

Determining the Types of Obligors and Specific Obligors in the Building Act: Dissecting the Responsibility that Arises from the Obligor's Conduct and the Responsibility that Arises from the Condition of the Property in Administrative Law

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This article aims at examining the distinctions between the responsibility that arises from the obligor's conduct and the responsibility that arises from the condition of the property in the context of the Building Act. In terms of the law regarding administrative intervention, which includes the Building Act, determining both the obligor and the contents of a legal obligation is closely related to the nature of the obligation in administrative law. The main reason why the legislators would impose obligation on a specific person or specific persons is that the responsibility that arises from the obligor's conduct or the responsibility that arises from the condition of the property. Distinguishing the nature of these two types of responsibilities will facilitate the specification of the concrete contents of administrative obligations and the obligor(s) in each case. As far as the Building Act is concerned, it frames out the control of the works relevant to the building and the control toward the building itself, and the respective imposed obligations are the responsibility that arises from the obligor's conduct and the responsibility that arises from the condition of the property. At the construction stage, the main obligors are the proprietor of the building, the building's designer, supervisor, constructor, and the applicant for the construction approval or the applicant that is responsible to report to the authorities concerned. They should bear the responsibility that arises from the obligor's conduct instead of the responsibility that arises from the condition of

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the property. In contrast, in the provisions that buildings shall be used according to the approved usage classification, and that the ownership holder and the user of a building shall maintain the legal usage as well as the structure and equipment safety of the building, for instance, these obligations are imposed directly upon the condition of the building, which are in the category of the responsibility that arises from the condition of the property. Therefore, an obligor of such has to be the person who has the ownership or the controlling power de facto over the property, and this does not include those who cannot effectively exercise such right or power over the property.

Keywords: obligation in administrative law, responsibility that arises from the obligor's conduct, responsibility that arises from the condition of the property, obligor under the Building Act, works relevant to the building, building control