

공간수요 다양화에 대응한 가설건축물 관리방안 연구

Issues and Proposals for the Regulation of Temporary Buildings

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SUMMARY

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Over the past five years (2017~2021), the number of temporary buildings for which the permission for construction was granted, or whose construction was reported to the government, was approximately 620,000 units. The number of permits issued and reports to the government on construction of temporary buildings is continuously increasing. The number of permits and reports of temporary buildings in 2021 increased by about 1.8 times from 2017. However, disputes and inquiries regarding the interpretation thereof continue to arise due to unclear standards of what a temporary building is. Temporary buildings are being used permanently, illegally or in other illicit manners, but the fact is that local governments cannot not regulate them actively due to the limitations of administrative capacity. Therefore, the purpose of this study is to identify the current issues and problems regarding temporary buildings and to propose a direction for the system improvement for the integrated administration of temporary buildings.

“A temporary building” refers to “a temporarily installed building”, which is a building which is installed for a specific purpose and is scheduled to be demolished immediately after the purpose is achieved. Exceptions are allowed for temporary buildings such that various laws and safety standards etc., which apply to ordinary buildings, do not apply to temporary buildings. Moreover, due to deregulations, the scope of temporary buildings is being expanded for which construction permits may be issued, or for which a builder may inform the government of the construction. Particularly over the last ten years, the scope of temporary buildings expanded greatly, which a builder may commence construction just by reporting it to the authorities. In Chapter 3 of the study, requests received at the Ministry of Land, Infrastructure and Transport, inquiries to officials, media reports, and the requests by local government officials for the system improvements were analyzed to derive issues and

examine the limitations of the temporary building administration. In this study, three aspects of the issues are derived in full consideration of the above elements: the definition and the scope of temporary buildings, the period of permitting the use and the maintenance of temporary buildings, and the regulation of temporary buildings which are built illegally. First, inquiries to government offices are increasing about the interpretation of the laws and the regulations related to temporary buildings. Each local government has different standards for allowing temporary buildings, which cause inconvenience to the public. Second, most temporary buildings can be used permanently without limitations on the number of use if the user, within the permitted period of the building use, requests extension of the use period, and most temporary buildings therefore are being used permanently. Finally, the administrative capacity is limited in regulating temporary buildings built illegally. There are continuous complaints about temporary buildings which are used without a permission or report, or temporary buildings whose period of use expired, but active regulations of illegal temporary buildings are difficult due to the lack of resources of local governments.

The causes of these problems are examined at the institutional level in Chapter 4. First, it is difficult to determine whether a particular building is a temporary building because of the unavailability of clear principles and standards on temporary buildings in the law. Most of the issues related to temporary buildings such as farmhouses and pre-fabricated dome tents are temporary buildings, which may be constructed by just informing the government of the construction. Disputes continue, however, because the principle, the terms etc. of a temporary building, whose construction should be reported to the government are not stipulated clearly under the law. The law only lists the types of temporary buildings subject to the report requirements. Moreover, temporary buildings are defined vaguely as “temporary structures prescribed under the building ordinance of the local government” and “other similar objects”, and it is possible to arbitrarily expand the scope of temporary buildings subject to the report requirements. Second, under the current law, there are no restrictions on the permanent use of temporary buildings subject to the report requirements, and the boundary under the law between permanent buildings and temporary buildings is gradually blurring. Currently, the permitted period of use of temporary buildings is three years or less, in principle. The period can be extended as many times as prescribed under the building ordinance of the local government. The local government does not have clear administrative duties delegated to regulators, and it is possible for temporary structures to be used permanently. Third, the extension of the use period of an illegal temporary building is often omitted because

administrative duties are not clearly delegated to regulators under the law, and the penalty for using an illegal temporary building is lower than the benefit from using such a building. Under the 「Construction Act」, the permitted period of temporary building use shall be prescribed under the presidential decree. Under the 「Enforcement Decree of the Construction Act」, the period may be extended as many times as stipulated by the construction ordinance, but there are no specific rules or relevant rules of regulatory delegation for the procedure or the standards of the extension.

In this study, the measures for improvements are proposed to remedy the problems at an institutional level. First, in consideration of the purpose of why temporary buildings are permitted under the law and the differences of a temporary building from a building which is used on a permanent basis, the definition and the scope of temporary buildings need to be clarified. For temporary buildings subject to the report requirements, whose construction is increasing greatly in recent years, the principles and standards for determining which buildings qualify as temporary building should be prescribed first, rather than listing the types of temporary buildings. In addition, the measures of prescribing a new table of detailed standards for temporary buildings with the report requirements are proposed to formulate a definition of temporary buildings subject to the report requirements and to categorize a new type of temporary buildings.

Second, regarding the period of allowing the use and the maintenance of a temporary building, it is proposed that the maximum period of use be specified in the law and a principle of designating a period of use be established. First, it would be necessary to define the report of the construction of a temporary building and the extension of the period of the use of a temporary building, as a report which needs the government approval. The procedures and standards for reporting the extension of the period of using a temporary building should be specified clearly in the 「Enforcement Decree of the Construction Act」 or other laws, or the regulatory authority should be delegated to regulators under the ordinance. For a livestock shed in a rural area or a warehouse in an industrial zone, a plan to arrange a separate administrative system should be considered on the basis of the characteristics of the types of facilities.

Third, for the regulation of illegal temporary buildings, it is proposed that the penalty for using an illegal temporary building be strengthened. If a user does not comply with a corrective order because non-compliance is profitable, or for temporary buildings with obvious structural defects, the use should be prohibited, and the restrictions on the use should be heightened. It is suggested that the regulatory system be upgraded, so that the regulatory system with the authority of permission may

verify whether corrective orders are being complied with and that the amount of an additional fine to compel the compliance may be increased. For an efficient regulation of temporary buildings, the penalty regulations would be strengthened, and a regulatory basis should also be built by such measures of upgrading the system of the temporary building registry and enabling a regulator to immediately verify the contents of a construction report.

To systematically manage temporary buildings, improvements at an institutional level, as well as the operational upgrade through education, public advocacy, etc. should be made. In consideration of the fact that various requests from citizens are being received regarding the procedures or the retention period, as shown in the analysis of citizens' requests in Chapter 3, if the guidance on the administrative procedure related to temporary buildings is provided in greater detail, many questions from citizens would be answered, and the regulation of illegal buildings would be facilitated, too.

This study is meaningful in that it suggests a plan of the system improvement for the methodical regulation of temporary buildings on the basis of various issues in the fields and the limitations in the system administration. In consideration of the purpose of the system of permitting the use of temporary buildings and the difference between buildings used on a permanent basis and temporary buildings, the system should be fundamentally reformed where the regulations are mixed on buildings with a fixed period of use and temporary buildings. For such purpose, the principle and the standards of the classification among buildings, temporary buildings and structures should be clarified in the 「Construction Act」 first. Since the entire scheme of the 「Construction Act」 should be reorganized for such clarification, the reform should be implemented as a long-term initiative. Furthermore, it is difficult to limit, based on a survey of the types of temporary buildings stipulated in the Sub-Paragraphs of the 「Construction Act」, the period of use of a building, or to classify a building as a structure to which the safe-related standards apply. A follow-up study should therefore be conducted on the regulation of a building as a structure whose construction needs the approval, rather than as a structure which may be constructed just by reporting the construction to the authorities, if a building needs to be used on a permanent basis.

Subject Term

A temporary building, Construction Act, diversified demand for building space, a building whose period of use is fixed, system improvement