

Spanish practices get an overhaul

BY DIARMAID CONDON

Spain's southern province of Andalusia, long beset by planning logjams and corruption, is finally bringing in new laws for illegal properties in the region. Diarmaid Condon reports

The southern Spanish province of Andalusia is home to just under 8.5 million people. It has famously suffered from some of the most complex and frustrating planning issues in Spain for over four decades. The fact that it is home to the Costa del Sol, a favourite with overseas property buyers, has led to global coverage of the issues.

Rampant corruption, and sometimes farcical regulatory flip-flopping over the years, have left an estimated 327,000 technically illegal properties

in the region. The problems encountered by those with illegal properties include having no access to title deeds, an inability to sell properties, no option to legally access utilities and inability to connect to sanitation networks. In some high-profile cases, properties were demolished without compensation.

Kilkenny native Maura Hillen (née O'Donoghue) is president of homeowners' campaign group AUAN (Abusos Urbanísticos Andalucía NO). In 2016, she was awarded an honorary MBE for services to the British community in Spain. This followed years of tireless work to highlight planning issues in the region and seek redress for those affected by them. Due to a change in local government, and the perseverance of Hillen and others against all the



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Maura Hillen of AUAN

odds, drastic changes have been brought about.

Following the election of a largely right wing coalition regional government (Junta), changes have been swift and conclusive. Two months ago, on September 24, it passed a decree containing "urgent measures for the environment and territorial adaptation of irregular houses in Andalusia". The move is described by director general for planning José María Morente as "the beginning of the end of Third World planning in Andalusia".

Hillen said this decree would allow owners of most properties built irregularly before 2013 to apply to their

town hall for a document called an AFO (asimilado a fuera de ordenación). This is a declaration that the property came into existence outside planning regulations, but is now recognised and accepted by the authorities. AFOs have long existed for rural properties, but have now been extended to all categories of housing.

"You can apply for an AFO even if planning permission has been revoked, provided the building meets relevant criteria," Hillen said.

The costs of an AFO application will be met by the

applicant and vary by town hall. Charges are a microcosm of the confusion in the region's planning system. Some charge a nominal fee, others can look for thousands, basing the charge on the property's value.

The expected timeframe to receive the document is around two to three months in straightforward cases. The process does necessitate a solicitor but not a court visit. Once issued, the homeowner can legally segregate land, register the property in the Land Registry and connect to services such as water,

electricity and sewerage, providing those services are available.

There are exceptions. Properties less than six years old are ineligible, as they may still be subject to planning litigation. Properties built on specially protected land will also have problems.

Mark Stücklin, of the Spanish Property Insight portal, said that the initial result may well be a flood of rural property into a stagnating market, but over time he feels it will inevitably lead to a stronger industry.

Press headlines stating that

this is an amnesty for all illegal properties have been vehemently denied by the Junta. It says that those who were unlucky or were defrauded will receive a sympathetic hearing, but those who simply ignored the law to build wherever they wished will not.

In the case of unfinished developments, the decree allows interested parties to liaise with the town council on a Special Plan to quickly provide a minimum level of infrastructure. These will be considered external to the standard Town Plan, where planning applications can take up to a decade to conclude. Incurred costs would be shared by all interested parties.

While the decree is a sticking plaster to remedy the immediate problems, Hillen said that there are now genuine attempts to deal with the regulatory issues that have caused these problems. How successful they will be remains to be seen, but at least there appears to be a desire to move the industry forward, which wasn't there before.

The official release in Andalusia's law gazette can be found at juntadeandalucia.es/boja/2019/523/1.