

May 2, 2014

NOTICE TO CLIENTS AND FRIENDS

Legislative Development: Proposed Amendments to Act 161-2009 to Authorize Issuance of Conditional Use Permits to Certain Commercial Establishments

On April 30, 2014, Governor Alejandro García Padilla submitted a bill currently identified as “E-14-0122” to the House of Representatives to amend Article 1.5, Article 2.3(e), Article 2.3E, Article 2.9A and Article 9.6 of Act 161-2009, known as “Act for the Reform of the Permits System of Puerto Rico, as amended. The Bill is the result of the Governor’s commitment with small and medium business to reduce bureaucracy obstacles, as expressed in his State of the Commonwealth Address.

The provisions of the Bill authorize the Executive Director of the Office of Permits Management (OGPe, by its Spanish acronym) and Municipalities with Hierarchies I to V to issue conditional use permits within one (1) business day from the filing of the use permit application, provided certain requirements are met. According to the Bill’s *Exposición de Motivos* the proposed use: (a) must be compatible with the zoning of the property; (b) does not require any additional burden to the existing public infrastructure; (c) does not impact negatively the environment; and (d) the use can be carried out without the need to undertake any work that requires a construction permit. The Conditional Use Permit will allow the establishment to commence operation and complete the requirements for a final Use Permit during the 180-days term provided in the Bill.

The Conditional Use Permit would be issued for the use of certain establishments in compliance with laws and regulation and will provide 180 days to the permittee to comply with the environmental health and fire prevention certifications or any other requirements established by OGPe. A Conditional Use Permit cannot be issued for specialized lodgings (*hospedajes especializados*), care centers (children/elderly), any business engaged in the preparation of food or industrial uses. The permittee will be responsible for any accident or incident that takes place within the term granted by the OGPe to that effect and will signed a document assuming such liability as part of the application process. The 180-days term will run after the issuance of the mentioned permit.

If the permittee does not comply with the requirements established by OGPe in the Conditional use Permit, the Executive Director can: (a) issue and order for the immediate closure of the establishment; and (b) issue and order to the corresponding governmental agencies to interrupt the utility services of the establishment. Such orders are subject to review by the Court of First Instance.

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The Bill provides a period of 90 days, from the date it becomes Law, to OGPe to adopt the regulations it deems necessary for the effective implementation of these amendments to Act 161-2009. If approved, the Bill would enter into effect immediately.

Given the significant scope and impact in commercial real estate affected or potentially affected by adverse environmental conditions we believe that this development may interest you. 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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