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Initial approval of the modification of the
general metropolitan plan for obtaining
protected housing

21 June 2018

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1. Introduction

On 18 June 2018, the Commission of Ecology, Urbanism and Mobility of Barcelona City Council initially approved the “*Modification of the General Metropolitan for obtaining protected housing*” (“**GMPM**”).

The GMPM is subject, for to its effective entry into force, to the provisional approval of the Municipal Council of Barcelona, and the definitive approval of the Urbanism Sub-commission of the Municipality of Barcelona. The Barcelona City Council manifested its intention to accelerate the processing of the GMPM and to attain the definitive approval in the third trimester of 2018.

The GMPM will be in the public domain, with the possibility of filing submissions until 20 July 2018, unless an extension is granted.

2. Object and scope

The GMPM affects any building operation involving multi-family dwellings (whether considered a “new construction” or a “major renovation”) of over 600 square meters. These operations are under the obligation to allocate a minimum of 30% of the constructed surface (roof) to protected housing (“**VPO**”), either through renting or selling the area, in accordance with housing regulations.

This new obligation is introduced by modifying the regime applicable to the housing use in the different keys (zone qualifications) in which housing use is permitted by the general metropolitan plan.

The regime of VPOs introduced by the GMPM is for an indefinite period of time as it is linked to the validity and duration of the GMPM, which is a planning regulation.

The term new construction in the GMPM includes (i) any new-build construction, and (ii) any enlargement or extension of a building that creates a new premises or a new functional unit.

Likewise, the term major renovation includes:

- A. any operation or action on the building that involves: (i) an increase in the constructed surface area or the cubic volume of the building, (ii) an increase in the number of dwellings, departments or existing functional units in the building, (iii) change of the indicated activities or uses of the building, and (iv) any general redistribution of spaces with the modification of communal elements.
- B. the substitution of the building, even if the façade or other structural elements are kept.
- C. successive or simultaneous renovation or refurbishment of the building that costs 50% or more of what a similar new-build construction would cost.

The following are excluded from the scope of the GMPM:

- A. Plots of land that are the result of the execution of a specific urban plan or plots of land in urban plans that intend to increase the public domain, which include a reservation for VPOs but have not yet begun the execution of the construction.
- B. Buildings awarded with a degree of protection of type A, B, or C, whenever the intended refurbishment maintains or restores the original type of the building, provided it does not increase the number of initial dwellings.

3. Location of the VPOs

The locations of the granted VPOs must be in the same building or premises as where the new-build construction or major renovation has taken place.

The sole exception to this general rule envisaged in the GMPM occurs whenever there are discontinuous interventions or operations in the same neighbourhood (i.e. acts on different plots of land in the same neighbourhood). In these cases, through the approval of an urban planning instrument (instrumento de planeamiento derivado) (e.g. a special plan) it is possible to concentrate all the VPOs granted into one plot of land. In such circumstances, there are two requirements. First, an economic report will be required in order to prove that the usage of urban land/area will be the same in all the affected plots of land. Second, the construction works must end simultaneously across all the discontinuous area.

The location of the VPO within the building must be defined when processing the construction work licence. The first occupancy of the new-build construction or major renovation must comply with the following specifications:

- A. Obtaining of a definitive qualification of the VPO
- B. Registering the definitive qualification in the Public Property Registry for each of the registrable units allocated to protected housing.

4. Right of preferential acquisition

The VPOs that derive from the GMPM are subject to a right of first refusal in favour of Barcelona City Council under the same specific terms as provided in the housing regulations, independently to the previously-existing right of first refusal in favour of the Generalitat de Catalunya.

An owner or rights-holder of the building affected by the GMPM who is willing to transfer their legal position must communicate their intention to the City Council in order to start the procedure for exercising that right.

The City Council has a two-month term to exercise this right from the day following the communication of notice to the City Council. During this term the City Council may decide to acquire the building or to also provide a purchaser. If the City Council does not respond to this communication of notice within the two-month period, the seller may then find a purchaser on their own.

The VPOs must always be transferred to a purchaser registered in the registry of protected housing applicants.

The City Council has a right to withdraw from the selling of VPOs whenever (i) the notice has not been communicated, (ii) the communication of notice has not fulfilled the requirements established by law, (iii) a transaction occurred prior to the two-month term necessary for the right of first refusal, and (iv) the VPO is transferred under conditions that are different to those which were communicated.

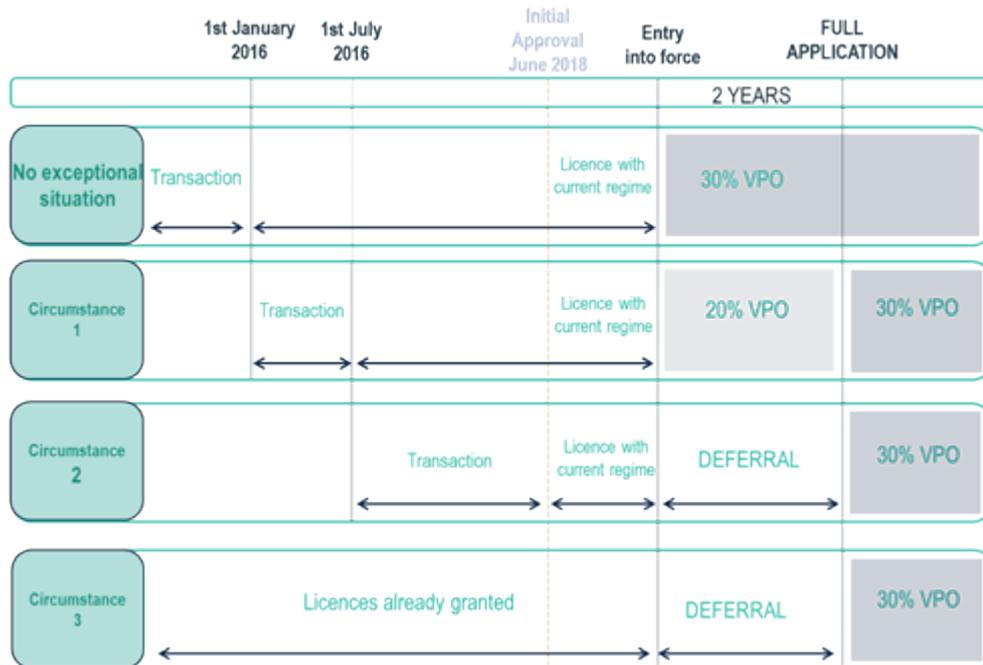
5. Exceptional cases in the application of the GMPM

The obligations concerning VPOs under the GMPM may be postponed in three circumstances:

- A. **Circumstance 1:** Buildings that were subject to a transaction that took place between 1 January 2016 and 30 June 2016 will be obliged to allocate 20%, instead of 30%, of the surface area for the two years following the entry into force of the GMPM.
- B. **Circumstance 2:** Buildings that were subject to a transaction formalised through a public deed between 1 July 2016 and 20 June 2018 will only be subject to the VPO requirements established under the GMPM two years after its entry into force.
- C. **Circumstance 3:** Any urban action or operation executed under a planning licence prior to receiving definitive approval of the GMPM will only be affected by the VPO obligations established therein two years after its entry into force.

Two years after the entrance into force, the exceptional circumstances will no longer apply and the application will be uniform for any acts or assets under the GMPM.

A summary of the different circumstances is shown in the following image:



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