

Bagnes INFO N°44 Décembre 2019

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AN :

BUILDING AFFAIRS

Regularizations continue.

Additional jobs, not to mention several external mandates to support the efforts of the construction department. The Municipal Council (Commune) is not skimping on the means to turn the page on the case of the illegal constructions of Verbier.

For several years, Bagnes has undoubtedly been the most watched municipality in the country in terms of construction law. Each of its decisions is scrutinized, both by the local architects and by the supervisory authority, to whom the Municipal Council must report twice a year. There are countless audits and expert reports, whether they were commissioned by the municipal authority itself or by the Canton of Valais.

The last of them, written by Mr. Jean-Luc Baechler, former president of the Federal Administrative Court, noted "the goodwill" of the municipality of Bagnes to want to resolve itself the difficulties it faced. If only for this reason, the placing of the Construction Service under tutelage, as mentioned by some, would have had no reason to be, according to the state expert.

COMPLIANT AUTHORIZATIONS

THE LAW AND THE DEADLINES

The second phase of its expertise will now focus on municipal practices in terms of building permits and regularizations. His report is expected by the end of March. Its conclusions will complete the audit already carried out on the operation of the service by two experts appointed by the local authorities a few months ago. Their report also confirmed that new license applications were processed in accordance with the law and within the statutory time limits.

The most complex challenge that the Construction Service faces now regards how to manage the past, with all the regularization process underway. For this, the Municipality (Commune) can rely on the skills of Mr. Léonard Bruchez, a lawyer specializing in construction law. The latter presented to the General Council the legal principles which guide the action of the Municipality (Commune).

THE SAME METHOD FOR ALL

Each building authorization issued after April 2, 2012, each extension authorized between January 2013 and the end of December 2015 must be subject to a detailed examination. Hundreds of files, where each case must be examined individually but on the basis of a method applied to all. Depending on the progress of the building site, the seriousness of the transgression, the public and private interests to be taken into account and the good faith of

the citizen, the regularization may take separate paths: if the majority of cases can be simply regularized, some will require a modification of the permit, subject to consultation with third parties or sometimes to a public inquiry, or constructive remedial measures. In rare cases, the Municipal (Communal) authority may have to revoke the authorization it itself issued. The oldest cases are treated as a priority, in order to limit the risk of prescription.

TOO MANY NON-CONFORMING CONSTRUCTIONS

Another difficulty in this regulatory process is that too many of the constructions examined do not comply with the permits issued. Their owners are therefore exposed to administrative criminal sanctions, in particular to fines that are sometimes steep. In rare cases, where serious and intentional breaches of the Construction Law are found, a confiscation of illegal earnings must be examined. This criminal sanction is however rarely applied in the construction field, in particular because it is unlikely to end up in court. To date, only one procedure of this type is open in our Commune.

Reinforced, the construction department will still do its utmost to meet the objective of the Municipal (Communal) Council: to process a maximum of files in 2020, to allow the new Val de Bagnes municipality to take off in the best conditions.

- Jean-Marc Sandoz

SIDEBAR ARTICLE:

COMMUNAL COUNCIL

For a peaceful "cohabitation"

The page that we devote in this issue to the management of the "construction affair" proves this unequivocally: no Valais municipality has invested as seriously as ours in restoring the rule of law and ending illicit practices. Substantial resources are invested to turn the page on this delicate episode. Twice a year, the Municipality (Commune) draws up a report for the intention of the Canton Council and adjusts its practices according to the feedback received from the supervisory authority. The community of architects, whose active support we need in the face of this paradigm shift, is regularly informed of the practice adjustments made by our administration.

Our council thus gives itself the means to strengthen the confidence of citizens in its activity. The task was not easy and vigilance remains essential. We now form the wish for a return to a calm and respectful climate, where suspicion, unfounded rumors and personal attacks directed against those who commit themselves to the service of the public good, among the authorities or as employees of our administration, cease. This is how our Council conceives of "living together" in our community!

At the dawn of the new year, let's take care to preserve the serenity that our residents and visitors look for and appreciate in Bagnes. Happy New Year everyone!