

The Planning and Building Law – Ideas for a Brighter Future: Proposals for Reform of Planning Processes

Gadi Rubin

ABSTRACT

In the past eleven years, the Planning and Building Law (1965) have been amended 63 times. This is a rate of six amendments per year, which attests to the urgent need of replacing it with a new law. This article outlines ideas for this much-needed reform. The article opens with a brief description of several problems relevant to the field of planning law, each of them constitute a "market failure" that justifies legislative intervention: The agency problem; the free rider problem; The externalities problem; and the interest group problem. The article continues with a proposal for reform of the planning section of the Law.

In the area of planning institutions and their powers, it is proposed to change the composition of the Local Committee. Instead of the Local Committee consisting only of elected officials at the local level, it is proposed that it be composed of a combination of representatives from the local authority, government ministries and representatives of public bodies such as those dealing with environmental issues, the architects' association, etc. Once a balanced composition of the Local Committee is determined, it is proposed to transfer the authority to approve all plans at the local level to this Local Committee. In the area of types of plans, it is proposed that planning institutions be required to prepare programmatic plans once every five years. It is also proposed to allow a plan whose building appendix is a sketch of a building permit, so that after the approval of such plan, it will be possible to carry out a technical examination ("Bakarat Tehen") and proceed with execution of the building immediately. In the field of planning proceedings, it is proposed that the deposit process will be a technical procedure carried out by the district planner and the local committee engineer, so that the plan will be discussed by the planning institutions only once, at the public hearing stage ("the objections stage"). In regard of the duty of a developer to provide land for public purposes, it is proposed that any developer who is unable to provide sufficient land areas for public purposes will be able to replace this duty with a payment to a municipal fund dedicated to the purchase and development of suitable land for this purpose. As to betterment levy, it is proposed that the levy become a tax imposed on the general appreciation of the land and not only on appreciation regarding planning improvement. This will greatly increase the tax base and therefore will require a reduction in the tax rate and perhaps even consider the idea of dividing revenue between the local authority and the state.

Keywords: Reform of the Planning and Building Law, Planning institutions, Allocation of land for public purposes, Building permit, Betterment levy.

ENGLISH ABSTRACTS

SPECIAL SECTION: The Planning and Building Law 1965 after 60 years

***Dr. Gadi Rubin** is a faculty member at the Faculty of Law at Ono Academic College, where he teaches administrative law and corporate law. In addition, he is a lecturer at the Institute for Urban and Regional Studies at the Hebrew University of Jerusalem and a consultant at Zinger Dana & Co., law firm. Holds an LL.B. degree from the Hebrew University of Jerusalem, and an LL.M. and Ph.D. from the University of Toronto. His doctoral dissertation, supervised by Prof. Michael Trebilcock, dealt with economic analysis of issues in international trade. He interned with Justice Shoshana Netanyahu at the Supreme Court, worked as a lawyer at Herzog Fox & Neeman, and served as the legal advisor to the Airports Authority during the planning and construction of Terminal 3 at Ben Gurion Airport (NATBAG 2000 project). Later he served as the legal advisor to the Jerusalem District Committee and as the first legal advisor of the Committee for the Protection of the Coastal Environment (VALHOF). For more than fifteen years, in parallel to his academic work, he has been advising public and private organizations on planning and construction issues, mainly in the field of infrastructure. gadi@zinger-law.co.il*