



Construction and Real Estate Business in Ukraine

Permitting, Licensing and Public Procurement Issues

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Construction Permits

- ▶ **Applicable legislation:**
 - ▶ Law of Ukraine 'On Architectural Activity'
 - ▶ Law of Ukraine 'On Planning and Development of Territories'
 - ▶ Local rules

Construction Permit

- ▶ Written application together with the document certifying ownership to the land plot or right to use it
- ▶ The documents to be attached to the application are set forth by local legislation



The authority



Two months

- ▶ Prepares comprehensive report on compliance of the projected construction with the applicable town planning rules and other regulations
- ▶ Issues the permit

The construction permit



The right to receive:

- ▶ input projecting data (issued within **two months**)
- ▶ permit for construction works

The permit is valid within **two years**

Changes to the law ‘On Planning and Development of Territories’

To enter into force in April 2009.

Application on intention to construct



The authority



Checks

conformity with local rules of
territory development and
town planning documentation



Issues

input projecting data

Changes to the law 'On Planning and Development of Territories'

List of the input projecting data is set forth and includes:

- ▶ (i) town planning conditions and site development restriction,
- ▶ (ii) technical conditions concerning engineering supply of the building
- ▶ (iii) project task

Term for providing the basic data is increased from **two** to **three** months

Permit for construction works

- ▶ Issuing authority – State Inspection of Architecture and Construction.
- ▶ The permit certifies the right :
 - ▶ to execute construction works
 - ▶ to connect to utility systems
 - ▶ to get an authorization for ground works.

To receive the permit, the applicant shall provide:

- ▶ duly approved project documentation
- ▶ a document certifying ownership right to the land plot or right to use it
- ▶ a decision of a competent authority granting construction permit for construction of town building object
- ▶ document on appointment of works` executors, information on author and technical supervision. Technical supervision requires specific licensing
- ▶ investment expertise comprehensive report

The permit is issued and registered within **one month from the application date**

Foreign company shall provide documents certifying that:

- ▶ not less than 90% of construction-assembly works will be performed by Ukrainian nationals and companies
- ▶ not less than 50% of Ukrainian domestic construction materials will be used

Occupancy Permit Procedure

Regulation on Finished Construction Acceptance
adopted by Cabinet of Ministers of Ukraine on October
8th, 2008 entered into force on January 1st, 2009

Acceptance commission

Representatives of:

- ▶ customer construction
- ▶ design/architecture company
- ▶ general contractor;
- ▶ state inspection of architecture and construction;
- ▶ insurance company
- ▶ accessibility committee, operating company and municipal authority (upon consent)

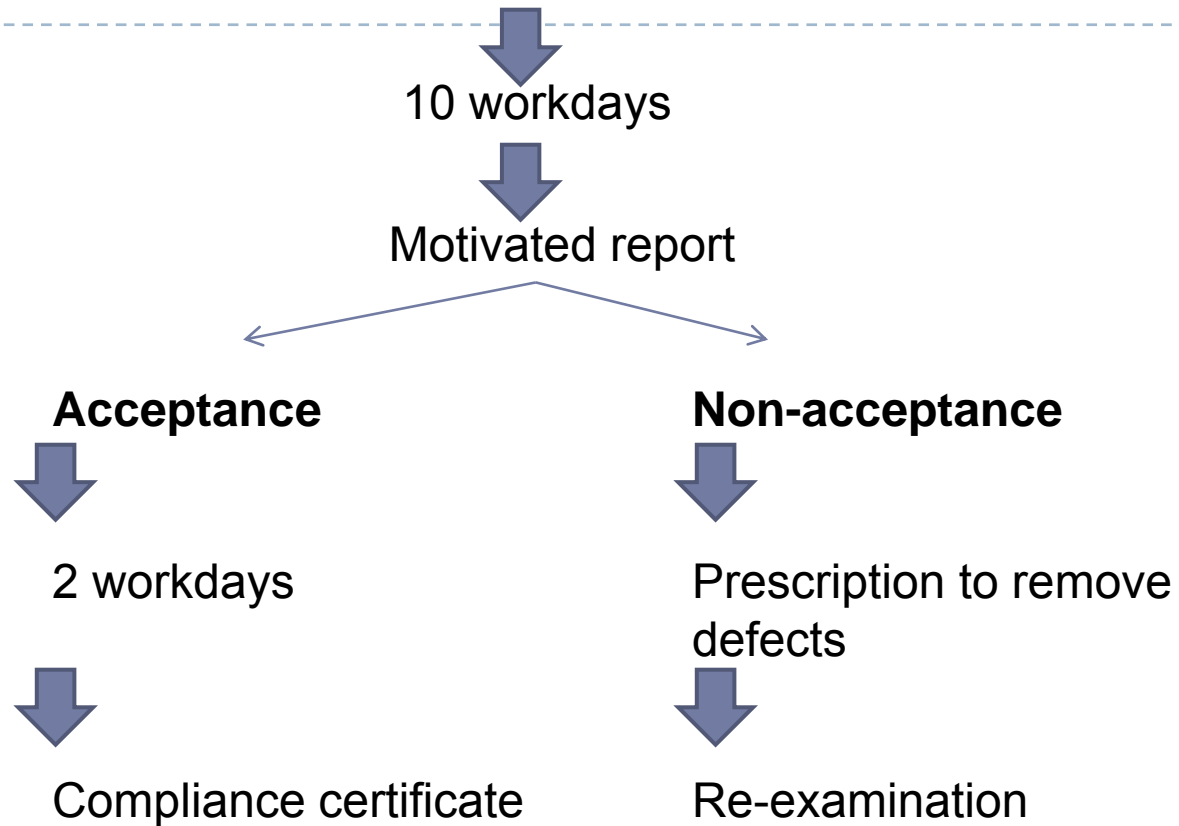
Application

- ▶ duly approved project documentation
- ▶ certificate of readiness signed by the designer/architecture company, general contractor, subcontractors, customer construction and insurance company (if relevant)
- ▶ list of construction-assembly works indicating the executors thereof
- ▶ information on engineers/technicians in charge

Application

- ▶ set of execution file for construction-assembly works
- ▶ statement on compliance of used construction materials with the relevant legislation provisions
- ▶ test of potable water, soil, air quality
- ▶ finding of the state inspection of architecture and construction on the building acceptance

Checking acceptability of the finished construction



The certificate issuing date
= finished construction
acceptance date

-
- ▶ **The permit certifies the right :**
 - ▶ to sign agreements for utilities supply
 - ▶ to register property right

Upon acceptance of the object,

it is necessary to take part in development of the local social and engineering-transport infrastructure by a contribution into the local budget:

- ▶ 10% of the total estimated cost of construction
- ▶ 4% for habitable buildings, cultural, educational and medical facilities

Licensing: General Remarks

- ▶ **Applicable legislation:**
 - ▶ Law of Ukraine ‘On Architectural Activity’
 - ▶ Regulation “On Licensing of Some Types of Commercial Activity in Construction” dd. December 5, 2007
- ▶ **Licensing authority: State Architectural & Construction Inspection**

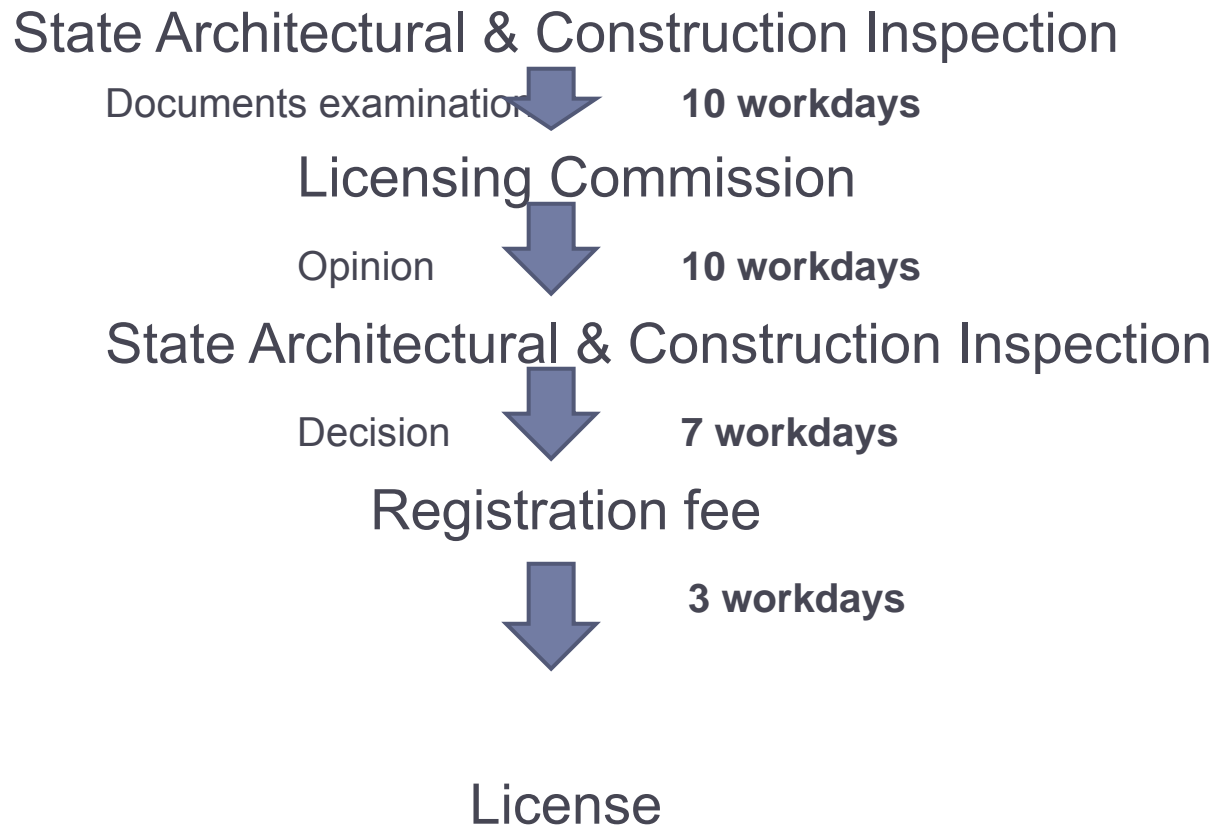
Licensing: General Remarks

- ▶ **Construction activities subject to licensing:**
 - ▶ survey work
 - ▶ designing and projecting work, technical supervision
 - ▶ construction work

Licensee-to-be: conditions

- ▶ **Conditions to be met:**
 - ▶ Company Organization
 - ▶ Staff Qualifications
 - ▶ Technological parameters

Licensing procedure



Validity of license

- ▶ Issued for the first time: **3 years**
- ▶ Ordinary validity: **5 years**



Buying a company owning a license

Such purchase can normally be fulfilled within 1-3 months

Public procurement

- ▶ Legislation history:
 - ▶ Law of Ukraine was abolished at the beginning of 2008;
 - ▶ Provisional regulation adopted by the Cabinet of Ministers of Ukraine on 28 March 2008 was abolished in October, 2008;
 - ▶ On 17 October 2008 the Cabinet of Ministers of Ukraine approved a fresh regulation No.921;
 - ▶ On 19 November 2008 the regulation was revisited.

Amount:

- ▶ Goods/services  not less than UAH
100,000.00;
- ▶ Works  not less than UAH
300,000.00.

Procurement procedures

- ▶ **open procedure:**

- ▶ used by default,
- ▶ all interested parties are entitled to submit offers;

- ▶ **restricted procedure:**

- ▶ to be agreed in advance with the Ministry of Economy,
- ▶ the expected amount \geq UAH 500,000.00.
- ▶ the goods/works/services could only be offered by the restricted number of the participants,
- ▶ only those participants invited by the contracting authority are entitled to submit tender offers,
- ▶ not less than 2 participants;
- ▶ no announcement publication required;

Procurement procedures

- ▶ **`single supplier` procedure,**
 - ▶ to be agreed in advance with the Ministry of Economy,
 - ▶ no announcement publication required;
 - ▶ applies in case:
 - (a) of no-competition, due to the technical,
 - (b) when additional delivery of the goods/services is required while change of the participant may result in non-conformity with the goods/services already delivered,
 - (c) when the additional construction works (The cost < 50% of the principal contract price.) connected with the principal agreement are necessary;
- ▶ **two-stage procedure;**
- ▶ **request for quotation.**

Procurement stages

