

Tourist dwellings: residential use or lodging service?

Granting of lodging licences suspended in Madrid

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The Decision of the Follow-up Committee for the 1997 Local Land-Use Plan for Madrid¹ (“PGOUM”), dated 23 January 2018, interprets how tourist dwellings should be characterised from a town-planning perspective: residential use or lodging service?

According to the Follow-up Committee’s decision, for town-planning purposes:

- (a) TOURISTIC USE OR ACTIVITY will be understood to mean the rental of dwellings for touristic use *for more than three months a year under the principle of business operation unity*. Consequently, the following will be required in this case:
 - (1) That the PGOUM’s spatial regulation provides lodging as *compatible in the building, verifying the percentage of supplementary uses in each building* so that these new allocations do not exceed the percentages determined in each spatial regulation or specific by-law.
 - (2) That the developer of dwellings for touristic use *applies for and obtains a municipal lodging licence*. This local permit will be required in addition to the mandatory statement of compliance concerning tourism; as we will see below, the local government has already suspended the granting of these licences while processing a special plan for touristic uses.

¹ *Plan General de Ordenación Urbana de Madrid de 1997.*

- (3) That the building code and the conditions of habitability of the dwellings are complied with, *although these are exempted from having a fire escape staircase and independent access in the building in which they are implemented alongside residential uses.*
- (b) RESIDENTIAL USE (within the concept of ‘collaborative economy’) will be understood to mean the *rental of dwellings for less than three months per year directly by their owners* or the letting of rooms in dwellings. Consequently, in these cases, no local lodging licence is required.

Predictably, days after the decision in which business activity licences are required for tourist dwellings, on 5 February 2018, the Executive Body of the City of Madrid, on the occasion of the initiation of the processing of a special plan for touristic uses, resolved to *suspend the granting of business activity licences for supplementary lodging in existing buildings for residential use until 5 February 2019 (extendable for an additional year)* in the following neighbourhoods and for the following tourism business:

- (a) *Distrito Centro:*

The granting of hotel, tourist apartment or tourist dwelling licences is suspended.

- (b) *Palos de Moguer (Arganzuela), Recoletos and Goya (Salamanca), Trafalgar (Chamberí) and Argüelles (Moncloa-Aravaca):*

The granting of tourist dwelling licences is suspended.