

Abstract

Presented thesis deals with approved inspector as a major entity of simplified procedure. It is focused on the origin of his function, internal organization and impact of his functioning. Author brings comprehensive view of current problems, primarily from point of view of judicature, specialized literature and comparison with foreign legislation. Author considers a possibility of amendment of the act besides an analysis of current legislation.

Grammatical or teleological interpretation of the provisions governing the simplified procedure doesn't bring a satisfactory answer to the question of whether the legislation intended for governing bodies applies on the activity of authorized inspector. Whether through negligence or intent the legislature concerning authorized inspector is conceptual hybrid. In an attempt to clarify its functioning and to define it either a subject of public or private law, concept of simplified procedure deforms to disadvantage of different group of subjects and loses partly its original meaning. The only way out of this confusing situation is amendment of Building Act in favor of unambiguous concept of simplified procedure.

The author deals with position of the authorized inspector in initial chapters. The procedure of nomination and assumptions that an applicant must meet to be appointed by Minister are described in Chapter 1. Chamber ensures organization of authorized inspectors in cooperation with the Council, Ministry exercise the supervision with interaction of local planning authorities. The main task of the authorized inspector is to issue its opinion. Law also requires the authorized inspector to render a draft of inspections and to supervise the construction of the building. Author disagrees with a range of powers mentioned in the current Building Act and proposes to keep only the issue of expertise.

The authorized inspector shall examine the design documentation in accordance with parameters specified in Building Act. The authorized inspector issues a certificate, if statements of concerned persons and approvals of authorities are ensured. Requirements of the certificate are summarized in Chapter 5. Especially the specified literature deals with the question, if an appeal against the certificate and judicial review are possible. Conclusions vary, but all authors agree that the amendment of Building Act is inevitable.

The conclusion of thesis is devoted to the analysis of the bill amending the current Building Act and related amendments. Despite the obvious effort to improve valid legislation the author considers the amendment as inadequate and offers his own concept. It is inspired primarily by Austrian legislation. This concept understands the authorized inspector as a professional in the field of construction, who renders his position to project documentation in the opinion. The certificate is not eligible to create rights and obligations, as it isn't any result of administrative proceedings conducted by administrative authority. Notice of construction is maintained as a part of new conception of simplified procedure. Appeal is replaced by objections, which are considered by planning authority. Administrative action against a decision of planning authority is permitted under the conditions listed in Civil Procedure Code.