

"LEX DEVELOPER" IN PRACTICE - THE SCALE OF APPLICATION IN THE LARGEST POLISH CITIES

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Abstract

State intervention in the housing market can take many different forms. In Poland, in 2018, a *lex specialis* regulation was introduced to the general principles of spatial policy in terms of special privileges for developers operating in the housing market. As the entity responsible for local spatial policy, the municipality has been deprived of its decision-making power by granting developers who build residential buildings the right to act against local planning rules. The article aims to determine the preparation of the largest Polish cities to negotiate with developers through the adoption of local urban standards, the scale of use of lex developer solutions in these cities, and the analysis of the level of non-compliance in privileged investments with local planning rules. The study used desk research methods (critical literature analysis, source materials - texts of legal acts and statistical data), case studies, and comparative analysis. The conducted research allows for answering the research question posed in work: the level of completion of *lex specialis* purposes indicated by the legislator.

Key words: *developer, special solution, planning, affordable housing.*

JEL Classification: *R14, R31, R52.*

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1. Introduction

The development of industrial cities created a need for comprehensive spatial regulations; spatial order and development started to be recognized as a common good, conflict resolution, and means of preventing the degradation of intensively used space. These legal rules have limited the decision-making independence of the property owner. There were difficulties in building the proper institutional and legal framework from the very beginning. An active spatial policy should effectively protect the values of the land, the possibility of its use for future generations, provide ordered and purposefully organized space, and a certain predictability of development directions. However, real estate market participants, especially owners, would like to use the property in the most profitable manner at a given moment. This confrontation can cause spatial conflicts. The decision whose interests are more important depends on the specificity of individual cases, the institutional and legal order, and the informal and sometimes hidden rules resulting from the tradition and culture of a given society (North, 1990; Oakerson & Walker, 1997).

From the perspective of an individual actor, the land should be used in a way that provides the most significant profit to the owner (the highest and the best use). However, the market is not an ideal

regulator; there is market failure, and the real estate market itself exacerbates the problems due to its specific features (Needham, 2006). Therefore, public intervention is needed, but the state's deep involvement in planning and spatial development is not always the correct solution; there are government failures and non-market failures (Levačić, 1991; Wolf, 1993; Webster, 1998). Researchers indicate that the damage caused by government failure may be more difficult to overcome due to certain inertia of public institutions, their reluctance to introduce innovations, errors in legislation, and market distortion (Webster et al., 2005; Wolf, 1993; Le Grand, 1991). Summarizing the existing problems seems to be the opinion that land use regulation per se is neither good nor bad. What matters is the cost and benefit of specific rules under particular market conditions (Bertaud & Malpezzi, 2001; Brueckner, 2009).

The spatial planning system in Poland is burdened with many problems, with various stakeholders perceiving them differently; the clash of many visions without compromise results in a lack of meaningful solutions (Izdebski et al., 2007; Ney, 2011; Kowalewski et al., 2014; Parysek, 2016; Gorzym Wilkowski, 2017; Chmielewski et al., 2018; Anioł, 2019). The malfunctioning of the Polish planning system is blamed for the limited supply of housing units. This shortage was the reason for introducing a *lex specialis* regulation to the general principles of spatial policy in the form of special privileges for developers operating in the housing market (Gorzym Wilkowski 2021; Pawłowski, 2020). The Act on Facilitating the Preparation and Implementation of Housing and Associated Facilities (referred to as the Special Housing Act) (Journal of Laws of 2018, item 1496 with amendments) came into force on August 22nd, 2018. It was termed Lex Developer. Despite its short period from entry into force, the Act has already been amended five times. Often, some resolutions of municipal (city) councils are in force in the version adopted on the basis of older versions of the act.

According to the Special Housing Act's assumptions, the main goal was to increase the supply of land intended for development while maintaining high urban standards (including access to schools, kindergartens, and public transport) (Justification of the act introduction 2018). It was indicated that the provisions were intended to enable "corrections" to the local plans outside the binding plan amendment procedure, based, as a rule, on the conditions of the study. Therefore, the municipality, as the actor responsible for local spatial policy, has been deprived of some of its decision-making power by granting developers who build residential buildings the right to act against local law. The article aims to determine how prepared the largest Polish cities are to negotiate with developers in the form of the preparation of local urban standards, the scale of using Special Housing Act solutions in these cities, and analyze the level of non-compliance in privileged investments with local planning rules. The implementation of these objectives will allow for an answer to the research question concerning the performance of the *lex specialis* goals indicated by the legislator. The study used desk research methods (critical analysis of literature, source materials - texts of legal acts and statistical data), case studies, and comparative analysis.

2. Literature review

Research on the impact of planning regulations on the supply and prices of housing is carried out in many housing markets (Glaeser & Ward, 2009; Koket al., 2014; Ehrlich et al., 2018; Debrunner, & Hartmann, 2020). The results of the analyses show that the reasons for the increasing difficulties in meeting the housing needs of less affluent households include: an increase in developers' costs due to more expensive land and higher technical requirements in cities compared to suburban areas, which are also due to the provisions of planning and environmental regulations, an increase in the costs of building materials and more complex credit conditions (Anacker, 2019; Wetzstein, 2022). One of the essential directions of actions undertaken by public entities has become the policy stimulating the construction of affordable housing, e.g., an obligatory contribution of a particular pool of commercial housing for the benefit of social needs. This solution is known as Inclusionary Housing and is used, among other things, in the UK, France, Germany, and the USA (Antczak-Stępnia et al., 2020; Koetter et al., 2021).

The financing of housing resources and their hyper-commodification have led to a break in the climbing the housing ladder (Marcuse & Madden, 2016; Rogers et al., 2018; Jackobs & Manzi, 2020; Kadi et al., 2021). Increasing the supply offered by households, which improved their standard of living due to higher housing aspirations and income opportunities, was stopped by strengthening the investment value of housing units. Flats left by the more affluent often find their way to the market

not as part of sales offers, but in the form of rental offers. Moreover, the lower supply of new, cheaper apartments results from the strategy of developers who operate in large cities, and the revitalization processes stimulate gentrification. At the same time, the construction activity of public entities is minimal (Haffner & Hulse, 2021). Requirements for local authorities are increasing, and more and more challenges result, among others, from the climate crisis; in response, cities try to apply new planning solutions and experiments to be more flexible in adapting to the needs of residents (Eneqvist & Karvonen, 2021). However, will the external, somewhat top-down imposition of new solutions without establishing a dialogue between stakeholders, which took place in Poland, really allow for bypassing institutional barriers?

According to the Special Housing Act, a housing project on a special path should consist of the (re)construction of multi-family residential buildings with a total number of residential premises of no less than 25 or 10 single-family residential buildings. Associated facilities are related to a public road, public transport infrastructure facilities, facilities for cultural activities, childcare, nursery, school, daycare support, health care, day care homes, sport and recreation, green areas, as long as these investments serve the residents of the housing investment. A developer who wants to start a housing project must prepare and submit an application (which includes an urban and architectural concept of the project) to the municipal council, and start the negotiations with the municipality. The local government evaluates the project taking into account the level of satisfaction of housing needs within the municipality and the contents of the Studies of the Conditions and Directions of Spatial Development (the Study). Theoretically, the municipal council may refuse to agree to a housing investment which is in conflict with the needs and development opportunities of the municipality.

3. Data and Methods

The aim of the work was achieved using the methods of desk research, case study, and comparative analysis. The first one is based on secondary data previously collected for other purposes. The source of information may be data collected by statistical offices, various reports of both private companies and public organizations, press articles (Goundar, 2012), or information from central and local government websites. The use of already existing data makes it possible to conduct exciting research in a relatively short time and without incurring high costs of obtaining data (Johnston, 2014). The case study method, in turn, makes it possible to carefully examine small geographic areas, a limited number of units, or a given phenomenon in their actual context. Contrary to quantitative methods, it focuses on analyzing the phenomenon on a micro-scale (Zainal, 2007). Comparative analysis is based on capturing the similarities and differences between the studied units and the cause-and-effect relationships that create this differentiation (Pickvance, 2001). Comparisons can be geographic (e.g., international, regional) or even political. Moreover, this analysis can take the form of both quantitative and qualitative analyses (Miri et al., 2019).

The study was conducted in four stages:

1. for all voivodship cities, information was collected on the number of locations for which applications were submitted according to the provisions of the Special Housing Act and on the number of projects for which resolutions were issued (positive and negative);
2. local urban planning standards of selected cities were collected and compared;
3. the projects with resolutions were analyzed in detail in selected cities. For all cases, information was collected on:
 - a) the date of the application, the date of the resolution,
 - b) location,
 - c) the number of planned apartments,
 - d) compliance of the planned investment with the provisions of local plans and the Study of the conditions and directions of spatial development,
 - e) planned accompanying investments related to technical and social infrastructure;
4. the number of dwellings for which a positive resolution was issued (in three cities out of the surveyed) was compared with the number of developer dwellings for which building permits were issued in a given city.

Eight voivodeship cities were selected for the analysis: the six largest cities, i.e., Warsaw, Kraków, Łódź, Wrocław, Poznań, and Gdańsk, and, due to the large number of applications submitted to them, also Katowice and Lublin. The time scope of the study covers the years 2019-2021. The necessary information was obtained from resolutions introducing local urban standards in the examined cities,

submitted applications for establishing the location of a housing investment, and resolutions of city councils, available in official journals of individual provinces, and Public Information Bulletins.

4. Application of the provisions of the Special Housing Act in Poland - research results

The conducted research shows that developers are not very interested in the possibility of implementing projects under the provisions of the Special Housing Act. In total, applications for implementing 64 investments were submitted in all voivodship cities (as of the end of January, 2022), while no applications were submitted in Zielona Góra, Gorzów Wielkopolski, and Opole. In addition, legal problems meant that not all applications were followed up on. Developers withdrew many of them themselves to fill in the formal shortcomings. Some applications were not approved; what is more, in some cities, all applications ended in refusal (Kraków, Lublin). In many cases, developers submitted applications several times; upon first having received negative evaluations, they were approved only after making corrections.

Table1

Statistics of submitted applications and adopted resolutions on determining the location of a LEX Developer investment (until the end of January 2022)

	Number of locations which applications have been submitted	of for finished procedure	Applications with	
			Numer of resolutions ¹	
			positive	negative
Warszawa	10	8	6	2
Kraków	7	5	0	5
Łódź	8	5	4	1
Wrocław	2	1	0	1
Poznań	1	1	0	1
Gdańsk	6	0	0	0
Szczecin	1	1	0	1
Białystok	2	0	0	0
Lublin	7	6	0	6
Rzeszów	2	1	1	0
Katowice	6	4	3	1
Kielce	6	5	3	2
Gorzów Wielkopolski	0	0	0	0
Zielona Góra	0	0	0	0
Toruń	1	1	1	0
Bydgoszcz	3	3	1	2
Olsztyn	2	1	1	0
Opole	0	0	0	0
Total	64	42	20	22

Source: own study based on the official journals of voivodships and pages of individual cities, BIP.

The number of positive Lex Developer resolutions issued in voivodship capitals constitutes about 10% of their total. As of May 4, 2022, about 200 such local acts were issued (published in official journals of voivodships) in Poland (not counting amending resolutions and cancelled by supervisory decisions or judgments of administrative courts). By assumption, Lex Developer was to facilitate the implementation of development investments in attractive locations in large cities (including post-industrial land), but it should be considered whether these regulations are not the basis for suburbanization processes in smaller towns.

¹ In some locations, two resolutions were issued, e.g., negative the first time, then positive. The information in the column "number of resolutions" refers to the last resolutions issued for a given location.

In the next stage of the research, an assessment was made of the preparations undertaken by selected cities to implement the principles of the Special Housing Act. The regulation indicates the possibility of creating local urban standards understood as acts of local law. They may change the urban framework specified in the act as the base one, though within a specified range. The urban planning standards apply to requirements regarding the distance from public transport stops, educational institutions, places intended for sports and recreation, and the maximum height of buildings. This is essential for the local planning and spatial policy because it is conducive to the activity of the local self-government; it allows a specific negotiating position to be taken depending on the local conditions.

In six of the eight cities surveyed, i.e.: Łódź, Warsaw, Kraków, Poznań, Gdańsk, and Katowice, city councils adopted local urban planning standards. In Wrocław and Lublin², these standards had not been introduced by the research date, so statutory standards were in force. The requirements for distance from a communication junction were tightened in four cities, whereas in Warsaw, they were differentiated. Distance from the primary school was reduced in each city that adopted local standards. Initially, this category also applied to kindergartens, but this was changed. The number of primary school students as the % of the planned number of new inhabitants was increased in five cities, as was the case with kindergartens before this part was removed from the act. The distance from housing projects to the available areas for leisure, recreation or sport in case of multifamily projects was reduced in all cities that passed the standards. Similarly, in the case of the following indicator, in all examined cities with local urban standards, the area of analysis for determining the building height should cover a radius of up to 250 m.

Table2

Primary findings of local urban standards in the examined cities

	Wrocław, Lublin (statutory standards)	Łódź	Warsaw	Kraków	Poznań	Gdańsk	Katowice
Distance from the communication junction	500 m (1000 m)*	250 m	300 m (downtown) 400 m city 500 m (suburbs)	250 m	250 m	500 m	250 m
Distance from the primary school and kindergarten	1500 m (3000 m)	750 m	800 m	750 m	750 m	750 m	750
Number of primary school students as a % of the planned number of inhabitants of the investment	7%	7%	10%	10%	10%	10%	10%
Number of children for whom pre-school education should be provided, as a % of the planned number of inhabitants of the investment	3.5%	3.5%	5%	5%	5%	5%	5%
Distance from available areas for leisure, recreation or sport	1500 m (3000 m)/4 m per person	750 m/4m2 per person	750 m/4m2 per person	750 m/4m2 per person	750 m/4m2 per person	750 m/4m2 per person	750 m/4m2 per person

² In Wrocław, the Mayor of the city asked councilors not to create local urban standards as a sign of neglecting the Spacial Housing Act. In Lublin, the procedure of establishing local urban standards was in progress.

(multifamily projects)	n							
Maximum number of floors	14 above-ground floors (4)	7 above - ground floors	7 above-ground floors	7 above-ground floors	7 above-ground floors	7 above-ground floors	7-12 above-ground floors depending on location	7 above-ground floors
Radius of the building height analysis area	500 m	250 m	250 m	500 m ³ / 250 m	250 m	250 m	250 m	250 m

*in brackets, there are requirements for localities up to 100,000 residents.

Source: own study based on voivodship official journals and city pages, BIP.

In the next stage of the study, the authors analyzed the submitted projects (both approved and not approved) in the selected cities. They chose several describing criteria to conduct comparative research. These were: the dates of application, the dates of adopting the resolution, location, size of the investment measured by the number of planned apartments, compliance of the investment with the provisions of local plans and the study of the conditions and directions of spatial development, the potential impact on the lives of residents in the form of planned accompanying investments related to technical and social infrastructure.

The results show that investments based on Lex developer implementation are highly diversified. The size of the projects ranged from 12 single-family buildings (Kraków) to 1250-1600 apartments (Warsaw), see Tab. 3. To organize the data, all investments were divided into very small ones - up to 50 housing units, small ones - from 51 to 200, medium ones - from 201 to 500, and large ones - above 500 units (the higher number was taken in the case of a range given by the developer). The list included four very small projects, 18 small ones, six medium ones, and one large one. Smaller investments dominated the group of 30 analyzed projects (in one case, there was no data about the number of dwellings).

Table 3

Characteristics of an investment with a positive or negative location decision

Application's address	Date of application/date of city council decision	Planned number of dwellings	Compatibility with the Study	Compatibility with the local plan (MPZP)	Additional technical infrastructure provided by developer	Proposal for new social infrastructure
Kraków, ul. Cystersów	24.01.2019/22.05.2019 (a negative decision)	100-190	+	–	+	–
Kraków, ul. Rogozińskiego	29.01.2019/22.05.2019 (a negative decision)	190-235	+	0	–	–
Kraków, ul. Królowej Jadwigi	19.12.2019/10.06.2020 (a negative decision)	12 houses	+	+	+	–
Kraków, ul. Zielińskiego	14.04.2020/27.08.2020 r. (a negative decision)	89	+	–	+	–
Kraków, ul. Seniorów Lotnictwa i ul. Ułanów.	21.01.2021/5.05.2021 (a negative decision)	58-68	+	–	+	–
Wrocław, ul. Bacciarrellego i Canaletta	23.08.2019/17.10.2019 (a negative decision)	55-60	–	–	+	+

³ This level was originally enacted but was appealed.

Poznań, ul. Klinkierowa ⁴	23.06.2021 / 19.10.2021 (a negative decision)	No data	+	–	No data	No data
Warszawa-Żoliborz, ul. Gdańska	6.03.2019 / 8.07.2021	38-45	+	–	+	+
Warszawa-Praga Południe, ul. Szaserów	20.09.2019 / 5.12.2019	130-150	+	–	–	–
Warszawa-Praga-Południe, ul. Lizbońska	24.04.2020 / 9.09.2021	190-199	–	–	+	+
Warszawa-Ochota, ul. Grójecka (taken in violation of the law)	31.12.2020 / 15.04.2021	202-215	+	–	+	–
Warszawa-Mokotów, ul. Domaniewska	17.03.2021 / 9.09.2021	1250-1600	+	–	–	+
Warszawa-Białołęka, ul. Światowida	13.04.2021 / 26.08.2021	75-125	+	–	–	–
Warszawa-Targówek, ul. Syrokomli	13.06.2019 / 29.08.2019 (a negative decision)	25	+	–	–	–
Warszawa-Mokotów, ul. Wilanowska	16.12.2019 / 14.05.2020 (a negative decision)	90-129	+	–	+	–
Łódź, ul. Piotrkowska 154	2.09.2021 / 22.12.2021	85-110	+	–	+	–
Łódź, Piotrkowska 242/250	21.04.2020 / 23.06.2021	430-450	+	–	+	–
Łódź, ul. Piłsudskiego 135	9.01.2020 / 02.03.2020	405-440	–	–	–	–
Łódź, ul. Augustów	13.11.2020 / 23.06.2021	80-166	+	–	+	+
Łódź, ul. Zgierska 127	25.07.2019 / 16.10.2019 (a negative decision)	25	+	–	+	–
Katowice, ul. Kolońska	23.09.2020 / 4.02.2021	63-73	–	–	+	–
Katowice, ul. Damrota	13.11.2020 / 4.02.2021	70-90	+	–	–	–
Katowice, ul. Janusza Korczaka 43	21.01.2019 / 25.04.2019	37-55	–	–	+	+
Katowice, ul. Wita Stwosza	13.05.2019 / 24.10.2019 (a negative decision)	125-135	+	–	+	–
Lublin, ul. Relaksowa	3.04.2019 / 30.05.2019 (a negative decision)	80-100	+	–	+	+
Lublin, ul. Jutrzenki	4.04.2019 / 1.07.2019 (a negative decision)	87-93	+	–	+	+
Lublin, ul. Poligonowa	29.05.2019 / 5.09.2019 (a negative decision)	113-122	+	–	+	+

⁴ No application available on the city's website, despite the submitted inquiry, no answer was received.

	decision)					
Lublin, ul. Sławinkowska	16.07.2019/ 5.09.2019 (a negative decision)	85-95	+	0	+	+
Lublin, ul. Gospodarcza	24.06.2020/ 3.09.2020 (anegative decision)	380-398	–	–	+	+
Lublin, ul. Spółdzielczości pracy	28.08.2020/ 19.11.2020 (a negative decision)	206-246	+	–	+	+

0 - no plan

Car and bicycle parking was not treated as a technical infrastructure, also, arranged greenery and lawns were not treated as social infrastructure. Unfortunately, the brevity of some applications and KUA did not always make it possible to determine whether this type of infrastructure (even in the form of playgrounds) is being implemented.

Source: own study based on voivodship official journals and city pages, BIP.

The process of adopting resolutions by city councils was not free from problems. It is true that, in accordance with the Act, location documents should be issued within 60 days from the date of submitting the application, with the possibility of extending it for another 30 days, but, this time was in fact, even about 2 years in some of the examined cities. This resulted from formal shortcomings and unclear provisions of the act itself. It was noticed that many developers lodged complaints with voivodship administrative courts about the tardiness of municipality authorities. During the analyzed period, 93 court verdicts and resolutions were issued, as well as 27 supervisory decisions of voivodes. It should be noted that 18 verdicts were issued by the Supreme Administrative Court, which meant that they ended the appeal procedure. The Voivodship Administrative Court in Warsaw was the leader among voivodship court's rulings, issuing 16 verdicts. Supervisory decisions made by voivodes also focused on the Mazowieckie voivodship (15 out of 27).

Undoubtedly, one of the key problems of the new projects from the point of view of the planning policy of the examined cities was the possibility of non-compliance with the rules indicated in local zoning plans, and even studies of the conditions and directions of development. Considering all the projects, it can be seen that, in two cases, there were no plans, and compliance with the plan's provisions was noted only in one case. Projects that obtained positive decisions were not located in accordance with the terms of the local zoning plans. It should be remembered that the planned function may be different than that resulting from the local zoning plans, as long as it does not contradict the provisions of the study. Post-railroad, post-military and post-industrial areas are an exception to this rule. In the prepared list, in 6 cases, there was a non-compliance with the provisions of the study. In Wrocław and Kraków, investments contrary to the provisions of the study were rejected. Four investments, one in Łódź, one in Warsaw and two in Katowice, despite the lack of compliance with study, were approved by city councils. One of the investments in Katowice has been planned in the former railway area.

Pursuant to the provisions of the special act, developers may actively participate in the preparation of the area for housing investment through the implementation of accompanying infrastructure. The involvement of developers in such activities was examined; in terms of technical infrastructure, 22 projects had to be provided with technical solutions to be organised by the developer, e.g. external lighting, construction of connections, reconstruction of the existing exit, installation of sanitary and rain sewage systems with a retention reservoir or correction in the traffic light program. In 12 projects, developers have planned a new social infrastructure. However, its size and importance varied greatly, with a predominance of children's playgrounds. In Warsaw at ul. Domaniewska, a primary school and green areas were planned, while at ul. Lisbońska nursery school and recreational areas. Also, in Lublin, kindergartens were planned in two investments.

Table 4

Share of dwellings for which positive Lex Developer resolutions have been issued

	Number of dwellings for which a positive resolution has been issued			Number of dwellings for which a building permit has been issued			Share		
	2019	2020	2021	2019	2020	2021	2019	2020	2021
Warsaw	130-150	0	1755-2184	21466	14133	18523	0.6-0.7%	0%	9-12%
Łódź	0	405-440	595-726	6213	4793	8882	0%	8-9%	7-8%
Katowice	37-55	0	133-163	2293	3027	4558	1.6-2%	0%	3-3.5%

Source: own elaboration based on BIP and LDB.

The low popularity of the Lex Developer implementation is also indicated by the share of dwellings covered by these decisions in relation to the number of developer dwellings for which building permits have been obtained. In individual cities, depending on the year, there is a certain differentiation. In Warsaw, this share ranged from 0.6% in 2019 to as much as 12% in 2021; however, in 2020, it was 0%. In Łódź, this share was fairly even in the years 2020-2021, i.e. close to 8%. In Katowice, the share of dwellings built on the basis of Lex Developer was growing. With such results, it is impossible to draw constructive conclusions for the future.

5. Discussion and conclusions

The research results answer the research question posed in the paper regarding the level of implementation of the Special Housing Act objectives indicated by the legislator. According to the legal act initiator, the main goal of the *lex specialis* was to reduce administrative and legal barriers in the construction of housing for social groups with moderate incomes. In the longer term, the expected results should improve the fundamental indicators of the level of satisfaction with housing needs. They should be similar to the average values of developed countries in the European Union. It was highlighted that legal barriers in the investment preparation process, particularly land acquisition, negatively affect housing availability for people with average and low incomes. The primary assumption of the Special Housing Act was the introduction of regulations enabling significant acceleration of the preparation and implementation of housing investments and associated investments. It was planned that the reduction of administrative and legal burdens related to housing investment performance would diminish significant investment risks and, thus, increase the possibility of preparing such projects and carrying them out efficiently and effectively.

In addition, in the justification of the draft act, the act initiator indicated that housing investments, and partially associated investments, are not public purpose investments. Therefore, it is necessary to create a specific mechanism enabling this type of investment to overcome the limitations of locating residential investments in a given area. It was emphasized that the time-consuming nature of the procedure of adopting local zoning plans does not accelerate and facilitate the construction of new apartments, and the change is a long-term process. Therefore, the provisions aimed to enable "corrections" to the local zoning plans (apart from the existing procedure for changing the plan).

The legal act initiator also stated that the starting point is in full compliance with the principle that the planning authority in the municipality belongs to its inhabitants and their representative. The act originator pointed out that "the investor's proposal is assessed by the entire local community, which councilors must take into account when adopting a resolution to determine the location of a residential investment" (Justification of the act introduction 2018). There was also an important statement granting the municipality the right to assess information on whether the investor's application conflicts with its needs and development opportunities and the right to refuse to determine the investment location.

From the point of view of spatial order and sustainable development, however, these assumptions should be looked at critically. It has been repeatedly pointed out that the housing functions in Poland are assigned excessive size in planning documents, and it is not the lack of land designated for housing that causes the housing problem (Śleszyński, 2018; Śleszyński et al., 2020; Zaborowski, 2021). Moreover, the analysis of the provisions of the Special Housing Act does not allow an instrument or a mechanism to be found that would cause dwellings built on privileged principles to have lower prices or to be intended for medium and low-income households. The indication that the act does not infringe the planning authority of the municipality also does not seem accurate; in the 30 examined

cases, only in the case of two were there no zoning plans at all, and one project was in line with the plan. This means that, in 27 cases, the examined cities made the effort and incurred the cost of creating the zoning plans. These efforts have been negated, so it is not surprising that some authorities have reacted negatively to the *lex specialis*.

The provisions of the regulation are very imprecise. Undoubtedly, this problem harmed the perception of the solutions of the Special Housing Act, which is the reason for many court decisions with often divergent sentences. This imprecision has been repeatedly emphasized by administrative courts in their rulings (IV SA/Wa 308/20; II OSK 1759/20; II SA/Bk 778/21), because it leaves space for interpreting specific conditions, also limiting the will of municipalities. Finally, it is unclear how the legislator understands that "The investor's proposal is assessed by the entire local community, which councilors must consider" (Justification of the act introduction 2018). No instruments are foreseen, such as public discussion about the need for such privileged investments.

The study aimed to determine the preparation of the largest Polish cities to negotiate with developers in the form of creating and applying local urban standards and the scale of using the solutions of the Special Housing Act in the largest cities, as well as to analyze the level of non-compliance of privileged investments with local planning rules. The research results show that local urban standards were issued in almost every city and contained a significant increase in requirements for developers, taking into account statutory solutions. These standards are a positive element in constructing the institutional foundation of planning processes. They are a preparation for greater cooperation between stakeholders in the future. They can be seen as a way to develop network governance in planning (Buitelaar, 2003). However, the high number of negative decisions proves the lack of proper formal preparation of applications by developers and the reluctance of city councils to issue resolutions contrary to the implemented spatial policy; the latter is hardly surprising.

The number of projects using a special path seems to be moderate; the instrument allowing for special treatment of some developers in the housing market is generally used to bypass the provisions of local zoning plans. Consequently, this may lead to unequal treatment of economic actors, perpetuating the problem of free riders, increased spatial chaos, and raising city maintenance costs.

It seems that observing the scale of the developers' interest, as well as the size of the projects and their nature, it is impossible to meet the housing needs of lower and middle-income households in this way. The imprecision of the provisions causes leads to increased length of pending cases due to the reference to court decisions, "correction" of local plans using the application of the Special Housing Act may, in the long run, harm the manner of land development.

6. References

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