

Environmental Law, Energy & Land Use Practice Group

April 5, 2017

NOTICE TO CLIENTS AND FRIENDS

PR Development: Amendments to the Puerto Rico Permit Process Reform Act

On March 4, 2017, the Governor of Puerto Rico signed into law the Puerto Rico Permit Process Reform (“Act 19-2017”). Act 19-2017 amends a series of provisions in Act 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act”.

The purpose of Act 19-2017 is to improve Puerto Rico’s competitiveness, attract investment and jumpstart the recovery of the economic development through modifications that will further streamline, and make more agile and efficient the process to evaluate permits for the development and use of land and structures in Puerto Rico. Furthermore, some of the amendments are focused on bringing additional transparency and certainty to the permitting process.

Among other things, Act 19-2017:

- Establishes the use of the Unified Information System for the filing and processing of permits, authorizations, licenses and certifications for land uses and operation of businesses by the Autonomous Municipalities with Hierarchy I to V and the Authorized Professionals. This system will have access to the governmental databases necessary for the processing of such permit applications;
- Gives to OGPe and the Autonomous Municipalities with Hierarchy I to V the jurisdiction over siting consultations (*Consultas de Ubicación*);
- Establishes the Office of Permits Management (“OGPe” by its Spanish Acronym) Adjudicative Board to be composed of a President (the OGPe Executive Director), 2 Associate Members (one will be the President of the Planning Board or a duly authorized representative) and an Alternate Member¹;
- Introduces the Single Permit (*Permiso Único*) to be issued by OGPe and the Autonomous Municipalities with Hierarchy I to V to commence or continue the operation of a business, a construction and/or activity incidental to the same in which all permits licenses, authorization or certifications will be consolidated;
- Introduces the Administrative Review Division which will have jurisdiction to review the actions and the determinations issued by the OGPe, the Adjudicative Board, the Authorized Professionals and the Autonomous Municipalities. The Director of this Division will be an Administrative Judge appointed by the Governor. The Division will have a maximum term of 150 days to adjudicate a petition;

¹ The other Associate Member and the Alternate Member will be appointed by the OGPe Executive Director.

- Establishes that the determination of environmental compliance with Article 4(C) of Act 416-2004, as amended, will be a component of the final determination of the proposed activity;
- Creates the Permits Auditing Officer, who will be appointed by the Planning Board and will manage the Audits and Complaints Division. This Officer will review the compliance of the final determinations issued by OGPe, the Autonomous Municipalities and the Authorized Professionals with applicable laws and regulations.
- Authorizes the automatic issuance of a Use Permit when: a licensed Engineer or Architect certifies that (i) the used requested is allowed under the zoning of the property; (ii) complies with the parameters for the zoning district; (iii) complies with the environmental health and fire preventions requirements; and (iv) no license is required for its operation.
- Requires the Puerto Rico Appeals Court to give priority to administrative review petitions under Act 161-2009 and establishes a term of 60 days for the judges to issue their decision in this type of cases; and
- Requires the Planning Board to review within 240 days from April 4, 2017 the zoning districts used in the Joint Regulation, Land Use Plans, Special Regulations and Territorial Ordinance Plans to, among other things, address in a uniform manner the uses of land and structures in Puerto Rico.
- Establishes an amnesty period from April 4, 2017 to until December 31st of 2017 for the legalization of construction commenced, the use of land or structures for residential uses without a permit, provided the petitioner complies with certain requirements.
- Requires all Concerned Entities, the OGPe and all governmental agencies to review within 240 from April 4, 2017 days all regulations, memorandums, administrative orders establishing public policy, procedures and permit forms to streamline the requirements and simplify the number of permits and authorizations required.
- Establishes that the projects designated as critical under the Puerto Rico Oversight Management and Economic Stability Act (PROMESA) or those declared by Executive Order issued by the Governor of Puerto Rico in accordance with the provisions of Act 76-2000, known as the *Procedures for Emergency Situations or Events Act*, will be evaluated under the provisions of the foregoing.

To further discuss or obtain additional information on how this development may impact you, please feel free to contact us at your convenience.

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