

Legal Alert: Subdivision of Rustic Land: Instructions for its suspension or rejection



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In order to preserve rural land for agricultural purposes and to avoid the effects of real state development outside territorial planning, the Minister of Agriculture, the Undersecretary of Agriculture and the National Director of the Agriculture and Livestock Service (SAG, by its initials in Spanish) instructed the regional directorates of SAG through Ordinary No. 637, dated July 12, 2022, hereinafter the “Ordinary”, **to suspend the processing of any request for certification of projects for the subdivision of rural land.** Specifically, in those cases in which it is noted that the **project could involve an eventual change of destination of the resulting lots to those not allowed by the regulations.** For instance, housing or any other that involves a violation of Article 55 and 56 of the General Law of Urbanism and Construction, regarding the prohibitions applicable to rural properties of opening streets, subdividing to form towns, erecting constructions except those necessary for agricultural exploitation.

According to the aforementioned instructions, if during the processing of an application for certification of rural land subdivision projects in accordance with Decree-law 3,516 of 1980 on the division land, **the SAG notices a possible change in the destination of the lots resulting from a subdivision,** in addition to suspending the processing, it must request the corresponding reports from several entities such as the Regional Secretariat of Housing and Urban Planning, the National Forestry Corporation, the Rural Drinking Water Subdirectorates of the Directorate of State Hydraulic Works of the Ministry of Public Works. In general, any public service that may be pertinent according to the particularities of the project.

Subsequently, the SAG, based on its analysis and reports from the aforementioned entities, will consider the request for subdivision of rural properties.

Due to Ordinary issued by the Ministry of Agriculture, on July 18, 2022, the SAG issued the Circular No. 475/2022, hereinafter the “Circular”, which instructs on the supervision or rejection of rural land subdivision certification projects and

complementary review criteria for the suspension or rejection.

1. Generic cases of suspension:

Complaint from individuals or other public services regarding the project's violation of the sectorial regulations applied to the process of subdivision of rural land and/or environmental regulations.
Evidence of facts that justify the suspension of the procedure, based on the background associated with the rural land subdivision project.

2. Specific cases of suspension and/or rejection: typology of observable projects.

Plot projects (regardless of the number of resulting lots) that include in the plan, characteristic elements of a condominium, such as access control booths, interior roads with traffic circles, viewpoints, piers, trekking areas, children's area, among others.

Plot plan that includes a project design that is incompatible with the agricultural livestock or forestry use of the resulting lots.

Plot projects (regardless of the number of resulting lots) with plots of 5,000 square meters or more in which there is a *de facto* situation consisting of: opening of streets, interior roads, sidewalks, traffic circles, common areas, soccer fields, piers, electrical posts, among others.

Plot projects (regardless of the number of resulting lots) with resulting plots of 5,000 square meters or more, which present an offer to the public in social networks, real estate portals, other websites or elements that allow attributing characteristics of an urban or housing destination such as the owner's line of business, the design of the plan, among others.

Plot projects that consider the generation of 80 or more lots.

Plot projects that consider in their design the habilitation of roads on a surface that constitutes forest.

Plot projects that relate to the development of new stages of previous projects, consolidated with real state destination.

Plot projects whose documentary background show the real state destination of the lots.

Plot projects located in protected areas.

Plot projects whose boundaries overlap with public lands.

Plot projects submitted by an owner whose business is linked to the following economic activities: construction of buildings for residential use, purchase, sale, and rental; and/or whose corporate purpose is primarily real state.

Plot projects that are located in Indigenous Development Areas or that are in the Indigenous Land Registry of CONADI

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