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USVOJENE IZMENE ZAKONA O OZAKONJENJU OBJEKATA

Dana 26. oktobra 2018. godine Narodna skupština Republike Srbije usvojila je Zakon o izmenama i dopunama Zakona o ozakonjenju objekata („***Izmena Zakona***").

Izmene Zakona donete su u svrhe efikasnijeg sprovođenja postupka ozakonjenja nezakonito izgrađenih objekata u Republici Srbiji („***RS***").

U nastavku teksta se nalazi 8 ključnih novina koje uvode Izmene Zakona:

1. ***Predmet ozakonjenja mora da bude vidljiv na satelitskom snimku RS*** – Izmenama Zakona propisano je da objekat koji je predmet ozakonjenja mora da bude vidljiv na satelitskom snimku teritorije RS iz 2015. godine. Provera vidljivosti objekta je obavezna, i nju će sprovoditi organ nadležan za poslove ozakonjenja objekata. Takođe, satelitski snimak objekta u elektronskom obliku mora da bude dostupan građanima na uvid.

2. ***Vlasnik nezakonitog objekta je dužan da podnese poresku prijavu za utvrđivanje poreza na imovinu*** – Nakon što se ispune uslovi za ozakonjenje, vlasnik nezakonitog objekta je dužan da podnese *poresku prijavu kojom se utvrđuje porez na imovinu*. Podaci iz poreske prijave moraju biti saglasni sa sadržinom iz tehnničkih dokumenata. Vlasnik dostavlja nadležnom organu dokaz o podnošenju poreske prijave, nakon čega se određuje visina takse za ozakonjenje.

3. ***Rušenje nezakonito izgrađenog objekta.*** – Izmenama Zakona rušenje nezakonito izgrađenog objekta sprovodi se na osnovu *konačnog* rešenja kojim se odbacuje ili odbija zahtev za ozakonjenje. Dodatno, nadležni organ dostavlja građevinskoj inspekciji ovaj akt u roku od tri dana od dana konačnosti rešenja.

4. ***Gradovi mogu poveriti sprovođenje postupka ozakonjenja gradskim opštinama.*** – Izmenama Zakona gradovi koji u svom sastavu imaju gradske opštine mogu delegirati gradskim opštinama sprovođenje postupka ozakonjenja. Statutom jedinica lokalne samouprave propisuje se za koje objekte gradska opština može da donese rešenje o ozakonjenju.

NEWSLETTER no. [12]/2018

ADOPTED AMENDMENTS OF THE BUILDING LEGALIZATION LAW

On October 16th, 2018 the National Assembly of the Republic of Serbia has adopted the Law on Amendments of the Building Legalization Law (the „***Amended Law*** ").

The Amended Law was adopted with the aim of providing more effective legalization procedure of the illegally constructed buildings in the Republic of Serbia ("***RoS***").

Herein below are provided 8 key novelties introduced by the Amended Law:

1. ***Subject of legalization must be visible on the satellite image of the RoS*** – The Amended Law stipulates that buildings that are subject of legalization, must be visible on a satellite image of the RoS from the year 2015. Competent authority for the buildings' legalization is obliged to check the visibility of buildings. Furthermore, the electronic form of the satellite image of the building shall be available to all citizens.

2. ***Owner of the illegally constructed building is obliged to submit a tax return for the property tax*** – Upon fulfilment of the conditions for legalization, owner of an illegal building is obliged *to submit a tax return for the property tax*. Information from tax return must be in alignment with technical documents. An owner is obliged to disclose to the competent authority a proof of submitted tax return, based on which the amount of the legalization fee is determined.

3. ***Demolition of the illegally constructed buildings*** – The Amended Law stipulates that demolition of illegally constructed buildings is conducted upon *final* decision rejecting or dismissing the application for legalization. Competent authority submits to the building inspection this decision no later than 3 days from the day it becomes final.

4. ***Cities may assign execution of the legalization procedure to its municipalities*** **–** By the Amended Law, cities that have municipalities may assign execution of the legalization procedure to their municipalities. Statutes of a local self-government units shall determine which buildings may be in municipalities' competence for legalization.

5. ***Nadležni organ donosi rešenje umesto zaključka***. – Nadležni organ odlučuje rešenjem u sledećim situacijama:
   a) prekidanje postupka zbog prethodnog pitanja;
   b) odbacivanje zahteva ukoliko vlasnik u roku ne dostavi izveštaj sa elaboratom geodetskih radova;
   c) odbacivanje zahteva ukoliko vlasnik u roku ne dostavi dokaz o plaćenoj taksi.

6. ***Novčane kazne*** – Izmenama Zakona ukinute su novčane kazne za prekršaje nadležnih građevinskih inspektora. Međutim, Izmenama Zakona uvedena je novčana kazna *od 1.500.000 do 3.000.000 dinara* za privredni prestup za javno preduzeće ili bilo koje drugo pravno lice koje objekat u postupku ozakonjenja priključi na mrežu, odnosno infrastrukturu.

7. ***Postupci ozakonjenja koji nisu okončani*** – Odredbe Izmena Zakona primenjuju se na postupke koji nisu okončani do dana stupanja na snagu Izmena Zakona. Dodatno, ukoliko objekat, koji je već u postupku ozakonjenja, ne bude ozakonjen u roku od *5 godina* doneće se rešenje kojim se zahtev odbija.

8. ***Uspostavljanje elektronske evidencije objekata koji nisu upisani u katastar nepokretnosti*** – Nadležni organ je dužan da *do 1. januara 2019. godine* uspostavi elektronsku evidenciju objekata koji nisu upisani u katastar koja će biti dostupna građanima na digitalnoj platformi.

Propisi koji će omogućiti sprovođenje odredbi Izmena Zakona doneće se do 5. januara 2019. godine.

5. ***Competent authority renders decision instead of the conclusion*****.** – Competent authority issues a decision in the following situations:
   a) cessation of the procedure due to existence of preliminary issue that needs to be resolved;
   b) rejection of an application if the owner does not submit a report with study surveying works within the prescribed period;
   c) rejection of the application if the owner does not submit proof of paid legalization fee within the prescribed period.

6. ***Fines*** **–** The Amended Law abolishes fines for the misdemeanors of competent building inspectors. However, the Amended Law introduces fines *from RSD 1,500,000 to 3,000,000* for the public enterprise or any other legal entity that commit an offence by connecting a building (which is in the process of legalization) to network or infrastructure.

7. ***Legalization procedures which have not been completed*** – The provisions of the Amended Law apply to the procedures which have not been finished by the day of entering into a force of the Amended Law. Additionally, if a building in legalization procedure is not legalized within the period of *5 years*, the negative decision (on rejecting the application) shall be issued.

8. ***Establishment of the electronic record of the buildings which are not registered in the real estate cadaster*** – Competent authority is obliged to establish electronic record of buildings which are not registered in the real-estate cadaster *until January 1st, 2019*, which shall be publicly available to all citizens.

By-laws which shall allow implementation of the provisions of the Amended Law shall be enacted no later than January 5th, 2019.

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