

Please NO labeling FRAUD!

... „Construction turbos“ at Gleisdreieck do not offer affordable flats for people!

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Berlin needs housing, but no new office space in the middle of Gleisdreieck park. Most people agree on that. However, despite all justified criticism, the Berlin Senate has submitted the draft of a development plan for vote and approval to Berlin`s House of Parliament that starts with constructing two office buildings in the park. This plan envisages exclusively commercial office space. Now, members of Parliament (MP`s) start raising doubts within the party groups of the coalition, and search for ways out. Instead of reconsidering the planning fundamentally for means of residential use, some seem to favor the new **„construction turbo“** agreed upon in October (9.10.2025, see the modified Art. 246e BauGB¹). By doing so, residential use would be accepted without having to revise the construction plan. **This approach does not work for various reasons ...** first, the owner of a plot cannot be forced by law, according to § 246e BauGB, to create housing. The ~~housing~~ construction law merely gives the Office for Construction additional opportunities, based on request of the owner/developer, to build flats. Therefore, of relevance is the demand of the owner and the stipulations of the construction plan.

Jurisdiction deduces the property guarantee in **Art. 14 GG** of the so-called freedom to build (*Baufreiheit*). This central principle of the freedom to build means that any owner of a property has the right to use it and building anything on it, as long as it is within the existing planning legislation. What is permitted by planning law is defined by the construction plan, stipulating the type of use, building height, base area, plots, etc. For a project agreeing on these requirements, there is hence a legal claim on granting the construction permit. The respective owner may enforce this claim in case of dispute in front of the administrative court. If the Berlin House of Parliament votes for the Construction Plan VI-140cab **„Urban Mitte Süd“** as the referred-to construction plant, it gives permission to building two skyscrapers with heights of 49m and 25 m each on two-basement floors which are built on a two-floor underground parking. And on top of that, the construction plan stipulates commercial use only.

The owner alone decides what kind of usages will be foreseen, specifying where and how the type of usage is being arranged. Hence commercial use of entities - permitted by law – entitles the owner in favor of a construction permit. The Construction Authority (*Baubehörde*) cannot force him to build housing as an alternative. **This way, affordable flats will not be built.** This is only possible through respective stipulation in the construction plan. The general rule set in Art. 246e para. 2 together with Art.36a para. 1 *BauGB* cannot be applied. According to these articles, the local authority can link the construction permission according to Art5.246e para 2 to the condition to create socially compatible housing. This, however, would only work if the owner has a genuine interest in implementing the „construction turbo“, because otherwise he cannot use the plot in his personal right. This will hardly be the case, and hence the local authority would be at a disadvantage if the construction plan is adopted and has created a construction law for commercial use.

(...) workarounds would open doors and gates. The construction rights of a given plot are always determined by the construction plan, valid for all future owners. Therefore, if one wants to enable **flats**, one must plan and decide, accordingly. (...). Practically speaking, a retrospective conversion for office space would not make sense, due to the cubic capacity of the planned skyscrapers planned , since this would lead to an immense building depth. What may work for

¹ Excerpt 1... based on agreement by the municipality, one may deviate from current law and its respective provisions that expire by Dec 31, 2030, if the deviation is compatible with public interest and serves the following interests: 1. The building of houses with residential purposes (...).

office floors through flexible partition walls and glass doors is often not feasible for smaller housing units. In the case of internal space without daylight or means of ventilation, healthy living or housing conditions as compulsory for living space along the building code are in no way secured.

Apartment buildings are typically planned differently from scratch. If one arranges a skyscraper as office space and predicts the usage of living space retrospectively, this will lead to generous Penthouse plans in the upper floors, but certainly not to affordable living space. This approach, having Parliament decide on commercial use, but secretly speculating in favor of **flats** to be constructed would contradict the principles of consideration of urban land-use planning. This makes the thus agreed-upon building plan juridically even more vulnerable. MPs would know about some very different plans while approving the plan for commercial use. Foreseeable, this comes down to a fraudulent workaround of the bid for a just trade-off, because each of the concerns to be balanced differ depending on whether the usage will be housing or office space. ***There is hence only one thing that helps: to put one`s cards on the table and revise the planning fundamentally.***

Es hilft also nur eins: Farbe bekennen und die Planung grundlegend überarbeiten.

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