

Klāvs Sedlenieks

**CORRUPTION
IN THE PROCESS
OF ISSUING
BUILDING PERMITS**

The study analyses the situation
as of mid-June 2003

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SUMMARY

Formal standards, laws, and rules which regulate the receipt of building permits are unclear, contradictory, and at times even impossible to fulfil. At the same time, hardly any conflicts between the issuer and the recipient of a building permit are taken to court. Official arguments and differences of opinion are a very rare occurrence, and the question is why.

This study offers an explanation – practice is regulated not so much by official rules, standards and legislation as by habit and a variety of corrupt practices to resolve or avoid disputes.

The study is based on data compiled from surveys, observations, analysis of documents, interviews with experts, and focus-group discussions.

Corruption exists not only as specific actions, but also as public perception of such actions. This study shows how perceptions of the high level of corruption in the process of receiving building permits are created. Sometimes, these perceptions may stimulate corruption actions that are not necessary.

When legislation is vague or contradictory, it creates an environment in which consistency can only be secured by maintaining good relations with the people in charge. Therefore, improving informal relationships or paying off public officials and politicians is a functional response to the situation created by the ambiguities in the official system of regulatory enactments. This study scrutinizes several aspects of legislation and demonstrates how the existing legislative process results in a situation that fosters corruption.

The official procedure for resolving disputes in the building industry does not function effectively. In this industry, where the swift resolution of problems is extremely important, taking a case to a higher institution or a law court is currently too lengthy and unpredictable. A delay can result in losses to the builder. As a result, other methods of resolving or avoiding disputes are applied, and these are often corrupt.

The current system for certification of building planners also stimulates corruption inasmuch as it does not guarantee the quality of projects. According to existing formal standards, the architect (planner) should take full responsibility for the plan's compliance with all state and local government requirements, but the current certification system does not ensure this kind of responsibility. Furthermore, the rules for settling disputes do not allow architects to prove their case and thus assume full responsibility. In order to ensure consistency, a planner may also resort to bribery.

This study also makes practical recommendations on how to improve the situation. This includes recommendations on improving the legislative base, the procedure for resolving disputes, and the general system for obtaining building permits.

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Abbreviations

BL	– Building Law
LDA	– Latvian Development Agency
LBS	– Latvian Building Standards
GBR	– General Building Regulations

1. FRAMING THE QUESTION

In most countries, it is common practice for the government or the local governments to attempt to control building quality. This principle is based on the view that the market economy does not function in the building industry as a regulatory mechanism that ensures the maintenance of quality. The public health and safety must be preserved, and the public's aesthetic interests, particularly with respect to historic sites, must be upheld. In Latvia, a specially established local government institution, the municipal building council, issues building permits; these building councils also function as quality controllers during the planning phase. The law states that construction can only begin once the permit is received. In theory, the building permit ensures that the object under construction is designed in accordance with national quality standards and will not present a risk to the people in the area.¹

In Latvia, this process is overshadowed by officially unconfirmed reports that the process for receiving a building permit is extremely complicated, and through and through corrupted. A situation like this not only places an additional financial burden on the builder, but also damages people's faith in government. Recognizing that it is possible to avoid restrictions imposed by the state with the help of bribes, people lose confidence in the very process. Building permits therefore not only lose their meaning (because in practice they do not guarantee quality), but they can also lose legitimacy in the eyes of the builder and others involved.

Data on any kind of corruption is difficult to collect, but in regard to the building industry it is possible to get an idea of the extent of corruption from data on bribery cases in agencies that issue permits and licenses in general (not just building permits). People in Latvia generally consider the issuing of licenses and permits to be a problem area in the context of corruption. In a 1999 survey, almost half of the respondents believed that officials with the authority to issue licenses and permits are dishonest or

¹ This means that the project will be designed so as not to negatively affect the interests of natural and legal persons in the area, that pipes and cables will be properly connected with existing mains, will not harm the environment, etc.

relatively dishonest, while only 6% of respondents considered them honest. In comparison: almost half of the respondents considered law courts to be dishonest, whereas about 16% considered them honest or very honest. Among those who had been involved in the process of receiving permits of some kind or other, one-third had made illegal payments, or in other words – bribes. Thus, the situation in these agencies is only somewhat better than in customs, where 38% of all those who had had to deal with this institution had been required to pay bribes (*Delna* 1999).

The goal of this study is to conduct an in-depth analysis of the process of issuing building permits, uncover the causes and methods of corruption, and recommend a course of action that could lower the level of corruption. The analysis and subsequent conclusions are based on current Latvian legislation and on a study of actual practices. This study reflects three main dimensions of the process for issuing building permits: legislation, practice of local government officials, and the experiences of building permit recipients.

2. ANSWERING THE QUESTION: HOW WIDESPREAD IS CORRUPTION AND HOW CAN THIS BE DETERMINED?

The following methods were used in this study:

- 1) Analysis of legislation, with the purpose of getting acquainted with the official body of legislation that should regulate the process for issuing building permits;
- 2) Interviews with people who have been involved in the process of applying for or issuing a permit or who are professionals in the building or planning business. In some cases, more than one interview was conducted with the same person;
- 3) Focus-group discussions with people who have received building permits;²
- 4) Observations of how two specific building councils received and granted documentation, and debated whether or not to grant building permits;
- 5) In some cases, observations at the time of final inspection and acceptance of work.

For illustrative purposes, excerpts from focus-group discussions and field notes are presented. No mention is made in the text of places or the names of persons who provided the information. Anonymity is used to protect the people who agreed to the interviews and discussions from any complications that might arise if their identities were easily recognized. Methodologically, it is not necessary to identify these individuals because the purpose of the study is to go into depth of the processes in question, not

² Focus-group discussions are one of the standard methods applied in sociological surveys. A focus group consists of approximately 10 persons who spend one to two hours intensively discussing a specific topic – in this case, corruption in the process of issuing building permits. Focus-group discussions give an insight into the spectrum of current public opinions. They do not provide answers to the question “how much?” but they do provide a basis for the answer to the question “why?”.

of the personalities of those who took part in interviews or discussions. It is not necessary to specifically identify the interview in order to understand the system and achieve the goals of the political analysis.

At the outset, three cities were selected: Riga, Jēkabpils, and Valmiera. Available data made it possible to predict that the highest likelihood of corruption in processing building permits would be in Riga, and the lowest in Jēkabpils,³ but Valmiera was chosen to provide an approximate representation of Latvia's geographic territory. Because of this initial decision, some facts in this study reflect only information about these three cities. Later in the work process, data from other regions were also included.

³ This conclusion was made during the preparatory stage of the project, when analysing a study by *Delna* "The Face of Corruption in Latvia" (*Delna* 2000). However, the number of people in *Delna's* study who had obtained building permits was too low to be able to draw any statistically based conclusions.

3. CORRUPTION PERCEPTION

This chapter examines one of the most important aspects of corruption – perception. It also explains why this should be taken just as seriously as “real corruption.”

What is meant by “corruption perception”?

Lately, the topic of how the public perceives corruption has been widely discussed. In most studies involving corruption, the facts supporting the resulting conclusions reflect perceptions about corruption.

Corruption perception is defined as public opinion about corruption. It is therefore not always the actual sum of corrupt practices, but rather the level of corruption as perceived by those who are interviewed. Many studies pay special attention to this phenomenon (for instance, the Transparency International Latvia (*Delna*) survey “The Face of Corruption in Latvia” (*Delna* 2000) or the CIET International study “How to Eliminate the Leak in the System” (Cockcroft et al 2002)). These studies compare data between what could be the public’s actual exposure to corrupt practices and what the public perceives as the overall level of corruption. In all cases, the conclusion is that actual contact with corruption is comparatively rare, but the opinion is that the level of corruption is generally high.

Although in the past there have been other attempts to examine this phenomenon in more detail, the CIET International study is the most comprehensive; it combines quantitative methods (a survey) with a focus-group discussion involving the people surveyed. In all cases where focus-group participants were given figures showing how many people admit to making illegal payments or giving gifts to civil servants, the participants questioned the validity of the data, claiming that the numbers were too low. During the discussions, it was suggested that respondents had not wished to reveal the true number of briberies.

In terms of corruption perception, this is an extremely important observation. It implies that people have a very negative impression about the level of honesty among public officials and, even though they may never have encountered bribery, they draw

conclusions from stories and rumors. As a result, it appears that public officials are more dishonest than they really are. The number of actual cases of bribery turns out to be comparatively unimpressive against the widespread opinion in Latvia that “corruption is everywhere.” Such an opinion also leads to the conclusion that it is practically impossible to address the more complicated issues without bribery. When a public official is positively disposed and takes care of all problems using only the available legal methods, it is considered a fortunate exception (see **Illustration 1**).

Illustration 1.

A good-willed public official is a coincidence⁴

From a focus-group dialogue:

Discussant A: But, for instance, with this Mr. R. (a building council inspector), you couldn't get to that final inspection. He is polite and helpful, and I think he is 100% honest, but if you sat there once and then twice, the question would come up, what do you want?

Discussant B: But I had to deal with him just recently and worked everything out without a catch.

Discussant A: Then you've been lucky, indeed!

In a 1998 study by the World Bank, “Corruption in Latvia,” persons who issue building permits are characterized as the third most corruptible (that is, those who most often have to be bribed) category. Only traffic police and customs officials are paid off more often. Next in line after the building permit officials come the sanitation and fire safety inspectors, who can often also be seen as part of the building permit procedure (Andersen 1998).

During a focus group discussion for a CIET International study in 2002, the building permit process was mentioned as possibly the most corrupt area, particularly in the big cities. However, the same study also contends that the high level of corruption perception (an opinion that is not based on personal experience) could be related to the extremely complicated and vague nature of the process.

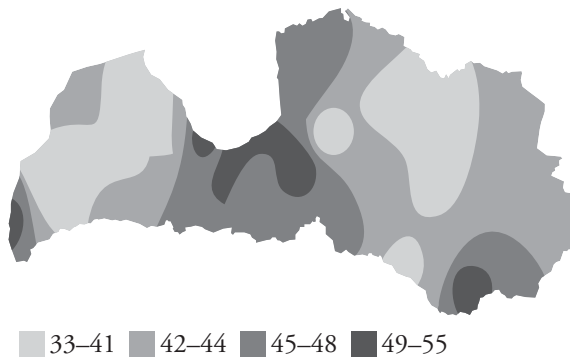
⁴ The focus groups and persons who were interviewed are not identified. See chapter “Answering the question: How widespread is corruption and how can this be determined?”

Illustration 2.

Comparison between corruption in practice and in perception



The proportion (%) of recipients of national healthcare services who made unofficial payments. (Cockcroft et al 2003:60)



The proportion of households who rate the level of corruption in the national healthcare service system as high or very high (% of those who gave a rating). (Cockcroft et al 2003:63)

This illustration shows that the regions in which the perception of corruption is the most prominent are not the same ones in which respondents most often actually had to pay bribes. For example, in Daugavpils people believe that the medical field is extremely corrupt. Actual experience in bribe giving indicates that in Daugavpils, as in other places in Latgale and eastern Vidzeme, very few people have been forced to give bribes to doctors.

On the subject of issuing licenses and permits in general (including building permits), Anne Cockcroft writes:

“One discussion participant said that because of the complicated licensing procedures, a *perception* of corruption in the process can be formed simply because there is not enough information about the official procedure.” (Cockcroft et al. 2003:28)

In other words, people tend to define corruption not only as bribery and other abuses of authority, but also as any other negative aspect of an issue that they are confronted with. The high level of corruption perception can to a certain extent be explained by lack of knowledge and insecurity, which people try to offset by reverting to a familiar pattern. In the case of building permits (and not only) the familiar pattern is corruption – any negative phenomenon can be explained in this way (see Sedlenieks 2002 for details).

Although it is often underlined that perception of corruption is just that – a “perception” – and therefore not directly associated with the “actual” spread of corruption, both of these issues are closely related. The belief that corruption is everywhere, or that one cannot settle official formalities without giving a bribe, comprises more than just simple concern. This kind of talk about corruption reflects the way in which Latvian society understands the principles of how government functions. Perceptions can easily lead to actual bribery or abuse of authority.

A high level of corruption perception is part of the never-ending cycle that nurtures a high possibility of corruption. If people believe that all public officials involved in issuing building permits are corrupt and that it is not possible to settle formalities without giving bribes, then there is a much higher possibility that they will give bribes themselves.

The CIET study is a dramatic illustration of how radically opinions can differ from actual experience. Where healthcare is concerned,⁵ the CIET study shows that the opinions of Latvian residents about corruption in the healthcare system are not associated with personal experience. In Daugavpils, for instance, people believe there is an extremely high level of corruption, although their personal experience with unofficial payments is just as small as elsewhere in eastern Latvia – close to zero (see **Illustration 2**).

In efforts to fight and avoid corruption, emphasis is often placed on the need for new legislation. As will be seen further, corruption in the process of issuing building permits mainly occurs not because one or the other provision is not included in legislation, but rather because laws and standards are chaotic and vaguely formulated. In such cases, it can easily come to a point where a law functions simply as a set of general recommendations, but practice is dictated by age-old habits.

⁵ The CIET study does not contain analogous data on licenses and permits. It can be assumed, however, that the characteristics of corruption perception are the same for healthcare as for the process of issuing building permits.

The perception of corruption can also have little to do with actual experience with bribery. Thus, recommendations on eradicating corruption should encourage not only the standardization of legislation, but also a change in perceptions and traditions. Studies also lead to the conclusion that the two areas that should be addressed in the attempt to reduce the level of corruption are the following:

- 1) Increased public understanding of how decisions that are important to the public are made;
- 2) Increased public trust in such decisions.

The high perception of corruption in Latvia is not a reflection of actual experience, but rather of a broader cultural trait. This is why simply making changes in management of the building industry cannot significantly influence the perception of corruption. Nevertheless, the following suggestions can improve public trust in the integrity of the building permit process.

- 1) The conditions at the building councils must become more open to the public. Even though the premises of the Riga building council are currently undergoing considerable changes, they can still serve as an example of how things should not be organized. It is difficult to find one's way about in the archaic building – there are no signs on the stairs to help the visitor find the right floor. Lines at the office doors are commonplace, but the halls in which the lines form are too narrow to accommodate chairs. Although a few chairs are available, for the most part people must wait in line standing. Even though it is fairly simple to eliminate these lines, as Latvian banks have done for about 10 years now, here people still stand obediently in the same long lines as in the Soviet period. The heavy, tightly shut doors create a secluded and secretive impression – everyone can let their imagination run wild about what goes on behind those doors. The Riga building council (as well as those in other larger cities) should consider the possibility of providing a more transparent and friendly environment for visitors by eliminating the grueling lines and – perhaps – creating a generally more open atmosphere.
- 2) The regulatory laws and standards for issuing building permits are extremely entangled and vague. Therefore, the possibility of creating information materials should be explored. These materials should explain in simple language the procedures for obtaining a building permit. Given that these procedures should be the same nationwide, the materials should also be the same throughout the country. The information could be published on the Internet, thus reducing the costs of such a project. If published on the Internet, the information can be quickly edited if there are radical changes in building permit procedures. While legislation is still contradictory and vague, materials and Internet websites could serve as an official source of information about the actual procedures as dictated by law.

- 3) Favorable treatment of certain building projects, either arbitrary or because of long-standing friendships, must be minimized. The fact that some architects are able to obtain building permits in a much shorter time than others can cause suspicion among others that corruption is involved.
- 4) Building councils that are known to have a high level of corruption (Riga, for example) must be monitored to determine the level of satisfaction among visitors. The monitoring could be carried out by an independent private organization that signs a contract with the local government. The monitoring must be sufficiently reputable. The results should be published regularly. This would stimulate the building council to make changes, and a successful reform would provide the basis for a positive information campaign.

Illustration 3.

Regulations are chaotic and unclear

The chaotic nature of the laws that regulate the building industry is well illustrated by the example of Building Standard 401. Paragraph 62.3 of the General Building Regulations says that building permits are not required for “*seasonal, non-capital buildings (Latvian Building Standard LBS 401), primarily buildings that are used in farming and are exploited for the duration of one season.*” This text implies that LBS 401 explains what a non-capital building is. However, LBS 401, which was adopted in 1993, deals with capital renovation of residential buildings. LBS 401 does define different categories of renovation, but it does not clarify the definition of *non-capital* buildings.

For more details on similar problems, see chapter: “Regulatory legislation on issuing building permits and its application.”

4. INDEX OF CORRUPTION PRACTICES IN THE BUILDING PROCESS

This indicator is based on data from the 2002 survey conducted by the Latvian Development Agency (LDA) (published January 2003). The purpose of the indicator is to demonstrate the stages in the process of obtaining a building permit where bribery is most common. The LDA survey is at this time the largest quantitative research project in which building problems are given particular attention. Among other things, LDA survey respondents were asked about their experience giving bribes and gifts in all the major stages of the building process. The table (Table 1) provides a summary of the data obtained from the LDA survey.

Table 1. The frequency of bribes in the process of obtaining a building permit

Description of the procedure (procedures are listed in chronological order)	% of respondents who have given bribes or gifts
Obtaining an order for planning and architectural design	8%
Approval of the technical plan (by the institutions that have issued the technical regulations) ⁶	12%
Approval of the technical plan by the building council	10%
Receipt of the building permit	6%
Final inspection of the building	18%

⁶ It is unclear from the LDA study what is actually meant by approving the technical plans; whether this also relates to the building councils or only to those agencies that issue technical regulations.

Although the authors of the survey point out in a number of cases that the number of respondents was not large enough to draw viable conclusions,⁷ this table can serve as a basis for further discussion. First, it shows concrete experience regarding bribes and gifts. Second, the table illustrates the stages where builders or planners most often face problems that are difficult to solve.

The lowest frequency of bribe/gift⁸ giving can be observed in the procedure of obtaining the building permit itself. This can be explained by the fact that obtaining the building permit is a formal procedure and concludes a lengthy process, during which the plans are approved and developed, a significant amount of documents are compiled, and visits to a large number of various agencies are required.

Bribes/gifts were required slightly more frequently when obtaining the planning and architectural order (8% of respondents). In this case, some of the payments may be associated with getting the approval of the local government to even allow building at a designated site and in a certain way.

It is important to note that the most frequent bribes/gifts were required for approval of the technical drawings by the institutions responsible for issuing technical regulations, as well as for the final inspection. Here the frequency of bribes/gifts is three times higher than for obtaining the building permit. LDA does not distinguish between gifts and bribes. A distinction would be useful in this case. Giving flowers and small gifts to public officials is common practice and is commonly looked upon as maintaining good relations. Final inspection of a building is usually a fairly celebratory affair. It therefore follows that a glass of cognac and hors d'oeuvres are often provided. It is possible that among the 18% of respondents, there are also some who consider this to be giving bribes/gifts.

However, the final inspection of a building for completion is the stage when all other operations are concluded. It is in the builder's interests that this stage not drag out unnecessarily. Changes to or reconstruction of a separate part of the building can be extremely problematic. Because there is no realistic way of quickly solving such problems, the builder wants to resolve differences of opinion without entering into any serious conflicts with the inspectors. Often these are the same institutions that issued

⁷ For example, the 10% who admitted to paying bribes to obtain approval of the technical plans by the building council represent only 4 respondents (LDA 2003: Chapter IV, Paragraph 178).

⁸ The LDA study does not differentiate between bribes and small gifts, instead the phrase "bribes or gifts" is used. In the building process, small gifts (flowers, candy, sometimes alcohol) are commonplace. Thus, when referring to the LDA study, the author uses the term "bribes/gifts."

the technical specifications. In such cases, the officially approved plans serve as a guarantee that an inspector will not come forward with last minute objections regarding details included in the plans and implemented in the building process.

Professionals in the building industry, such as planners and architects, also have a vested interest in maintaining good relations with state and local institutions. Bribes and gifts are one of the simplest ways of both solving differences of opinion and maintaining good relations.

For the purposes of this study, the building permit process includes all the procedures necessary up to the point of receiving the building permit. However, the final inspection of a building is also an integral part of this process. Final approval largely depends on whether or not the right strategies were chosen in the steps leading to receipt of the building permit.

The cases of bribery depicted in Table 1 show the stages that involve the greatest problems. The localization of problems through the observations and discussions that were carried out for this study generally coincides with the stages shown in the table.

In terms of bribery/gift giving in the building process, the most challenging areas are:

- 1) approval of the plans by the institutions that issue technical standards;
- 2) the final inspection.

This study focuses on the building process up to the point of receiving the building permit. However, the final inspection is closely related to all of the previous approvals. There is reason to believe that if problems are eliminated in the first stage, then, to some extent, the necessity to give bribes/gifts will not arise during the final inspection.

5. REGULATORY LEGISLATION ON ISSUING BUILDING PERMITS AND ITS APPLICATION

This section analyzes legislation that pertains to the issuing of building permits, as well as the actual practice of issuing and obtaining building permits, with particular emphasis on those areas where corruption causes the greatest problems. It also analyzes the reasons for such problems.

Three levels of regulatory enactments acts regulate the issuing of building permits: a law passed by the Saeima, regulations approved by the Cabinet of Ministers, and regulations issued by local governments. There are inconsistencies in all of these. Different regulations often overlap and sometimes even contradict each other. Comparing the inconsistencies in legislation with actual practice, this section concludes that in practice legislation only provides guidelines; the process is mainly regulated by interaction on a personal level between the supervisory institutions (building councils and others) on the one side and builders or planners on the other. This situation favors the existence of corruption.

5.1. Provisions on issuing building permits

Laws, Cabinet of Ministers regulations, and local government regulations regulate the issuing of building permits at the legislative level. Of these, the following are worth mentioning:

- 1) the Building Law (hereinafter – BL);
- 2) the General Building Regulations (hereinafter – GBR);
- 3) local government regulations.

Of all the regulations that cover the building permit process, only two are examined here:

- 1) regulations that specifically regulate the procedure for obtaining a building permit;
- 2) regulations that regulate public hearings on building plans.

These regulations (meaning both laws and Cabinet regulations) have been chosen simply as a stark illustration of the state of disarray in legislation, which is one of the most important stimulants for corruption in the building industry.

5.1.1. Obtaining a building permit

The law provides a definition of a building permit. According to the law, a building permit is “a document issued in accordance with the rules provided in the General Building Regulations, which certifies the right to engage in building work.”

The Building Law also states that issuing building permits is usually the responsibility of the local government (BL 7.1.3). The law further mentions that “the local government shall establish a building council within its administrative territory for the purpose of overseeing and controlling building work.” From this one can conclude that building councils are the issuers of building permits. In some cases, a building permit may be obtained from ministries. The Building Law does state that other institutions are also authorized to issue building permits, but it does not specify which ones. In addition, the General Building Regulations (Paragraph 113) state that building permits for specialized buildings⁹ are issued by the ministry that administers these buildings. In such cases, the building permit must still be registered with the local government. Furthermore, ministries can authorize the building council to issue the building permit (GBR Paragraph 113).

The Building Law stipulates that a building permit is required in order to start building (BL Paragraph 13.1), and that if work is started before receipt of the building permit, this is considered unlicensed construction work (BL 1.21 and BL 13.5). The law does not determine what kind of building project requires a permit. The rules for issuing building permits are set by the General Building Regulations. But the regulations are very vague as to when a building permit is required.

GBR Section 5.1 “Building permits” deals only with cases where a building permit is **not** required and gives two specific examples:

- 1) “when carrying out renovations that do not require building plans (for example, if the layout and the façade of the building are not altered, or if load-bearing walls are kept in place and not altered)” (GBR 114.1);
- 2) “when erecting minor structures in rural areas” (GBR 114.2).

⁹ The definition of specialized buildings is provided in the General Building Regulations (Paragraph 25) as follows: “a building whose special functions require not only compliance with the general building requirements, but also with special requirements during the course of construction.”

On the other hand, building permits are required for any construction work on buildings that are historical or cultural monuments. Based on this logic, one could assume that a building permit is not necessary if a building plan is not necessary. But Section 4.1 “Drafting of building plans” not only prescribes additional cases where a building plan is not required, it also defines them differently. For instance, GBR Paragraph 62.2 states that a building plan is not required for “minor structures in rural areas, if their size and site are approved by the building council,” as well as for temporary constructions (61.1) and seasonal, non-capital constructions (62.3). Paragraph 62.3, which discusses non-capital, seasonal constructions, makes reference to Latvia’s building standard LBS 401, but there is no mention of non-capital constructions in this standard. LBS 401 is dedicated to capital and standard renovation of residential buildings. Although it includes a classification of capital buildings (groups I to VI), non-capital buildings are not defined.¹⁰

In practice, the following principle is applied – a building permit is requested for any construction that requires a plan. Regulatory enactments do not define this clearly; therefore, practice is dictated mainly by the building council’s interpretation. Strictly following the text of the regulations, a minor structure in a rural area does not require a building plan if its size and location are approved by the building council. In such cases, a building permit is not necessary at all. On the other hand, it could be that the building council does not approve the size and location of the structure, thereby making a building plan necessary. Despite the absence of logic in this regulation, during the course of this study no cases were observed where a builder encountered serious problems because of these inconsistencies. Naturally, one can argue that the issue of minor structures in rural areas only impacts a small number of people. However, as we will see further on, there are similar inconsistencies in regulations that impact a much larger number of builders.

Issuing of building permits can also be regulated by local governments. In accordance with the Building Law, local governments are responsible for overseeing building projects in their respective territories. The law leaves the local government responsible for drafting more precise instructions on the regulation of building projects. However, this often creates a situation in which the regulations adopted by the local government contradict the law or the general regulations.

In some cases, the local government’s regulations overlap with the General Building Regulations and the Building Law. In others, there are contradictions between the local

¹⁰ There is a similar inaccuracy in the October 1, 2002 Riga City Development Department’s provisional Regulations on Registration, Review, Approval, and Authorization of Building Projects in Riga.

regulations and national legislation. This makes a situation, where there is already ambiguity in the law and the General Building Regulations, even more complicated. The local government regulations not only introduce additional information, but also produce new inconsistencies that the builder must be able to understand correctly and resolve. For example, the Rules on Approval and Authorization of Building Projects in Riga (in force since November 11, 1998)¹¹ once again lists the cases in which a building permit is required. But this list only partially corresponds to the list in the General Building Regulations. The regulations adopted by the Riga City Council include definitions such as “capital renovation of a bridge” as well as “enclosure of a territory,” neither of which can be found in the General Building Regulations. The more recent (provisional) version of the same regulations (see footnote 11) says that a building plan is required if an existing building is torn down, or for advertising purposes. Neither of these situations is mentioned in the General Building Regulations, although the visual information referred to in the GBR is basically the same as advertising.

Similar inconsistencies can be found in the building regulations of the city of Valmiera. The list of building projects that require plans more or less corresponds to the GBR list, but it ends with “and others,” basically making the foregoing list of projects unnecessary. The drafters of the Valmiera regulations do not mention cases when a building plan is unnecessary. As a result, the regulations actually do not limit the number of cases that require a building plan. On the other hand, Section 2, Paragraph 3.1 of the building regulations states: “Any building project in the city, regardless of the status of the property prior to commencement of construction work, must receive a Valmiera City Council permit – a building permit issued by the building council in accordance with the rules set out in this section [...]” Although the Valmiera building regulations do not specify in which cases a building plan is not required, Paragraph 3.4 of the regulations states: “A building permit is not necessary for renovations that do not require a building plan (no layout or façade alterations, no removal of or alterations to load-bearing walls, etc.)” Of course, the General Building Regulations list the instances when a building plan is not necessary. However, as already pointed out, even the General Building Regulations leave the connection between building plans and building permits unclear. The regulations issued by local governments make the situation even more vague.

¹¹ These regulations were in force until October 1, 2002, when they were replaced by the Riga City Building Council’s provisional Regulations on Registration, Review, Approval, and Authorization of Building Projects in Riga.

5.1.2. Public hearings¹²

Similar uncertainties can arise regarding public hearings on building projects. Section 12 of the Building Law sets out various situations where “public hearings on anticipated building projects” are required. The law does not state, however, at what point in time these public hearings should be held. It says only that they must be held before the local government makes its decision about the building project (BL Section 12, Paragraph 1). Considering that the General Building Regulations only allow a project to commence when the building permit has been received, the decision about the project is in fact made by issuing the building permit. Based on this logic, the law would appear to say that public hearings must be held chronologically prior to issuing the building permit.

Section 12, Paragraph 2 of the Building Law states that the procedure for organizing public hearings is set out in special Cabinet of Ministers regulations (Regulation No. 309, Regulations on Public Hearings on Building Projects, approved on September 2, 1997). These regulations state that “Public hearings on building projects, in accordance with the rules for the building process set out in the General Building Regulations, shall take place during the preparatory stage of the building project, when the anticipated project and any related business or other activities are presented in proposal form (hereinafter – building proposal)” (Regulation No. 309, Paragraph 4). However, legislation does not define an anticipated building project/proposal. Different regulatory enactments use terms such as *proposal*, *application*, *plan*, which may or may not be one and the same thing. There is also a lack of clarity as to the format that this building proposal should take. If it should be in the format of the registration card that is mentioned in GBR Paragraph 3.1, then that is a printed form. Since it is not certain whether an *application/registration card* is the same as a *plan* or *proposal*, this remains unclear.

Regulations No. 309 therefore localize the public hearing within the preliminary phase of the building project. However, because of the inconsistencies in terminology, it is not known what a building proposal is. In accordance with the General Building

¹² This subsection reviews only the legislative ambiguities in regard to when and in what way public hearings on building projects should take place. It does not discuss what kind of project requires a public hearing. However, it is very important to note that the current situation, in which public hearings are held for individual projects, is absurd. Public hearings should be held on general territorial development plans, not on specific projects that are in reality the implementation of existing territorial plans. Currently, the existing possibilities of changing a detailed territorial plan or planning in absence of a detailed plan also serve to foster corruption.

Regulations, the first task of the building project initiator is to submit the application/registration card to the building council (GBR Paragraph 32). It is possible that this can also be considered the building application, but this is not quite certain. The law leads one to believe that there is another stage prior to submitting the application form that is not mentioned in the General Building Regulations, such as an informal meeting with representatives of the building council.

After the local government has been informed of the “building proposal,” the building council informs the building initiator of the necessity to hold a public hearing. For this, the building council requests, among other things, that a preliminary sketch of the plan be available (Regulations on Public Hearings on Building Projects, Paragraph 6.4). Paragraph 84 of the General Building Regulations says that “the preliminary building plan must comply with all technical and other standards set by the building council or other responsible authority.” The building council establishes which agencies must be consulted to obtain the technical standards, and includes this information in the planning and architectural order (GBR Paragraph 39 and Appendix 2). But, according to the General Building Regulations, the planning and architectural order is issued only after the public hearing has taken place (GBR Paragraph 35). This means that it is not possible to prepare the preliminary sketch of the building plan that is required for the public hearing in compliance with these regulations.

The problem is even more complicated because the General Building Regulations require yet another public hearing – after a favorable opinion has been given on the building project idea, after the planning and architectural order has been issued, after the technical standards have been received and the preliminary plan has been prepared. The General Regulations describe this process as a “public hearing on (viewing of) the building project” (GBR Paragraph 81). The Regulations on Public Hearings on Building Projects, however, do not anticipate the public hearing mentioned in GBR Paragraph 81. Actually, despite the fact that the Building Law prescribes special Cabinet of Ministers regulations on the public hearing process, these regulations only partially serve their function. It is also uncertain when one or the other hearing should take place, or if there can be situations when two public hearings must be held for one building proposal.

Of course, these three examples are not the only cases of inaccuracies in legislation, but they are good illustrations of the quality of laws and regulations on building. Although their purpose is to organize and regulate building issues, the way that they have been drafted actually defeats this purpose.

5.2. The practical consequences of problems in legislation

From a rational perspective, the long-term presence of regulatory problems on so many levels¹³ is hard to understand. In an ideal nation that is governed by the rule of law, chaos like this would quickly lead to larger or smaller conflicts, which would then be resolved in court. This would result in amendments to laws and regulations. Nevertheless, so far, this has not happened. Admittedly, in an interview the Valmiera Building Council director did honestly acknowledge that the current Valmiera city building regulations are hopelessly archaic and not up to par with contemporary legislation. The attitude at the Riga Building Council is also skeptical towards the current provisional regulations. The Valmiera Building Council is discussing the possibility of drafting new regulations, but for the moment no specific plans have been made. The opinion of the Riga Building Council is that the special regulations in their current form, which in fact overlap with national legislation, are unnecessary. Consequently, Riga is planning on compiling a comprehensive summary of all current regulatory enactments that have been adopted at the national level.

As previously described, laws and regulations on various levels are often contradictory. Among the deficiencies in legislation are also the ambiguities in the process from submission of the building proposal to issuing of the building permit. Neither the Building Law nor the General Building Regulations provide a clear idea of how this process should take place. During the course of this study, various different diagrams were found, which attempted to provide clarity as to the correct sequence of the steps that must be taken. The diagrams differ both in the amount of detail that they provide and in their emphasis on different procedures. Such diagrams are attempts to give logical sense to an extremely “successfully” entangled body of legislation.¹⁴ Overall, the main shortcomings of regulatory enactments on building (primarily the Building Law and the General Building Regulations) are chaos and lack of clarity of purpose.

In addition to the obvious contradictions, which are evident in the lack of correspondence between laws and regulations, and in their content, another problem is orientation towards *regulation* by law, as opposed to clear and consistent clarification of the rules. As a result, one procedure (for example, the paperwork required to obtain a building permit) is scattered throughout various laws and regulations; and these, in turn, do not necessarily connect.

¹³ For example, the fact that local government regulations differ from the provisions of national legislation.

¹⁴ See Appendix 1: Various interpretations of the building process.

In practice these inconsistencies in legislation are resolved because, where building is concerned, cooperation between the people and the government or local government is not based on the law, but rather on the building council's practically unlimited power to interpret laws and regulations. The way in which building permits are issued is dictated in part by the entangled legislation and in part by the way in which local and national officials interpret what is said in the laws and regulations.

Building councils have **their own** rules (see **Illustration 4**) because they must create a practical, functioning system within this legal and regulatory chaos.

Illustration 4.

Builders must comply with rules set by the building council, not with the law

From an interview at the building council:

– *What happens if the council says, “We will not approve it,” and builder replies, “Everything has been completed”?*

– *We have not had such a situation. The local builders know our rules and builders are human, after all – they will not risk building [without first having the project approved by the building council].*

In these circumstances, building councils devote much of their work and organizational potential to clarifying and explaining the meaning and purpose of legislation to others who are not as familiar with the laws. One of the main functions of the building council staff is to explain and translate laws to potential builders. However, positive results are only possible if the building council or local government is favorably disposed to assisting the public. The most common approach to solving the problem of the public not being able to understand the meaning of a regulation is verbal explanation. Most building council employees devote a large amount of time explaining the procedure and the documentation necessary for obtaining a building permit. This approach works well in smaller municipalities or building councils, where there are fewer applications and it is possible to talk things out.

The newly formed Riga Building Council is reorganizing itself so that building applicants have as little contact as possible with decision makers – building inspectors and others – thereby at least theoretically reducing the opportunity to give bribes or gifts. On the other hand, this situation also reduces the building inspector's possibilities to explain the practical application of a law to a builder. Therefore, a new system will be needed, one that will acquaint the public with the necessary procedures. At this time,

the Riga Building Council uses information booths, which at least partially fulfil their function. But one can assume that most people who come to the Riga Building Council and peruse the materials available at the booths still have many unanswered questions.

Illustration 5.

Laws and regulations are typically not understood by the public

From an interview with the employee of a building council:

– Please explain the procedure for obtaining a building permit – the way you would if I were your client.

– It is all explained in legislation – read the Building Law and the General Building Regulations; you will find it all there. That is what we say.

– But it is not explained very clearly [in those documents]. Doesn't it ever happen that people read all the materials, think that they have understood, submit their documents, and you discover that half of them are missing?

– Yes – that happens very often.

The majority of building councils have published materials that potential builders who have not understood the laws and regulations can study. There are also other ways to make the work of the building council more understandable. For example, the Riga Building Council has prepared a variety of printed forms that help to quickly and easily identify the documents required for receiving a building permit. Other ways in which building councils that recognize the complexity of the current legislative labyrinth try to inform potential builders: the Jēkabpils Municipal Building Council director, for instance, publishes a series of articles in the municipal newspaper every spring to explain what must be done to obtain a building permit.

Nevertheless, despite the constructive nature of these measures, they only serve to patch the holes caused by deficiencies in legislation.

5.2.1. The tradition of giving gifts

In regard to corruption, deficiencies and lack of clarity in legislation create a feeling of uncertainty – the future cannot be clearly predicted because so much is dependent on a public official's decision. Because the law is contradictory and can be broadly inter-

puted, the official's decision-making power is too strong and cannot be relied upon. Some builders believe that they can achieve a more foreseeable outcome by giving a bribe or gift.

Illustration 6.

Daily gift giving in building councils

From field notes:

I had only been at this building council a short while. I had just begun to get acquainted with the staff and ask a few questions, when a young man entered the room. "From Latvijas Gāze" – that is how he had earlier been referred to in a conversation. In one hand, the man held a file of documents, but in the other an attractive gift parcel – the kind you can get in many shops specifically for this purpose. After the brief conversation with the building council employee had concluded, the Latvijas Gāze lad placed the gift parcel on the table and said – a small gift from us. Without embarrassment or awkward hesitation. The gift was presented as if it were someone's birthday – as if things were exactly as they should be. The situation was quite tricky because I was not hiding the purpose of my research and everyone at the building council knew that I was studying corruption issues. Then, the building council employee quickly explained that this kind of thing doesn't happen every time; that this was quite uncommon. The small gift, as it later turned out, consisted of a few candies with the company's logo and some pens. Later, I was even offered some of these candies. As I ate them and drank a cup of freshly brewed coffee, I thought – am I, too, now participating in an act of corruption?

A few months later, at another building council, another council official was reaching across the desk to answer the phone when she accidentally knocked over a vase with huge chrysanthemums. The vase fell, the flowers landed on the table and water spilled in all directions. "Now you see how it is with those bribes," she said half-joking, half-angry about this unpleasant incident. The incident prompted about fifteen minutes worth of conversation about how silly these gifts are, how hard it is to turn them down. If you decline – you will be very impolite. At the same time – how can you reject a person who simply wants to express his or her sincere gratitude?

From the perspective of whoever is receiving the building permit, the building process is considered one in which good, long-term relations must consistently be nurtured. This explains why there are plenty of people who will try to give gifts or bribes to state or municipal employees.

Bribing and gift giving to building council officials is just as traditional as bribing and gift giving to doctors, which is part of how the public perceives its relationship with the medical field. It is ironic that the inclination to pay bribes or give gifts may not be connected with legislative discrepancies governing specific processes. Recent data¹⁵ point to the fact that the spread of corruption is closely related to local traditions, and that existing laws in a specific area or the way in which things are done at a specific institution may have little effect on this tradition.

In some stages of the building process, gift giving is so common that people talk about it openly, without embarrassment. Building council employees emphasize the irregularity and rarity of such cases. However, in practice, there is evidence that gifts and refreshments of various kinds are quite common. The incidents in the two field notes suggest this.

One of the most important causes of corruption at the administrative level (i.e., the lower level) is the relative complexity of the building process. This is not of particular concern to people who work with building permits on a professional level. As professionals, these people – representatives of construction companies or architect firms – have deciphered all the nuances of the process, know them well and feel comfortable in this environment. What is vital to all professionals is maximum knowledge of all laws and regulations, perfect knowledge of the personalities of building inspectors, and understanding of the working style of specific building councils.

Illustration 7.
Maintaining good relations in practice

From field notes:

I accompanied a building inspector to the second round of a final inspection. After inspection of the site, a visual evaluation, and a few questions, we were invited into a very narrow room that obviously served as an office. The table was already set with a bottle of fairly expensive French cognac and an assortment of cookies, the aroma of coffee was in the air. In this informal atmosphere, the necessary documents were completed, we sipped cognac, drank coffee, and the second round of the final inspection was officially brought to an end.

¹⁵ See the discussion about the CIET International study in Chapter 3, “Corruption perception.”

For anyone working in the building industry, years of experience with building inspectors and the many other people authorized to influence the building permit process are of vital importance. Although mutual trust can be developed and maintained through concrete and correct behavior (for example, by always submitting the proper documents, without mistakes or inaccuracies), many participants of the building process choose “traditional methods” in the form of gifts, refreshments or bribes. However, gifts and refreshments have more to do with maintaining good, long-term relations than with influencing decisions on a specific issue.

During the interviews and focus-group discussions that were carried out for this research project, none of the professionals considered corruption to be a serious obstacle to conducting their business. It was generally emphasized that it is necessary to ensure equal rights and opportunities for everyone, and that corruption undermines this principle. However, in practice, it often turns out that opportunities for corruption also have their positive side. As is often the case, people tend to find that their personal experience with corruptive practices is better than their theoretical impressions.

The outlook changes depending on whether a person considers himself an innocent victim who was forced to give a bribe, or has offered a bribe himself in an effort to influence a situation that has taken a negative turn.

On the subject of issuing building permits, the areas in which people have experienced the biggest problems are not the building councils themselves, but the authorities that issue technical regulations.

Interviews usually indicated that bribery is related to the following two aspects:

- 1) it saves time;
- 2) it provides the opportunity to overturn a government or local government official's negative decision on a specific issue.

Other countries experience a similar phenomenon. For instance, observations in the building industry in the city of New York, U.S.A. (see Goldstock et al, and also **Illustration 8**) show an extremely similar pattern to the way in which cooperation with supervisory institutions takes place in Latvia.

Illustration 8.

**The trend: the briber initiates half of bribery incidents.
Parallels between building industries in Riga and New York**

In contrast to many other studies, the information analyzed here as well as the recently published CIET International study show that there is a tendency for corruptive actions to be initiated not by the public official, but in fact by the client. Half of all respondents who had given bribes to register their company had done so on their own initiative, but the other half had been solicited by the public official. (Cockcroft, A. et al. 2002:39). Goldstock describes how in New York in 1974, during a covert operation, an agent disguised as a building inspector was offered 76 bribes over the course of a year without any prompting on his part (Goldstock et al. 1990:110). Considering that in Riga the building inspector's workload is at least four times heavier than in New York, and that the perception of corruption in the building industry is not lower in Riga than in New York, there is not the slightest doubt that Riga's building inspectors also receive countless offers of bribes. In the case of New York, bribes are primarily offered so that the inspector will turn a blind eye to non-observance of building regulations, authorize structures that do not comply with accepted standards, or speed up the documentation process. In Latvia, similar reasons are cited as the chief reasons for bribery.

On the one hand, inadequacies in regulatory enactments simply make it difficult to make sense of the building process. But on the other hand, they foster a favorable environment for corruption. Thus, if laws and regulations were clarified and designed to link with each other, it would be possible to significantly decrease the uninhibited power of the regulating agencies and increase the role of legislation in the building process. Furthermore, alone the effort to standardize legislation would be proof the decline in tolerance for the existence of a favorable environment for corruption in the building industry.

5.3. Approval of building plans

Issuing the building permit itself is a relatively simple procedure that concludes the lengthier process of developing a building project. The LDA system, which covers the building process from the building proposal to the final inspection, comprises 25 steps. Obtaining the building permit is step number 18. Before receiving the building permit, the builder receives the planning and architectural order from the building

council. This lists the agencies to which the builder must apply for technical regulations and other documents necessary for the building permit. Throughout the rest of the process, the potential builder must consult with a large number of government, municipal, and private agencies. The number of agencies that issue technical regulations for building plans can be as high as 30. Those who were interviewed for this study believe that it is this stage that is most vulnerable to corruption.

The procedure involving the technical regulations can be fairly simply described in the following way. After receiving the building proposal and accepting the project in principle, the building council gives the builder a list of agencies to which the builder must apply for the technical regulations, which must later be observed in the building plan.¹⁶ Until May 2, 2000, when amendments were made to the General Building Regulations, the final building plan also had to be approved by the same agencies that had issued the technical regulations. The amendments of 2000 eliminated such requirements at the legislative level. In practice, however, little has changed.

The current General Building Regulations describe approval of the building plan by the agencies that have issued the technical regulations as follows:

“If the technical and special requirements of the regulations cannot be met, the technical details of the building plan must be approved by the agencies that have issued the regulations. Any deviations from the requirements of the technical and special regulations must be approved early on in the planning stage, and a stamp of approval must be placed on the drawing of the general building plan, or changes must be made to the technical details. The relevant authority can charge a fee for authorizing deviations, in accordance with Appendix 9 of this regulation.”

No other situations are mentioned in the General Building Regulations that would call for having the plan approved by the agencies issuing the technical regulations. Nevertheless, this is still being done.

The amendments of 2000 were made to the General Building Regulations to simplify the planning process. At the same time, these changes also require greater competence

¹⁶ Builders and architects admit that getting the technical specifications and other documents required to start planning is one of the most unpleasant steps in the process. Despite the fact that Paragraph 46 of the General Building Regulations states that most of the paperwork can be handled by the building council for a fee set by the Cabinet of Ministers, and that it is the building council's responsibility to do this in 30-days time, in practice this does not function. None of the recipients or issuers of building permits interviewed for this study could name a case where GBR Paragraph 46 had been applied.

and, to a certain extent, greater responsibility of the planner. The head architect for the building project must guarantee with his signature that the plan complies with building and technical regulations. Thus, in essence, there is no actual need for approval of the plan by the agencies that issue the technical regulations – the planner takes responsibility for the plan’s compliance with regulations. The General Building Regulations identify only one instance where the designated authorities must approve the building plan – if the plan deviates from the technical requirements. In practice, there are three other typical cases where the agency that issues the technical regulations must also approve the technical plan.

- 1) Although not required by legislation, sometimes, at the request of the agencies that issue the technical regulations, the final draft of the building plan must be submitted to these agencies for approval. In such cases, this is considered to be mandatory.
- 2) In addition, some building councils strongly recommend approval by the designated agencies. This means that the building councils are aware of the fact that this request is no longer included in the General Building Regulations, but, nevertheless, advise the builder that such approval would be desirable. The procedural guidelines available at the Valmiera Building Council, for example, highlight “approval by **all** (author’s emphasis – K.S.) agencies that have given an appraisal” as a separate step in the process.
- 3) Because planners are not always fully confident about their knowledge in a specific area, they turn to the agencies that issue technical regulations on their own initiative to determine whether the plan complies with regulations. In addition to uncertainty about their own competence, there is one other reason why planners and builders have plans approved on their own initiative. There is practically no effective way in which conflicts between planners or builders and the agencies that issue the regulations can be resolved.¹⁷

Here, it should be noted that Latvian Building Standard LBS 301-97, which controls the procedure for the final inspection and acceptance of work, includes a phrase which leads one to believe that there are other instances when building councils can request approval from the agencies that issue technical regulations. In accordance with LBS 301-97, before the final inspection, the builder must receive an appraisal that the building is ready for inspection. The regulations list various institutions from which such an

¹⁷ More detail on this problem is provided in Chapter 6, “Bribes and gifts as a method of resolving/avoiding conflicts.”

appraisal must be obtained, with the note – only if these institutions have previously approved the building plan. Paragraph 5.7 of the same regulation says that an appraisal must also be obtained from other institutions “from which the building council has requested approval of the building plan.” There are, however, no regulations which say that the building council can request approval of the building plan by other institutions. LBS 301-97 was adopted in 1997 and has not been amended since, which means that this wording was formulated before amendments were made to the General Building Regulations in 2000. If this wording was logical before the amendments, now it no longer conforms to the principles of the General Building Regulations. In accordance with the General Building Regulation amendments of 2000, approval by those who issue technical regulations is only required in cases of deviation from the requirements of these regulations. The current situation allows the possibility that a building plan does not have to be approved by any institution, and appraisal of the building’s readiness for final inspection does not have to be requested from any institution.

According to data obtained from the LDA study, 21% of the respondent companies that had made changes to a building, had had the plans and drawings approved by various agencies. The wording of the study is not very clear. The figures could also include approvals that have nothing to do with building permits and building plans on the whole. Furthermore, $\frac{1}{4}$ of these companies had employed specialists to deal with obtaining the approvals. It is likely that the companies interviewed for the LDA study were not even aware of some of these approvals because planning firms usually assume that obtaining approvals naturally belongs to their responsibilities.

There are a number of indications which suggest that the practice of having plans approved by the agencies that issue technical regulations is more widespread than one would think. As already mentioned, legislation does not require this. It would be logical to assume that builders and planners would avoid doing what is not required by law. In addition, it should be kept in mind that amendments to the regulations were made for the sole purpose of easing and accelerating the building process. Nevertheless, almost all municipalities that participated in the LDA study indicated that the approval process takes a certain amount of time, thus confirming the continued existence of this practice. In the LDA survey, the Riga Building Council even pointed out that getting approval for the technical plans can take between 40–60 days.¹⁸ This number is based on the calculation that there are approximately 20 agencies that need to approve the plans and each agency takes 2–3 days to do so. In the smaller municipalities, the process takes on average 5–7 days.

¹⁸ It is not possible to determine from the LDA study whether the numbers 40–60 were provided by the Riga Building Council or calculated by the LDA researchers themselves, based on the assumption that plans must be approved by all agencies that issue technical regulations.

Some building councils believe that approval provides additional assurance and therefore encourage consultation with the agencies that issue technical regulations (see **Illustration 9**).

Illustration 9.
Building councils request approval
even when not required by law

From an interview with a building council representative:

We are not walking encyclopaedias, after all – we cannot know every detail, so I prefer it if everything is approved by the appropriate agencies; then I feel more assured.

From individual conversations with planners it became clear that for major building projects planners try to have the plans approved by as many agencies as possible. Even though legislation does not require this, in practice large projects are rarely carried out without approval from any of the authorities that issue technical regulations. The project is thus insured against unexpected surprises from the technical regulators in the later stages of the building process. As mentioned earlier, there is no effective mechanism to resolve disputes. So, in reality, the issuers of the technical regulations (much like the building councils) can to a large extent dictate their rules of the game. A building plan that has been approved by the appropriate authority gives a certain guarantee that the building council will be less scrupulous in its assessment of the plan.

The builder also interacts with the agencies that issue technical regulations during the final inspection of the building. In theory, the General Building Regulations say that the building plan does not have to be approved by the agencies that issue the technical regulations, but appraisal of the building's readiness for exploitation must be obtained from those agencies which have given their approval regarding the technical details of the plan. If everything were done according to the General Building Regulations, an appraisal of a building's readiness for exploitation would not be needed from anyone. However, because of the fact that many institutions do demand that the building plan be submitted to them for approval, this principle does not work.

The general regulations approved by the Cabinet of Ministers include appendices with set costs for issuing technical regulations. This does not mean, however, that builders and architects can accurately predict expenses. Appendix 9 of the General Building Regulations shows the accepted fees for issuing technical regulations. The table only has two categories: 1) preparation of technical regulations and 2) approval of deviations from the requirements of technical regulations. This means that these regulations do

not cover the approval of standard building plans, i.e., cases where there are no special deviations from the requirements. In reality, however, it is very often the case that the plans must be approved regardless of whether or not any deviations from the technical requirements are made. Because the General Building Regulations do not anticipate any costs related to standard approval, in practice agencies set their own prices. There are individual situations where the issuers of regulations rate the approval as an expert's report and set a fairly high price for their services.¹⁹ "Grey zones," which exist on the fine line between what is anchored in the law and what is rooted in tradition, but left open in the law, are very characteristic in the building industry.

Illustration 10.

Better to follow tradition than the law

From an interview with a planning firm representative:

Imagine a large project with millions invested, and they want to begin work as soon as possible. But for some reason the final authorization is taking a long time because something in the plan was not duly approved. There is no time for explanations or court proceedings to defend your rights. They (the clients) simply say, "Those are your problems, we need the building completed, and right away." To avoid this, you must protect yourself and get everything approved in advance. We often start getting the approvals for the building plan even before we have the planning and architectural order, because sometimes you can wait an eternity before you get that order.

Planners and builders approach the issue of unpredictable costs just as pragmatically as they do the necessity to give gifts and bribes to public officials. They are simply considered as payments that must be made for the approval process to go smoothly. If a public official or employee can decide whether or not approval is necessary, particularly in a situation where legislation does not regulate the process, then this creates an extremely favorable environment for the cultivation of corruption. The public also generally tends to equate this situation with corruption.

At the same time, one must admit that the approval of building plans by the agencies that have issued the technical regulations does not always guarantee that the plans will actually be approved by the building council. For instance, at the Riga Building

¹⁹ An example of this is the Public Health Agency. Still in early 2002, the agency's fee for project approval was 4% of project drafting costs.

Council, plans are submitted to the Engineering Committee, which re-examines the plans regardless of whether or not they have already been approved and received a positive appraisal from the relevant institutions.

The fact the Riga Building Council's Engineering Committee re-examines and analyzes plans that have already been approved by the other agencies, is a clear example of unnecessary bureaucracy that causes delays. There is also no basis for the argument that this provides greater assurance that the plans will be of high quality. This committee does not always examine the submitted plans thoroughly. In interviews, builders pointed out that the committee approves very large and complicated plans within an hour, whereas others take days for no apparent reason.²⁰

The procedure for getting building plans approved by the technical regulation agencies displays a number of characteristic features:

- 1) This procedure has been eliminated at the legislative level (since 2000).
- 2) Despite the fact that legislation does not call for such approvals, this is still widely practiced.
- 3) Because laws do not regulate such approvals (except in cases where it is not possible to meet the technical requirements), the regulatory agencies can manipulate with their power, and this often borders on corruption.
- 4) Because there is no sufficiently effective mechanism to resolve disputes, bribery is often used to solve differences of opinion between the builder and government or local government employees.

As regards the prevention of corruption, the last point is extremely important. Bribery in the building process is used to avoid or resolve conflicts. Current legislation does not provide a sufficiently effective legal mechanism for resolving these conflicts. Acts of bribery are actually largely the result of this situation. This is why this phenomenon should receive special attention.

²⁰ The work of the Riga Building Council's Engineering Committee is also criticised in the LDA study (see LDA 2003: Chapter IV, p. 78), with a recommendation to evaluate whether or not this practice has any purpose from the aspect of building safety.

6. BRIBES AND GIFTS AS A METHOD OF RESOLVING/AVOIDING CONFLICTS

In theory there are many opportunities in the process of issuing building permits for disagreements between builders and planners, and supervisory bodies (such as building councils). In reality, however, conflicts occur very rarely. There is reason to believe that the paradox between huge opportunities for conflict and no resulting conflicts can be explained by oral agreements and compromises on various levels. Corruption (bribery), in this case, serves as a security guarantee.

6.1. Possible sources of conflict

One of the possible sources of conflict can be contradictions in legislation (see previous sections). The inconsistencies in the Riga City Council's regulations that were described earlier have existed for more than four years. In Valmiera – for almost as long. There is reason to believe that similar inconsistencies in regulatory enactments exist elsewhere as well. In addition, as described earlier, the principle in the General Building Regulations that technical plans do not have to be approved by the issuers of technical regulations does not function in practice: plans often must be approved.

The fact that contradictions in regulations have not caused bigger problems or led to court cases is proof of two characteristic trends in the process of issuing building permits.

First, regulations serve only as a reference point. This means that, in the actual building process, specific regulations are not a decisive factor, they do not serve as the basis for decisions and therefore cannot be the cause of any conflict. The situation described earlier, where reference to building standard LBS 401 is given even though it has no connection whatsoever to the specific issue, supports this assumption.

Second, the main way of solving problems involving building issues is still by unofficial negotiation of an agreement. This means that builders rarely concern themselves with the details of regulations (see **Illustration 11**).

Illustration 11.

Hardly anyone is familiar with the official building regulations

From an interview at a building council:

If he's the one who is building, he's the one who is responsible. Which means that he must also read the regulations [General Building Regulations]. But in the past three years, only one gentleman read them. We issue 200–300 building permits per year, but we cannot force people to read them. [...] Builders may have read them, but owners – never. Nobody wants to read the General Building Regulations.

In the smaller building councils, interaction between the builder and building council employees takes place in an informal atmosphere. People often know each other. Building council staff can explain all nuances of the existing requirements to each individual. In such an environment, conflicts occur fairly rarely. Disagreements are smoothed out through dialogue. For example, in one of the focus-group discussions in Valmiera, the participants conceded that they have no examples of a conflict with the building council. In conversations with building council employees, a few conflicts were in fact revealed, but the atmosphere can generally be described as friendly.

Although some building councils are actually thinking about how to change the situation, the handling of issues involving the approval of building plans, compliance with regulations and obtaining a building permit in most cases still hinges on individual conversations and oral instructions provided by building council employees.

The interpretation of building standards is another potential source of conflict. Various standards are outdated and have not been adapted to the use of modern materials or techniques. Conflicts can also arise as to whether or not a standard has been correctly incorporated into the building plan. Considering the fact that adjustments are often made during the building process, and it is not possible to predict them in advance or describe them all in detail, there are a great many possibilities for conflict situations.

6.2. Opportunities for resolving disputes provided by legislation

Disputes are very rare in practice. According to data obtained from the Latvian Development Agency's study, of the respondents who said that they had been involved with building issues, only 1% admitted that they had experienced conflicts over

bureaucratic procedures within the last 24 months. (LDA 2003: Chapter IV, Paragraphs 156, 166, 178, 188, and 196). Cases where decisions made by local governments on building issues are appealed are described as very rare (LDA 2003: Chapter IV, Paragraph 214).

At present, in some cases, issues regarding building permits can only be appealed in court. In others, it is possible to first appeal to the responsible local government to review the building council's decision, and then, if the builder is still not satisfied, go to court.

The Building Law gives two instances when a local government's decision can be appealed in court:

- 1) if the local government has denied a building permit or recommended that the building project be adjusted to comply with the city's development plan and regulations (BL Section 11, Paragraph 4)²¹;
- 2) if the local government has issued an order to tear down a building that has been unlawfully erected (BL Section 30, Paragraph 5).

The General Building Regulations mention the following instances when it is possible to review a decision at another level or appeal the decision in court:

- 1) if the building council has found that the kind of building project planned by the builder is not permissible. In this case, the applicant can request that the local government review the decision. If the local government's decision is unsatisfactory, it can be appealed in court (GBR Paragraph 38);
- 2) if the building council has refused to accept the building plan. Here too, the applicant can request a review by the local government, and then – by the court (GBR Paragraph 104).

Neither the Building Law nor the General Building Regulations refer to other instances when a citizen may disagree with the decision made by a government or local government official regarding building or, to be more precise – regarding planning. According to the principles of administrative procedure that were in force at the time of this study,

²¹ In accordance with current legislation, it is very difficult for a local government to refuse a permit to build. The only real reason for a refusal could be incompatibility with city plans. However, because the law currently does allow building in the absence of detailed plans, this possibility is limited. As a result, public officials or politicians can be easily persuaded in favour of one project or another (also with the use of bribes).

an unsatisfactory decision can be appealed to a higher public official and, only if all other possibilities have been exhausted, then, theoretically, also to a law court. In practice, however, it is cumbersome to involve the courts in the resolution of conflicts, so that other, informal methods are applied.

6.3. Application of informal methods to resolve/avoid conflicts

The building process is a practical one and usually involves specific deadlines for the completion of a building project. Neither current administrative practice for appealing decisions nor court practice are in any way able to meet the demands of the building process. In some cases, it can take months or even years before justice is done, but in most cases this is not an option. This can be particularly difficult if a lot of work has already been invested in the project (for example, if the building is ready for final inspection).²²

As regards administrative decisions – for instance, on compliance with specific standards or use of specific technologies – the public official has unconditional authority and this is extremely difficult to oppose.

- 1) In most cases, decisions will have to be petitioned to the supervisor of the official who has made them. This will take time, and there are no guarantees that the higher-level official will not try to defend the colleague.
- 2) Professionals in the building industry are better off maintaining positive relations with public officials because they will eventually need to interact with them again.
- 3) Many of the rules can be broadly interpreted. As a result, a builder always has to keep in mind that a rule can be interpreted in an unfavorable way if relations with the relevant agency deteriorate.

²² Experience shows that the size of an investment in a project can also be used to try to persuade a municipality to approve a building project. In such cases, the applicant places the municipality under pressure by threatening to sue for losses incurred because large sums of money have been invested prior to receiving the building permit. Such behavior reflects another frequently observed inconsistency between legislation and actual practice. Although the General Building Regulations state at each step of the process that one or the other favorable decision does not legitimize commencement of building work before receipt of the building permit, in many cases building work does in fact begin. However, such practice is not the topic of this study and is therefore not discussed in more detail.

In interviews and focus-group discussions, the question was raised why, instead of complaining, do builders and planners try to resolve conflicts in “alternative” ways; the most common answer was: “We must think about the future.” In other words, builders prefer not to sabotage relations with a building council or other authority because they realize that sooner or later they will be dependent on the official’s good graces.

In light of the above, it is no surprise that conflicts with regulatory agencies practically do not occur. They are resolved in the very first stages. However, the way that this is done has nothing to do with the basic principles of the rule of law – according to the respondents of the LDA study, for example, the outcome is achieved through the use of bribes and gifts.

One can say that the current appeals system in the building industry creates favorable conditions for bribery.

Because the appeals mechanism is weak, the power of public officials is becoming greater all the time. This, in turn, increases their possibilities and incentive to ask for bribes (see **Illustration 12**).

Illustration 12.
Bribes solve the “unsolvable problems”

From a conversation with a builder:

– *A few years ago [the monopolist heating supplier in city N] would not let us install an independent heating system. They wouldn’t approve it and that was that. But there was one way to take care of it. We had to make a deal with the gas-furnace distributor that they would get the approval. And that is exactly what happened – they took care of everything, worked it out with the monopolist, and everything was fine.*

– *But how did the distributor manage it?*

– *[smiling] Well, you should know, how.*

Payoffs, but particularly small gifts (flowers, candy, refreshments and snacks at the building site) are used to influence the attitude of the oversight agency. However, there are cases where gifts and other acts of maintaining friendship do not have positive results. The public official believes that he is right, and he has next to unlimited possibilities to seriously obstruct the building process. Bribes are often used in such cases.

6.4. Solutions that have been recommended

It is not a new discovery that there is no sufficiently quick way of appealing an official's decision. Both the Latvian Builders' Association and the Latvian Development Agency have already offered recommendations on how to address this problem. However, nothing has been done further.

Several years ago, the Builders' Association tried to tackle this problem by recommending that a court of arbitration be established, which would have the authority to resolve building disputes. The executive director of the Latvian Builders' Association, Mārcis Nikolajevs,²³ commented that the idea of a court of arbitration in Riga had even generated interest in the other Baltic States. But in the end, this institution had not been established because builders had come to the conclusion that "society is not yet ready for it." Apparently, the main problem was that a court of arbitration is based on the principle that all parties involved in a dispute must recognize the court's authority. If one party decides not to honor the court's decision, the court of arbitration has no way of enforcing this decision. Since the Builder's Association concluded that it is not yet possible to achieve the necessary consensus in Latvia, the idea of a court of arbitration was not taken any further.

Illustration 13.

South Korea's anti-corruption experience with issuing building permits

Latvia is by no means the only country that has corruption problems with building permits. However, in different countries, the fight against this phenomenon has had very different results. One of the most popular "success stories" is the OPEN system, established by the mayor of Seoul, Go Kun, for the processing of all applications (including applications for building permits). OPEN is the acronym for *Online Procedure Enhancement*, and its principle is simple: all applications for permits and public procurements are handled online. The results have been dramatic. If, in 1998, 38% of those submitting applications admitted to having paid bribes, then in 2001, after the launching of OPEN, the percentage fell to just short of 7%. Experts provide a simple explanation for the decrease in bribery cases: it is no longer necessary to meet with a public official in order to obtain a permit, and therefore it is physically not possible to offer

²³ The author's interview with Mārcis Nikolajevs, February 14, 2003.

a bribe. Architects and builders claim that the time it takes to process a building permit has been reduced by about $\frac{1}{3}$. Furthermore, long hours and even days are no longer wasted trying to find out where one's application is in the decision-making process. One can simply look in the Internet. Although the opportunities for bribery have decreased significantly, Koreans have trouble breaking the old habit of paying in order to push one's application farther along in the process. For this reason, in addition to launching OPEN, a special center was opened in Seoul, where public officials can report individuals who have tried to bribe them. Almost 100 cases were registered between February 2000 and June 2001.

More on Seoul's experience can be found on the Internet:

Ihlwan, Moon. "Seoul's Web of Anti-Corruption."

http://www.businessweek.com/magazine/content/01_26/b3738146.htm

Ahn, Suntai. "Implementation of Anti-Corruption Programs by the Seoul Metropolitan Government."

<http://www.oecd.org/pdf/M00037000/M00037197.pdf>

In its 2003 study, the Latvian Development Agency also recommends that one way of improving the business environment would be for the municipalities to create a special council for arbitrating building disputes. LDA recommends that this arbitration council should include experts from local governments and national institutions, and from interested parties in the private sector: architects', building engineers', and builders' associations, as well as trade unions (LDA 2003: Chapter IV, Paragraph 216).

6.5. A possible solution: a specialized administrative court

Both of the above recommendations are worth considering. But both have drawbacks. A court of arbitration must have the complete trust of all parties involved in a dispute; otherwise, the court's decision has no effect. Because each decision would inevitably go against the interests of one of the parties, it is doubtful that the court of arbitration could function effectively.

An appellate or complaints council could be a more successful solution. Such a body should be capable of making competent and expeditious decisions on very specific issues. Although the idea of a widely represented council, including representatives of

all interested parties, would be commendable from a democratic point of view, such a large group could make the work of the council too slow and ineffective.

Taking into account the above considerations, any body charged with the resolution of disputes should meet the following criteria:

- 1) it must be independent;
- 2) it must be capable of making decisions about very specific issues related to the building industry;
- 3) it must be able to make decisions in a very short period of time;
- 4) its decisions must be binding.

An administrative court would best fit this description. Its only function would be the resolution of building issues. The judge would not necessarily have to be a professional lawyer, but rather a person who is a specialist. This type of court should try to resolve cases not on the basis of political negotiations (as could be the case with an appellate council), but on the disputed decision's compliance with current regulations. The court status of this body would ensure independence both from the private sector and from local governments. Decisions made by this court would be neutral and therefore more acceptable to both sides.

It must be noted that the establishment of this type of court would require the most work – it would require changes in legislation. Nevertheless, the gains would outweigh the losses. Corruption in the building process, as pointed out in the introduction, is potentially extremely dangerous to society. Furthermore, the process of obtaining building permits is considered one of the most corrupted areas. And finally, a neutral mechanism for resolving disputes would make the process much more transparent and predictable.

7. SYSTEMIC PROBLEMS: CERTIFICATION

One of the reasons why building plans are still being approved by the agencies that issue technical regulations is the weak certification system. A certified project supervisor must be fully responsible for the quality of the work. Current practice, however, does not guarantee this. The regulatory agencies do not trust the quality of the planners, but the planners are confident that they will not risk their certificate or professional career through poor performance.

Not only did the May 2, 2000 amendments to the General Building Regulations cancel the requirement that building plans must be approved by the agencies that have issued the technical regulations, they also placed the responsibility for compliance with legislation and technical regulations on the shoulders of the project supervisor (GBR Paragraphs 65, 66, 67). A project supervisor is a person who has received the corresponding certificate. Professional associations issue these professional certificates (for example, the Architects' Union or Building Engineers' Union).

In accordance with the General Building Regulations (GBR Paragraph 67), the project supervisor must sign the following statement that is attached to the building plan (GBR Appendix 3): "The details of this building plan comply with Latvia's building regulations as well as with the technical requirements."

By inserting this rule into the General Building Requirements, the authors of the amendments had assumed that the necessity to have building plans approved by the regulatory agencies would disappear.

Paragraph 73¹ of the building regulations also refers to this premise: "If those involved in the building project or the supervisory institutions discover that the building plan does not comply with legislation or with technical requirements, it is their responsibility to inform the authorized certifying institution and licensing committee of this violation."

The inclusion of this paragraph introduces the principle that, with the certificate, the planner takes responsibility for the quality of his work. For instance, if the building

council discovers that the building plan violates technical regulations or provisions of the law, it immediately notifies the certifying institution. The law does not, however, determine what actions the certifying institution should then take.

Cabinet of Ministers Regulations on Building Expertise Certificates regulate granting and annulling of certificates in more detail. These regulations mention only that “the certifying institution can make a decision to annul a building expertise certificate if the certified person has violated corresponding laws or other regulatory enactments” (Cabinet Regulation No. 328, Paragraph 17). The concept of violating the law and other regulatory enactments can be very broadly interpreted. However, it is obvious that the GBR provision on notifying the certifying institution in question was included not only for the sake of informing this institution, but because the organization is expected to respond in a specific way. In the case of repeated or very serious violations, the certification committee would have to consider annulling the certificate.

Ideally, then, the system should work in the following way: the planner takes responsibility for the building plan’s compliance with all laws and regulations specific to this project. The planner confirms this with his signature. During the work in progress, the building council may check compliance again, but this is by no means mandatory. However, if any of the persons involved in the building project discover deviations from the regulations – that the plan does not comply with the law and other mandatory requirements – the certification committee must be notified. The certification committee decides what action to take against the planner; the highest penalty the committee can impose is annulment of the certificate. Therefore, the planner understands that any mistake or violation on his part can lead to a loss of the certificate.

Illustration 14.

Planners are not concerned with project quality

From a conversation with a building council member:

- *Planners commit many sins – many plans do not comply with regulations.*
- *Is that because they lack the knowledge or are they doing it on purpose hoping everything will go through?*
- *They hope it will go through, of course!*

In reality things happen very differently. In most cases, when violations are uncovered the plans are rejected and returned to the planner to make the necessary changes. Therefore, the only concern of the planner is that the project will fall behind schedule.

In cases where the violation is committed deliberately or through negligence, there is a fairly tempting advantage. It is possible that none of the regulatory agencies will detect the violation, and the project will be approved with all the violations. If the mistake is detected, no real sanctions follow. As a result, the planner is not motivated to make sure that the plan is in order. Building councils know this and trust the planner's work only if they know the planner personally.

A system such as this, where the building council employees and the technical inspectors examine the plans trying to find mistakes and violations, but responsibility falls on the project supervisor, is absurd. The situation is even more absurd if there is no real way of exercising accountability. In the past ten years, the Architects' Union has only received a handful of complaints about architects, and in most cases they did not concern building quality. There have been no cases where a certificate has been annulled.

Illustration 15.

Negotiations play a large role in receiving building permits

From an interview with a builder:

Sometimes you sit and listen to what bull [another builder] is giving the inspector. You can clearly see he is lying, but he keeps going on and on. He is hoping to charm him and get his way. And sometimes it works.

As in other aspects of obtaining the building permit, informal relationships play a very large role. Architects who are well known to building council employees can be fairly confident that their project will not be subject to very detailed analysis and will therefore be approved. A less known architect will have a much more difficult time getting his plans approved. Laws and regulations anticipate that the signature of the certified architect on the building plans will be a serious guarantee for quality. In practice, however, the only real guarantee is personal contacts and previous experience.

Even if this attitude is not directly related to corruption in practice, it does increase corruption perception. Architects who are not on as good a footing with building council employees may believe that the building council supports "its own" and treats others unfavorably (which actually is the case).

This situation can only be improved by introducing specific policies regarding the certification process and defining instances when an architect's certificate can be annulled or suspended.

8. THE WORKLOAD OF BUILDING COUNCILS

All of the building councils surveyed for this study admitted that their workload is too heavy. The table below compares the number of building permits in New York, Riga, Jēkabpils, and Valmiera.

Table 2. The number of building inspectors in New York, Riga, Jēkabpils, and Valmiera

	New York 1973	New York 1989 ²⁴	Riga 2001 ²⁵ (approx.)	Riga Soviet period	Jēkabpils 2001	Valmiera 2001
No. of inspectors	419	371	6	9	1	1
No. of building permits	25,261	45,228	2,600	300	112	198
Building permits per inspector per year	60	122	433	33	122	198

The data in the table show us that there is a disproportionate number of issued building permits per inspector in Riga. The building inspectors in Valmiera also have relatively heavier workloads than their colleagues in other cities (except Riga).

The insufficient number of building council employees, which is particularly characteristic of Riga, leads one to seriously doubt the usefulness of the building council's work. How well can these underpaid inspectors do their job if they must inspect more than one building plan every day? It is simply not possible to inspect every plan under such conditions. Some plans, whose authors already have a good reputation, are analyzed very formally, while others are inspected much more scrupulously. Under these conditions, financial stimulation in the form of a bribe may seem very enticing to both the builder and the building inspector.

²⁴ Data on New York from Goldstock, R., Marcus, M., Thacher, T. D. II, Jacobs, J. 1990:114.

²⁵ Data on Riga, Valmiera, and Jēkabpils obtained from visits to the corresponding building councils.

It should also be noted that in Riga (as well as in other cities) the issuers of building permits must at times also assume the role of city planners. Cities that plan their development and the quality of construction work in their city generally have a certain number of city planners. In Latvia, there are currently very few city planners.

The situation is further deteriorated by the fact that the functions of local government politicians and public officials are not clearly separated. At the moment, politicians can often give instructions as to whether or not a project should be approved. The formal responsibility is on the public official, but the politician, who carries practically no responsibility, makes the decision.

The building inspector's heavy workload also means that the backlog of unprocessed applications grows, and the builder may be tempted to give bribes to push his application to the top of the pile (Goldstock, Marcus, Thacher, Jacobs. 1990:114).

9. RECOMMENDATIONS

9.1. General suggestions

- The working environment of building councils must become more transparent. The Riga Building Council (as those in other larger cities) should consider creating a more transparent and friendly environment for visitors, doing away with the long and tiresome lines, and installing glass doors and transparent walls wherever possible.
- The necessity for information materials should be addressed: these materials should explain in simple language what a potential builder would need to do to obtain a building permit. The information should be published as a booklet and on the Internet as a website. A hotline (both phone and e-mail) should be set up to answer questions and resolve simple problems.
- Those building councils that are perceived to have a high level of corruption (Riga, for example) must introduce a regular system for monitoring the customer's level of satisfaction.
- Those building councils that are perceived to have a high level of corruption (as in Riga) should regularly monitor the effectiveness of the building permit issuing process. An independent survey financed by the local government every two years is recommended. The results could be published and used as a basis for strategies to eliminate the identified problems.²⁶

²⁶ Currently the monitoring role is partially played by the Latvian Development Agency's studies on the business environment in Latvia. Nevertheless, these are not sufficiently detailed, nor do they focus on assessment of the building permit process.

9.2. Recommendations on legislation

This study repeatedly emphasizes that existing laws and regulations are vague and contradictory. This is particularly relevant to the General Building Regulations and their standardization with other laws and regulations issued by local governments. The General Building Regulations (like other regulations within this field) are designed to describe all the necessary standards and procedures, but do not do this in such a way that the reader can understand. The regulations cannot be clear because the procedures were apparently not clear to the authors of the regulations. Therefore, the best way to improve the General Building Regulations is to rewrite them in entirety, basing them on systems that are clearly defined beforehand and that are described in the legislation in easily understood language.

The General Building Regulations should include the following principles:

- A clear set of guidelines as to when the building permit is required. The premise could be the rule that a building permit is necessary if a building plan is necessary. This principle is already applied in practice, but legislation is not clear enough or does not mention it at all.
- A rule that the local government's regulations can only include issues not already regulated or not regulated in sufficient detail in national legislation. There is no value to municipal regulations if 80% or 90% repeat national regulations, 5% contradict national regulations, and only 5% provide new information.
- Clarification on how many hearings should be held, at what point in the process they should be held, and who controls this.
- Building plans no longer have to be approved by the agencies that issue technical regulations, hence the inspectors should adhere to this change. A rule should be inserted in the General Building Regulations that approval by these agencies is only required if the architect himself has made a special written request.
- The rule that an appraisal of the building's readiness for exploitation must be obtained from the technical inspection agencies before the building can undergo final inspection should be deleted from LBS 301-97.
- In order to achieve greater accountability of planners for the project's compliance with technical and other regulations, the certification process must include the possibility of having one's certificate revoked. The General Building Regulations must state that **all** violations or ignorance of regulations by the planner are to be registered and the certifying organization notified. There must be clearly defined sanctions and procedures for taking action against planners who violate the rules.

- Inspectors should have a “code of conduct.” All applicants for building permits should be asked to sign a statement that they have read this code of conduct prior to receiving any documents.

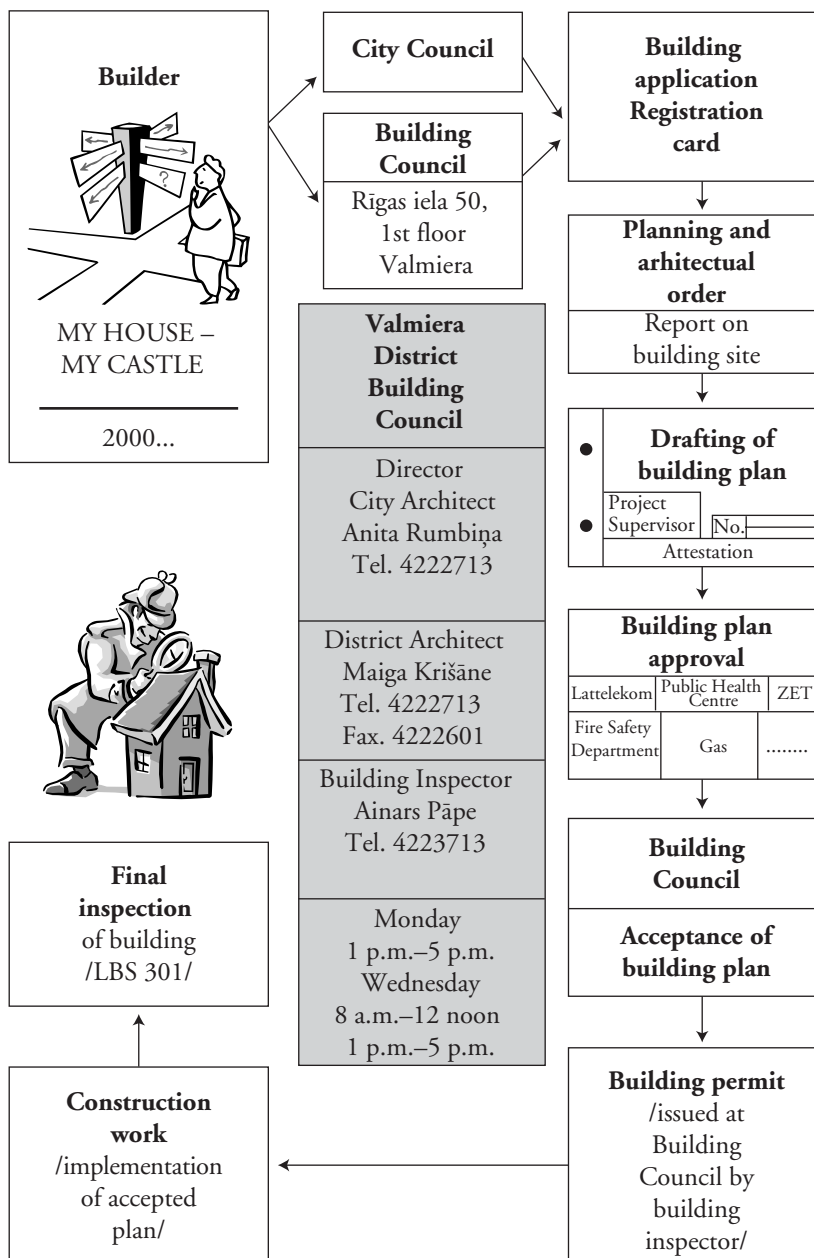
9.3. Recommendations on resolving disputes

The most important issue that should be addressed is the establishment of an expeditious and independent institution to resolve disputes. Since most of the building disputes between government or local government and builders cannot wait for a decision in a lengthy court process, there should be a special institution that deals with building issues. This institution could have a judge specializing in administrative or even building issues so that even strictly technical issues could be addressed. In the current situation, it is the inability to efficiently solve minor disputes that leads builders to offer bribes or public officials to demand bribes. An institution for resolving disputes is also important because, only by involving such an institution, will it be possible to detect existing weaknesses in legislation and take steps to correct them.

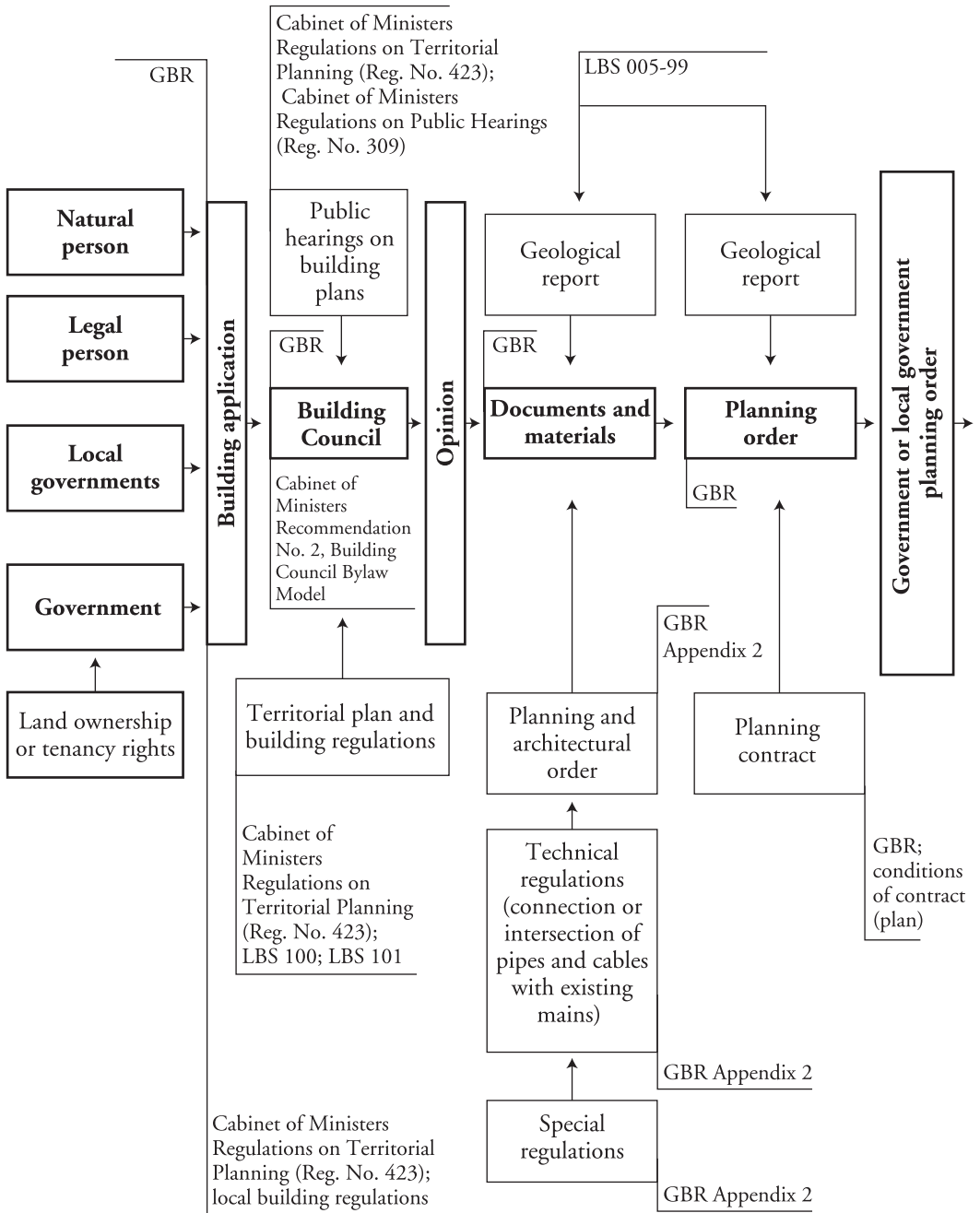
APPENDIX

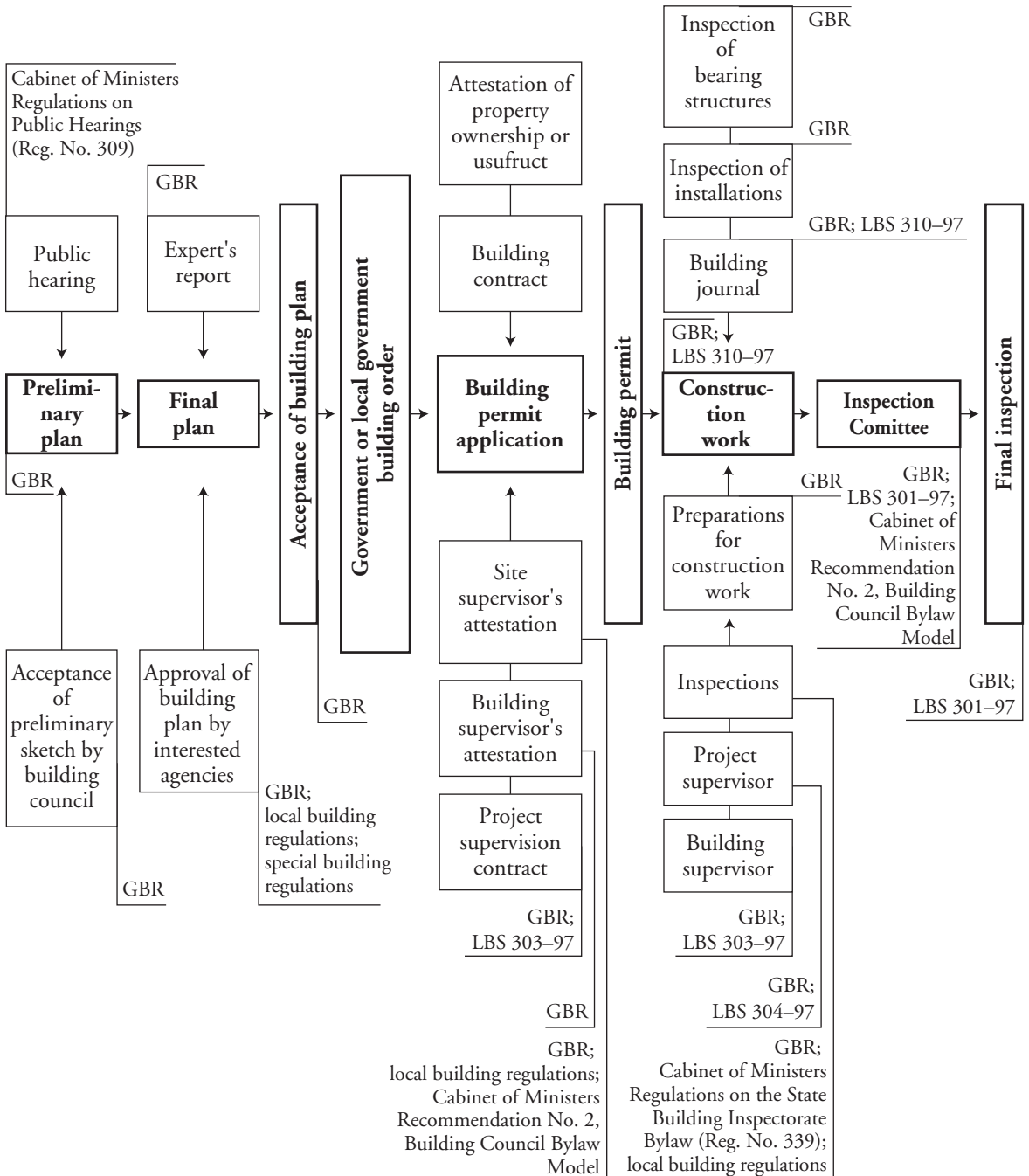
Various interpretations of the building process

Building: permits, projects, final inspection (Valmiera City Building Council)

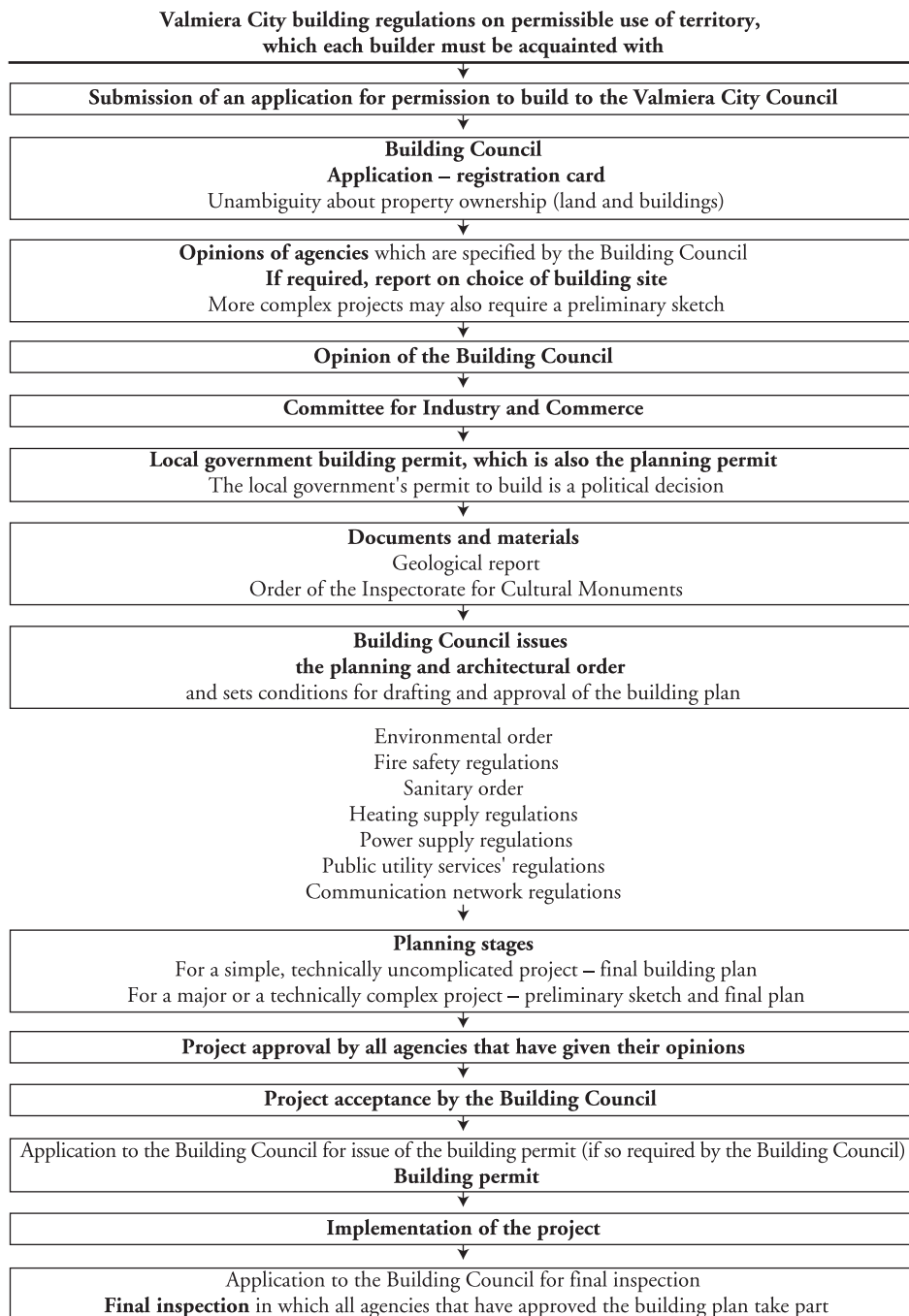


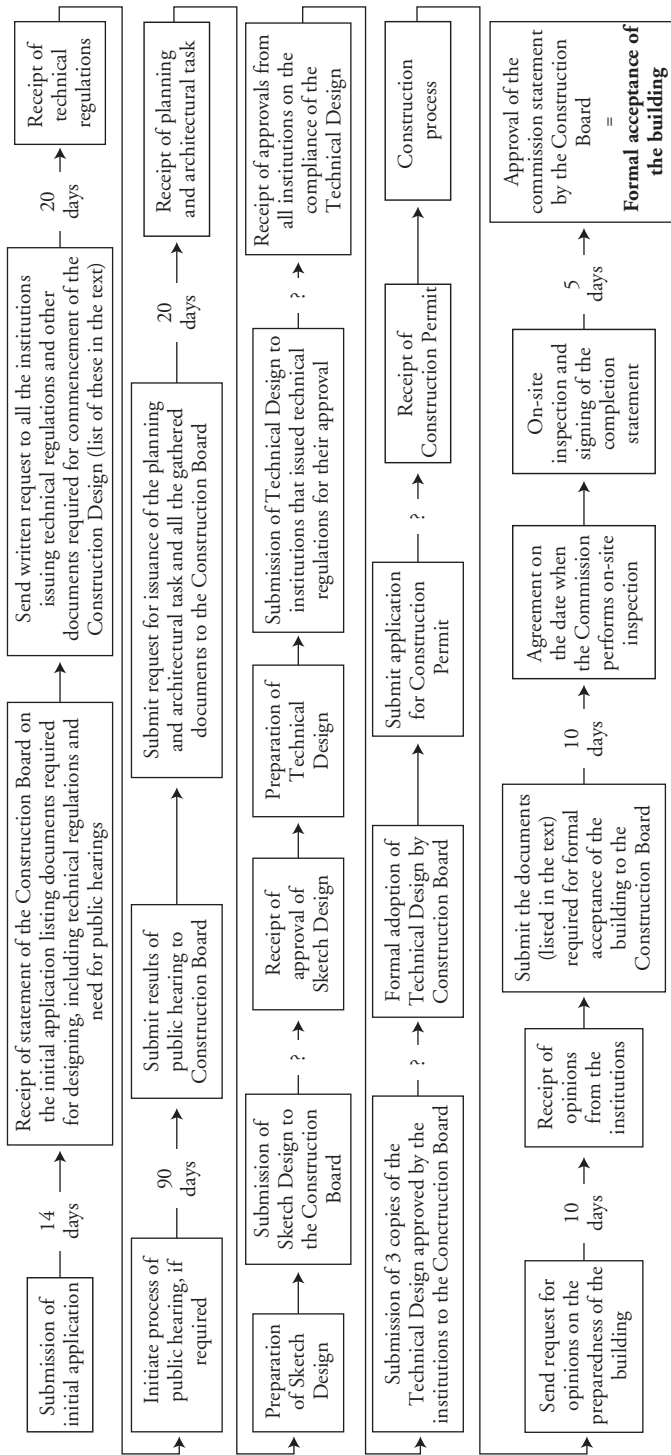
Building process (Ministry of Environmental Protection and Regional Development, Building Department)





Building process (Valmiera City Building Council)



Construction approval process (Latvian Development Agency)²⁷

(If no statutory time is established for a specific administrative procedure, a question mark appears in the scheme.)

²⁷ Source: Self-Assessment Report on Administrative Procedures for Doing Business in Latvia. Latvian Development Agency, Foreign Investment Advisory Service of International Finance Corporation and The World Bank.

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2. **Regulations on Public Hearings on Building Projects.** Cabinet of Ministers Regulation No. 309, September 2, 1997. Published: *Vēstnesis* No. 218, September 5, 1997.

3. **Regulations on Registration, Review, Approval, and Authorization of Building Projects in Riga** (Provisional Regulations). Passed by the Riga City Council's Department of City Planning, Riga City Building Council, October 1, 2002.
4. **Regulations on Approval and Authorization of Building Projects in Riga**. Riga City Council Regulation No. 20 (Prot. No. 54, §46). Passed on November 10, 1998.
5. **Regulations on Building Expertise Certificates**. Cabinet of Ministers Regulation No. 328, August 31, 1998. Published: *Vēstnesis* No. 252, September 3, 1998.
6. **Regulations on Capital and Standard Renovation of Residential Buildings (LBS 401)**. Approved by Order No. 76 of the Republic of Latvia Ministry of Architecture and Building, July 5, 1993. Published: *Diena* Supplement 6, August 6, 1993.
7. **Regulations on Final Building Inspection and Acceptance of Work (LBS 301-97)**. Cabinet of Ministers Regulation No. 258. July 27, 1997. Published: *Vēstnesis* No. 194, August 1, 1997.
8. **General Building Regulations**. Cabinet of Ministers Regulation No. 112, April 1, 1997. Published: *Vēstnesis* No. 88, April 4, 1997. Amended: Cabinet of Ministers Regulation No. 162, May 2, 2000 (*Vēstnesis* No. 161/163, May 5, 2000); Cabinet of Ministers Regulation No. 506, December 11, 2001 (*Vēstnesis* No. 182, December 14, 2001).

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Rīgā, LV-1048, tālr. 7602672. Iespiesta un brošēta a/s "Preses nams" poligrāfijas grupā "Jāņa sēta".