the local zoning plan, provided that it is consistent with the general plan.

The construction of apartments over stores (rather than stores under apartments) is still an unusual project - requiring good design, construction and legal coordination. There is a need to separate the commercial and residential functions, to meet statutory requirements, including fire protection, lighting and accessibility, as well as to ensure acoustic comfort for residents, not to mention perhaps the biggest problem of large cities - parking spaces. However, we have the first brave one, which, if successful, other chains may envy.

Already most residents of multi-family buildings in larger cities when asked the question "where do you live?" can answer: *"above a grocery store of a well-known chain"*. All indications are that the trend of building on or above retail space will continue to grow - especially in large cities, where every piece of land in an attractive location, every meter of "Usable Living Space" is worth its weight in gold. Lex Developer - while stirring up emotions - gives tools that can allow investments for people who like to be close to shopping.

Do you want to know more? Contact us!

Weronika Własienko, Counsel
weronika.wlasienko@ngllegal.com

Katarzyna Duda, Junior Associate
katarzyna.duda@ngllegal.com