

A shorter appeal chain for zoning plans

Christina Hellström / Associate
Christian Härdgård / Senior Associate

As we have previously reported in several articles, the Swedish Planning and Building Act ("PBL") is under constant change. In the spring, parliament will vote on the government's proposal to cut the number of instances for appeal of a decision by a municipality to adopt, amend or repeal zoning plans or area regulations. The new rules are proposed to take effect 1 June on 2016.

The government proposes in its bill 2015/16:55 *A shorter appeal chain for zoning plans and area regulations*, an amendment to PBL which means that municipal decisions to adopt, amend or repeal zoning plans or area regulations will no longer, as is the case today, be appealed to the county administrative board but directly to the Land and Environment Court.

According to the government, the purpose of the proposal is to make hearing of such decisions more efficient by, inter alia, cutting the time it takes to make zoning plans and area regulation legally binding whilst maintaining legal certainty. In the view of the government, the appeal chain in these matters is rather long and the number of appeals tried in several instances too great. The intention is that this will eventually enable important civic projects, e.g. construction of new housing, to be commenced and completed quicker and at costs lower than today.

The government is of the view that the proposal also strengthens the county administrative board's role as a consultation partner and promoter within the framework of the municipal planning of the supply of housing and in the physical planning process. Thus, the county administrative board can more actively represent state inte-

rests and work to satisfy the government's goals, within the framework of the municipal planning, in various policy areas, not at least in the housing supply field. In addition, the proposed order would also, according to the government, counter suspicions of conflict of interest in the hearing of an appeal.

However, the county administrative boards' position and possibility to review zoning plans under chapter 11, section 10 of PBL will remain unchanged in the new proposal. Thus, the county administrative boards will continue to review municipalities' decisions to adopt, amend or repeal a zoning plan or area regulations if, inter alia, it could be deemed to mean that a national interest is not satisfied or that the construction is unsuitable with respect to human health or safety, or the risk of accidents, flooding or erosion.

Nor does the proposal involve any changes to the appeal chain for matters regarding appeals of building permits, advance rulings or regulatory decisions. In these cases, the county administrative boards will remain the first instance when appealing a municipal decision.

Analysis

The proposal is a step in the government's desire to make the appeal procedure regarding municipal decisions under PBL more efficient. A recurring reason for previous changes has been to increase housing construction in Sweden. It also seems in this proposal to be the main reason behind the change. In the light of the recent reports regarding the present housing shortage, one can wonder if these efforts have really had any impact.

We can see both pros and cons in the government's new proposal. It is positive that the county administrative boards' role in the zoning process is clarified as being primarily a consultation partner to the municipality. One can, however, question how widespread the alleged conflict of interest problems have been in reality. At the same time, the possibility of reviewing the municipal decisions remains as it is the county administrative boards' role to supervise state and inter-municipal interests. However, we regard it as less positive that the review is moved further from the people concerned by the decisions in a purely geographical sense, as a consequence of the locations of the land and environment courts in the country. The local basis of the county administrative boards can also be something positive.

We are very uncertain as to whether the proposal will lead to increased housing construction. Since the older rules will still apply to appeals of decisions made by the municipality before 1 June 2016, any effects are likely take some time.