

Transfer of Rights and Obligations Under the Notification of Construction Work: Poland

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The law of February 20, 2015, amending the Construction Law and some other selected acts (Journal of Laws of 2018, item 443) introduced into the Polish legal system a mechanism for assignment of the rights and obligations arising under the notification of intention to carry out construction work. Until the date when the law came into force, i.e. June 28, 2015, the only party authorized to perform construction work specified in the notification was the entity which had filed the notification. This situation would frequently create problems, especially if the notified construction work constituted part of a larger planned construction undertaking whose other components were carried out pursuant to a building permit. In such cases, it was difficult to change the investor using solutions available under the administrative law. Whereas the assignment of the building permit was a simple procedure, transferring the notification was not permitted.

The Law of 20 February 2015 introduced changes in this respect. Currently, the rights and obligations under the notification to which the competent authority has not lodged a statement of opposition may be transferred to another person by way of a decision under Art. 40.4 of the Building Law. Under Art. 30.5 of the Building Law, the authority notified of the intention to carry out construction work may lodge a statement of opposition within 21 days of the notification. This timeframe may be extended if the party submitting the notification is required to supplement the notification. A statement of opposition should be lodged via an administrative decision addressed to the party which submitted the notification. The time limit for filing a statement of opposition is maintained provided that decision is posted in the designated postal service provider's office during the 21-day time limit. Whether or not the decision has been served upon the addressee does not matter. However, the passing of 21 days is not the only pre-requisite excluding the lodging of a statement of opposition by the architectural and construction administration authority. Pursuant to Art. 30.5aa of the Building Law, the architectural and construction administration authority may issue ex officio a statement to the effect that there are no grounds to enter a statement of opposition. Such a statement precludes the possibility of lodging a statement of opposition and authorizes the investor to commence construction work.

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