

건축규제 특례제도의 합리적 운영을 위한 협의조정제도 도입방안 연구

Policy Proposal for Introduction of the Negotiation System to the Building Regulation Special Permit

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SUMMARY

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□ Background and purpose

As policy demands for regulatory innovation and flexible operation are increasing, the demands for the use of various building regulations special permits such as Special Architectural District, Streetside Special District or Building Agreement in the 「Building Act」 are also getting noticeable. However, there are many complains from all related entities such as building owners, constructors, administrators, and experts due to its disutility(irrationality) of special permits in the operation process. In this regard, this study is to seek alternatives for the rational operation of the building regulation special permits. Specifically, the study suggests policy proposal that helps introduce a negotiation system to rationalize decision-making process in the operation of the current special permits.

□ The operating status of the building regulation special permits and the introduction of the negotiation system

Chapter 3 illuminated the problems in the operation of the building regulation special

permits, especially the limitations of the current review system and identified the demand for improvement in the operation process of the special permits and the negotiation system. Through the analysis of operation status and case study, the problems in the operation of the special permits are as follow. In 'the aspects of contents', ① the absence of a distinction between 'architectural review' and 'special permit review', ② limitations in judging the adequacy of 'Securing publicness ', ③ 'proactive cut-off' of the application of special permits due to concerns about the special exception controversy, etc. are drown. In 'the aspects of procedure', ① long administrative procedures to apply special permits, ② issues such as limitations of the decision-making ways in the review process were confirmed.

In addition, the administrative burden due to the limitation of the control of the 'side effects' of the special permits and the limitations of the developments were identified as problems in the operation of the building regulation special permits. In the results of a survey conducted on architecture professionals, public officers and members of the review committee, the survey participants pointed out that the main problems were the absence of assessment criteria and the proactive cut-off for application of the special permits. We confirmed a consensus on main issues.

On the other hand, the other survey was conducted on the demand for the introduction of the negotiation system in operating the building regulation special permits. 62% of the total (82% of architecture professionals) agreed on necessity of the policy and 71% of them showed the intention to use it according to the introduction. (90% of architecture professionals)

☐ Case study on introduction of the negotiation system in operation of the building regulation special permits

We reviewed the negotiation system abroad and in the other fields in order to prepare an effective operating model when introducing negotiation system for the building regulation special permits in Chapter 4. We found out that the purposes of the special permits from those cases are 'effective utilization of urban spaces and buildings', 'improvement of the value and level of buildings and spatial environment', 'accommodation of new design attempts', etc. It was confirmed that the system is not a simple means of relaxation and that the negotiation procedure as a decision-making

mean is essential to find an appropriate line between relaxation and securing publicness in operating the system.

The scope of special permits were determined by the basic principles including non-negotiable standards during the negotiation process and the private sectors established and proposed detailed development plans. It was confirmed that the methods to secure publicness in the special permits are establishing an architectural plan to enhance publicness by reflecting the direction and standards in the master plans, creating of public spaces or open spaces and making contribution fund. Regarding operation, an independent organization is responsible for the operation of the negotiation system or a council or committee which is in charge of consultation and mediation.

- Introduction the negotiation system to rationalize the operation of the building regulation special permits

With the results of the analysis, the operation model in the negotiation system was proposed for the rational building regulation special system. While responding flexibly to new design attempts, the negotiation system functioned for the purpose of minimizing the side effects of the application of special permits and enhancing the publicness. It was suggested to apply to the existing system including Special Architectural District, Streetside Special District or Building Agreement in the 「Building Act」 which have presented some issues in their operation.

Among the standards of negotiation, the standards of the special permits should follow the current regulation. In order to secure publicness in the special permits, some conditions should be considered such as ‘establishment of architectural plan including detailed plans with minimizing side effects and achieving publicness’, ‘creation of public spaces or open spaces’ or ‘collection of architectural fund’. We also proposed the validity of the application of special permits, the adequacy of level of public interest and the appropriateness between the application of special permits and securing publicness as the criteria for assessing negotiation standards. Several qualitative standards were prepared successfully.

For organization of the negotiation system, we suggested that the local government forms or appoints an independent committee (for instance, Negotiation Committee for

Special Permits) or the central government conducts the demonstration project to support the organization temporarily in the initial settlement. The procedure of negotiation is proposed to make a choice by owners or developers and is carried out before the review stage. In the review stage, it was proposed to simplify the procedure by checking whether the results of negotiation are implemented. In addition, local residents and stakeholders are allowed to express their opinions during the negotiation process.

Based on the operation model and simulations comparing before and after the introduction of the negotiation system, we verified the effect of introducing the system. The simulation examined two cases, 'proactive cut-off' and 'side effects due to the application of special permits'. As a result, we found out that in the case of 'proactive cut-off cases', there is no adverse effect on the surrounding area and the measures to secure publicness can be diversified. It was confirmed that the required period is reduced with reducing the review process. In the case of 'side effects due to the application of special permits', the special cases can be operated to maintain business feasibility by going through a negotiation process and it helps to improve the surrounding living environment while securing publicness.

□ Implementation plans for the introduction of the negotiation system

In conclusion, we proposed that the establishment of Chapter 8-4 (Negotiation of Special Permits Standards) of the 「Building Act」 to implement the operation of the negotiation system. With the establishment of the standards, we prepared the improvement of the existing special permits procedure. Finally, we identified a step-by-step implementation task of the Ministry of Land, Infrastructure and Transport and local governments to implement the negotiation system in the operation of the building regulation special permits.

Keywords

Regulatory flexibility, Building regulation special permits, Special architectural district, Streetside special district, Building agreement, Architectural Review, Negotiation system