


## General plan – case study

Last Monday, the President signed the Planning and Zoning Act (“PZA”) amendment. Proponents claim that the amendment is expected to contribute to the streamlining of spatial planning procedures. Opponents, however, see certain risks. Do they really have anything to be afraid of?

The amended to PZA introduces the institution of a general plan, which should replace existing studies of spatial development conditions and directions. The general plan will specify the cases in which it will be permissible to issue a zoning decision. Municipalities will have time to adopt general plans until the end of 2025. But what if this does not happen? It will be investors of course, who will suffer the negative consequences.

If a municipality fails to adopt a general plan within the aforementioned deadline, a study of spatial development will expire. Then an application for a new zoning decision can only be filed after the adoption of a new general plan, and only if the general plan provides for such a possibility.

It would seem that more than two years are sufficient to carry out the work on a new strategic act for investors. However, experience and observation of the planning activities of municipalities show that the adoption of general plans by the end of 2025 can be very challenging for many municipalities. For the purpose of illustration, let's see what it looks like in large urban municipalities. The ongoing procedure for the adoption of a new study for the city of Warsaw was initiated on 24 May 2018 and has remained unfinished until today. Thus, five (sic!) years of work conducted by the Office of Architecture and Spatial Planning have already passed and the new study is still not in place. Nota bene, in practice, this work will certainly be partly transferred to the procedure of adoption of a new general plan, but from a formal point of view, due to the amendment to PZA, all this hard work must be repeated under the new procedure. A further factor that will extend the planning procedures is the new, expanded rules for public participation. Under the provisions of the amendment, meetings on planning acts will be held outside standard working hours, and even minors will be able to participate in the procedure (the youngest stakeholders will be able to be 13 years old).

A vertical, abstract 3D architectural rendering of a building facade. The structure is composed of various geometric shapes, including cubes and rectangular blocks, in shades of teal, blue, and magenta. The building is set against a background of a sunset or sunrise sky with soft, warm colors. The overall style is modern and futuristic.

The amendment also introduces obligation to attach a copy of the certificate to the notice of completion of construction or the application for a permit to use the building. While the requirements in this regard for newly built structures raise no particular doubts, difficulties arise concerning older buildings. Such regulations were not anticipated during their construction. It is obvious that newly constructed buildings are more energy-efficient. But what impact on the energy efficiency of the old buildings or the apartments located within such buildings have their current owners/managers?

What real impact on the energy efficiency of their apartments do owners or fortunate holders of cooperative rights to units in old buildings have? They usually do not even possess significant technical information or documents on the building in which their units are located, such as plans or other documents relevant to the preparation of a certificate. It would be more rational to impose the obligation of obtaining the certificate on the appropriate housing cooperative. Particularly interesting in this context is extending this obligation to the residents of co-op buildings who have tenancy rights (functionally closer to renting than ownership).

In this regard, it seems exaggerated to extend this requirement also to parts of the buildings. Although, in the case of apartments, at least it is clear which "parts of the building" are referred to. However, doubts arise regarding buildings where individual "units" are not formally separated (e.g., shopping malls or office buildings). It can be questioned which of them are "intended for separate use" according to the definition. Therefore, in such a case, it is not clear for which "parts" of the building the certificate should be prepared.

Given these inconveniences, it can be expected that the direction of practice development will largely depend on how inevitable and severe the fine for non-compliance with the new requirements proves to be in practice.

### **Do you want to know more? Contact us!**

Urszula Krupa, Senior Associate  
[urszula.krupa@ngllegal.com](mailto:urszula.krupa@ngllegal.com)

Katarzyna Duda, Intern  
[katarzyna.duda@ngllegal.com](mailto:katarzyna.duda@ngllegal.com)