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THE LEGAL REGIME ON URBAN RENEWAL

On October, 23rd, Decree-Law no. 307/2009 setting out the legal regime on urban renewal, which has entered into force on December, 22nd.

According to this Decree-Law, urban renewal is promoted by the municipality by **creating urban renewal areas** which are areas that require an integrated intervention due to the degradation and/or obsolescence of the buildings, urban infrastructures, equipments or urban and green spaces for collective use that exist in that area.

The creation of an urban renewal area is made by means of a **deliberation** from the municipal assembly or by approving **an urban renewal detailed plan**. The latter establishes the strategy for an integrated action and the rules for the use and occupation of soil and buildings, necessary to promote the rehabilitation and modernization of the urban fabric and the economic, social and cultural revitalization within its intervention area. This detailed plan must also contain other elements necessary to its goal, such as the delimitation of execution units (for purposes of setting out the execution of the plan), the identification and articulation of the main projects and actions to be performed in each of those units, the principles and rules for the use and occupation of soil and buildings, and the identification and systematic classification of buildings, urban infrastructures, facilities and urban and green spaces for communal use of each execution unit, by establishing their renewal and modernization needs and goals or providing for their demolition, if applicable.

The creation of an urban renewal area entails an **urban renewal operation**, which is managed and coordinated by a **managing entity**. For this role, the municipality may choose between managing it directly or appointing a company from the local corporate sector as a managing entity.

We would like to stress that the approval of an urban renewal area has specific **effects**, namely, the obligation of the managing entity to promote the renewal operation, the municipality's obligation to define tax benefits associated to the municipal taxes (namely the Annual Municipal Real Estate Tax and the Real Estate Transfer Tax) and the granting to the owner, as well as to holders of other rights, onuses and encumbrances, of the right to benefit from those tax and financial supports and incentives.

According to Decree-Law no. 307/2009, the renewal operations may be **simple or systematic**, as so determined by the municipality.

Simple urban renewal operations.

Simple urban renewal operations are renewal actions that focus on buildings and are **preferably carried out by the owners** and holders of other rights, onuses and encumbrances. These operations must conform to an urban renewal strategy, in which a deadline for the execution of the operations is set, as well as priorities and its specific goals. This strategy must also determine the management model for the urban renewal area, present the framework of support and incentive for the renewal actions carried out by the aforementioned individuals and propose financing possibilities.

Systematic urban renewal operations.

Differently, the strategy behind **systematic urban renewal operations** is to address not only the renewal of the buildings but also the rehabilitation of entire infrastructures, facilities and urban and green spaces for communal use. These types of operations are **actively promoted by the respective managing entities**.

It should be noted that the creation of an urban renewal area has specific consequences, in the event of systematic renewal operations, such as the declaration of public interest for expropriation purposes or forced sale of existing real estate, as well as the recognition of the easements necessary for carrying out urban renewal operations.

Systematic urban renewal operations are outlined by a strategic renewal plan that, in addition to the aforementioned elements that characterize simple urban renewal strategy, identifies the urban renewal's structuring actions, describes a public investment program detailing the actions to be taken by public initiative necessary to the operation's development and defines the operation's financing program.

With respect to the **execution of urban renewal operations**, the Decree-Law provides models of execution in which private initiative may be possible or models in which the initiative belongs to the managing entity. In the first scenario (private initiative), the execution may be developed using a method whereby the operations are carried out by private individuals or companies with the managing entity's support, as well as through the method of joint administration.

In case the initiative lies with the managing entity, the operations may be directly carried out by these entities, through a joint administration or by means of partnerships with private entities, resorting in the latter scenario to the renewal's concession by

means of an award procedure. But the partnership may also take the form of a contract (designated as urban renewal contract) by which a public or private entity undertakes to work out, coordinate and carry out renewal projects. It should be noted that the partnership with private entities is only available within the framework of systematic urban renewal operations.

Urban renewal operations are managed and coordinated by a managing entity.

With regard to the **instruments of execution of the urban renewal operations**, two relevant points should be stressed.

On the one hand, should the municipality not assume the quality of managing entity, there is the possibility of **delegating to the entity assuming such role** the competence to take decisions concerning the preliminary control of urban planning operations, that was originally awarded by the legal regime for construction and land development to the Municipality, such as the approval of licenses, admissions of prior communications and approval of use permits.

New instruments for urban policy, namely expropriation.

On the other hand, we point out that this new legal regime enacts a wide range of **instruments for the execution of urban planning policy**: power to impose an obligation to renew, coercive works, demolition of buildings, preemptive right, forced lease, easements, expropriation, forced sale and ownership restructuring.

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