

Asset Folio's Guide To.....

22/04/2016

Spanish Tit-Bits



Asset Folio guide to Building Construction in Spain

Type of Planning Zones

All properties fall into one of two categories of planning zone:

1. Rustic (rural) plots (suelo rustico)

The rural land law governs the building rules of rural sites. (LEY 10/2004, de 9 de diciembre, de la Generalitat, del Suelo No-Urbanizable.)

Some rural land is protected, all plots fall under one of the two following criteria:

- Suelo no urbanizable protegido. This is special, protected land which cannot be developed for residential homes.
- Suelo no urbanizable común. This category has no special protection and can be developed for residential houses for-private use.

The development rights and restrictions of a rural plot in a común:

- Plot size: minimum 10,000m²
- Maximum building size: 2% of the plot size
- Floors: 2
- Height: 7m.

For example: with a 12,000m² plot you can build a villa with 240m² in the ground floor and 240m² in the first floor.

Special Restrictions:-All rustic plots have aesthetic restrictions with each planning zone having different regulations. Normally-you have to build a typical regional-style building. For example you would not be given permission to build an-Ibicenco-(Ibiza-style) house in Valencia.

2. Urban plots (suelo urbano)

These are urbanised, serviced plots with access roads, water, electricity. Each planning zone has its own rules although normally-the plot size limitation is between 800m² and 1,500m², with the "brut habitable" space being about 20% of the plot.

The Certificado Urbanistico

In each town hall you can ask for a-certificado urbanistico-of the plot you want to buy. This is a document signed by the agency-of urban planning which confirms the type of plot, the occupation purpose, building space and type of building. When-purchasing a property, this is the document that informs you of all the development possibilities of the property.

- Note: Do not buy a plot without this certification.

Building Permits

A-licencia-(building permit) must be obtained before the construction of any building can begin, regardless of whether the-structure is to be used as a dwelling, or whether or not it has foundations. This same permit is compulsory for any work carried-out on an existing building where this work would; change the usage, exterior appearance, modify the volume, or where extra-storeys would be created. (Note: you need a building permit for a prefabricated wooden house.)

There are two types of building permits:

- Permit for minor works: walls, terraces, and barbecues.
- Permit for major works: new buildings, alterations, and demolitions.

To obtain a building permit for minor works, you need simply request a-licencia de obra menor-at your Town Hall. Normally-this should include a small description of the work to be undertaken and an estimation of the costs. This so that taxes can be-calculated. The tax is paid at the end of the job and is normally calculated at around 4 to 6% of the construction cost.

To obtain a building permit for major works you will need:

- Technical dossier (proyecto) created by an architect registered in the Spanish architecture college
- A technical architect (aparejador), normally chosen by the architect. The technical architect is the site manager in

official-control of the building site

-- A builder

All three of these professionals have to sign the application.

Submitting the solicitud de licencia

The application is submitted either in person or by registered letter to the local-alcalde, where a receipt (recibo) will be issued;-the application is usually processed within two months of receiving the registered letter.

A letter of notification will be sent following the submission with the application number. After an examination confirming that-the correct information has been presented, details of the request will be posted in the Town Hall. The application will be verified-for compliance with the building rules. A tacit approval may be assumed two months from the date of submission and the-permiso de construir-(building permit) will normally be delivered within that time.

-- • Note: If the building authority does not give you a notification within two months, you will automatically obtain the-license, assuming that the correct information was submitted and it complies with building regulations.-

Responsibilities

The building act LOE of 5th November 1999 (Ley de Ordenación de la Edificación), considers all parties involved in the-construction of the building to carry some responsibility. Without prejudice to their contractual responsibilities, the individuals or-legal entities who assist in the building process are liable to the owners and third party buyers of the building or any parts-thereof, should the building be divided.

The following property damages affecting the building within a specified time, starting on the date of the commencement of the-works without reservation or starting on the date of the correction of such reservations:

Responsibility is assigned for faults in the building in the time frames specified as follows.

-- • For a ten year period, any structural damage caused to the building due to faults or defects affecting the foundations,-supports, beams, framework, load-bearing walls, or other structural elements which directly jeopardise the building's-mechanical resistance and stability.

-- • For a period of three years, damages caused to the building by faults or defects in the constructive elements or services-which result in the building failing to meet habitability requirements.

-- • The builder will likewise be liable for damages due to construction faults or defects affecting elements of the finish work-for a period of one year.

Each agent is individually liable for their own acts or omission and for those of the persons for whom they are legally responsible-according to law.

Notwithstanding this, when the liability for the damages cannot be assigned to an individual or group, those involved will be held-jointly responsible. In any event, the developer will be jointly liable with all other agents involved to the buyers for the property-damages to the building caused by construction errors or defects.

Responsibility of the builder

The builder is directly liable for damages caused to the building due to faults or defects derived from lack of skill, lack

of-professional or technical qualification, negligence or non-compliance with the obligations of the Construction Manager and the other individuals or legal entities reporting to them.

When a builder subcontracts to other individuals or legal entities for the performance of certain tasks or services, they will be directly liable for the damages, due to faults or defects in the execution of such works, without prejudice to the recourse he might have against subcontractors.

The following property damage or surety policies are required as guarantees:

-- A property damage or surety insurance policy to guarantee for one year compensation of the damages caused by execution-faults or defects which affect the finished work

-- A property damage or surety insurance policy to guarantee for a period of three years, compensation of damages due to-faults or defects in constructive elements or services which result in the non-compliance of the habitability requirements

-- A property damage or surety insurance policy which guarantees compensation of damages caused to the building by faults-or defects originating in, or directly affecting the building's mechanical resistance and stability

The Policyholders

Note: In the case of-autopromoción, the developer and the buyer figure as the same person, no property damage insurance policy-is required for a period of ten years.

Disclaimer: The content of this document is provided for guidance only, and while every effort has been made by the author to-ensure the accuracy of the information and translations contained, no liability can be accepted for any errors omissions and-inaccuracies, or for the opinions expressed herein.