

March 26, 2014

NOTICE TO CLIENTS AND FRIENDS

P.R. Developments: Proposed changes to the recently amended Puerto Rico Permitting Act, Act 161 of 2009

On February 19, 2014, Bill No. 1719 (the “Bill”) was presented in the House of Representatives. The Bill proposes the following significant changes to the Puerto Rico Permitting Act, Act No. 161 of 2009, as amended:

- OGPe would have **15 days** to expedite a permit that complies with zoning and environmental compliance requirements;
- Concerned agencies would have **10 days** to submit all their comments. After submitting their comments, the agencies are not required to comment further unless additional technical requirements need to be addressed;
- General construction or use permits would have to be issued in **1 working day** pursuant to the Jobs Now Act¹;
- The Department of State shall be the depository of a registry of professional volunteers so such volunteers can provide direct services to the agencies and help advance the permitting process;
- After a public hearing, the Puerto Rico Planning Board (the “Planning Board”) would have **60 days** to take action on any project provided a final determination of environmental compliance has been issued; and
- This new expedited process would also apply to Autonomous Municipalities (the “Municipality”) with hierarchy I to V that have authorization to issue permits unless the Municipality requests in writing to the Office of Permitting Management (OGPe, for its Spanish acronym) to be excluded from this process.

¹ Act No. 1 of February 10, 2013.

Furthermore, for your benefit we include some of the most significant changes to introduced to Act 161 of 2009 (“Act 161-2009”) by Act No. 151 of 2013 (“Act 151-2013”) signed by Hon. Alejandro García-Padilla in December 10, 2013:

- Eliminated the *Office of the Inspector General of Permits* (OIGPe) and transferred its obligations and authorities to both the Office of Permitting Management (OGPe, for its Spanish acronym) and Planning Board. Also, it eliminated the *Adjudicatory Board* and transferred its authority to the Executive Director of OGPe. Finally, Act 151-2013 eliminated the *Permits and Land Use Revision Board* and reassigned its authority to OGPe.
- Act 151-2013 assigned, among others, the following authorities to OGPe’s Executive Director: (1) create a *Single Permit* which will integrate every permit or certification that is required by law or regulation to operate a business; (2) determine a term, no greater than 30 days, in which the concerned government agencies have to submit recommendations and the authority to issue its own if the agencies do not comply with said term; and (3) transfer to OGPe personnel from other Agencies with decision making power.
- The Planning Board shall evaluate all project location consults (*consultas de ubicación*), including public and regional impact works, and changes in zoning classifications, including, direct reclassification of land. The OGPe shall only evaluate and adjudicate lotifications, and variations in construction and use.
- Under Act 151-2013, a determination of environmental compliance will be considered a final reviewable decision independent of the final determination of the requested permit.
- Before the amendments, a court order granting the revocation of a permit or standstill of a construction work or use, without prior notification to the interested parties or a hearing, was considered invalid until the plaintiff obtained a bond to cover any damages caused to the defendant if the cause of action was improper. Act 151-2013 eliminated said requirement.

Given the potential impact of the proposed changes on the current permitting process we believe that this development may interest you. To further discuss or obtain additional information on how this development may impact you, or participate in the legislative process, please feel free to contact us at your convenience.

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