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## REVIEW ARTICLE

### IMPACTS OF THE AMENDMENTS ON THE REGULATION ON ZONING FOR PLANNED SPACES OF 2013 ON THE USE OF FLOOR AREA RATIO (FAR)

<sup>1</sup>Hasan POLAT, <sup>1</sup>Muhammet KURUCU and <sup>2</sup>Ebru DOĞAN

<sup>1</sup>Firat University, Faculty of Architecture

<sup>3</sup>Munzur University, Department of Civil Engineering

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#### ABSTRACT

It is specified, under Article 5 of the Constitution, that the State has the obligation to create conditions necessary for the provision of prosperity, peace and happiness for individuals and society, for the development of human's material and moral existence and, under Article 56, that every individual has the right to live in a healthy and well-balanced environment. It also emphasizes that the State and its citizens have a duty to safeguard such rights. The regulations brought by the zoning legislation are of significant importance in terms of the actualization of such duties assigned to the State. However, all the applicable laws and regulations of our nation are continuously revised for the purpose of fixing the emerging faults and irregularities, rather than projecting the future. In recent years, the Zoning Law has undergone a fundamental and radical change, and by way of parallel, the Regulation on Zoning for Planned Spaces has almost completely been renewed and implemented particularly in 2013. In this study, the amendments on the Regulation on Zoning for Planned Spaces of 2013 are discussed in general and the positive and negative impacts of these actual amendments on the use of floor area ratio and housing rights have been brought into question.

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## INTRODUCTION

It has been specified, under Article 5 of the Constitution, that "the fundamental aims and duties of the state are; to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy; to ensure the welfare, peace, and happiness of the individual and society; to strive for the removal of political, social and economic obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social state governed by the rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence. Article 56 "Safeguarding health services and environment" states that "every individual has the right to live in a healthy and well-balanced environment. Improving the environment, safeguarding the environmental health and preventing the environmental pollution are among the duties of the State and its citizens..." Article 5 of the Constitution states that the State has the obligation to create conditions necessary for the provision of prosperity, peace, and happiness for individuals and society, for the development of human's material and moral existence and, under Article 56, that every individual has the right to live in a healthy and well-balanced environment.

\*Corresponding author: Hasan POLAT,  
Firat University, Faculty of Architecture.

It also emphasizes that the State and its citizens have the duty to safeguard such rights. The regulations brought by the zoning legislation are of significant importance in terms of the actualization of such duties assigned to the State. The duties assigned to the State under Articles 5 and 56 of the Constitution may be fulfilled through supervision and inspection within a specific plan and program. An environment arranged under this specific plan and program shall undoubtedly be included in the concept of "healthy and well-balanced environment" specified under the Constitution, as well as an environment in which air and water pollution resulting from urbanization and industrialization is prevented [<http://www.resmigazete.gov.tr/eskiler/2013/07/20130723-10.htm>]. However, all the applicable laws and regulations of our nation are continuously revised for the purpose of correcting emerging faults and irregularities, rather than projecting the future. In terms of the economy and society, the migration phenomenon we face has led not only to the integration of rural life with urban life, but also to rural life's invasion of urban life. In recent years, the Zoning Law has undergone a fundamental and radical change and by way of a parallel, the Regulation on Zoning for Planned Spaces has almost completely been renewed and implemented particularly in 2013. In this study, the amendments on the Regulation on Zoning for Planned Spaces of 2013 are discussed in general and the extent to which the right of floor area ratio use has

changed in a sample housing project has been analyzed and the positive and negative impacts of the aforesaid actual amendments on the use of floor area ratio right in housing have been brought into question.

**The Aim of the Study:** This study aims to investigate the positive and negative impacts of the changes in the Regulation on Zoning for Planned Spaces of 2013 on the use of floor area ratio rights by analyzing how the right of use for a housing project completed in the same space was changed.

## MATERIALS AND METHOD

As this study was in progress, an architectural project completed previously whose construction license had been taken away was obtained from an architectural company located and operating in Elazığ. In the obtained architectural project, the owner's right of use was investigated, and how the right of use changed for and against the owner after the revised Regulation on Zoning for Planned Spaces of 2013 was analyzed.

### Concepts, history and legislation

**History of Zoning Implementations in Turkey:** The zoning implementations of Turkey have been accomplished from the 1950s to date in accordance with the Laws No: 6785 and 1605, and lastly in accordance with the Law No. 3194, which was enacted in 1985 and is already in effect. The law was prepared in order to complete houses with their settlements in accordance with plan, science, health, and environment conditions [TMMOB Mimarlar Odası, Türkiye'de Mimarlık, 2009]. The aforesaid laws were amended frequently, and these amendments were focused on not housing objectives for the future, but the elimination of failing aspects of the current mechanism and particularly of the implementations. Based on the Law No. 3194, regulations were made with an objective of local implementation and in parallel with the Law, the aforesaid regulations were amended, adjudicated, and supplemented over a period of time. The unique urban identity of Elazığ, which had been transferred from the city's almost three-thousand years old history to recent history, was not preserved after the Republic period and was almost terminated by zoning plans and intensive, unconscious zoning amendments made. The lack of protection of zoning plans was the result of urban planning, which excluded the architecture and was based on numerical values. The portrait that the local authorities tried to provide based on the limited economic opportunities, prolonged process of implementing the zoning plan, and chaos experienced with the intensive migration indicated that the solution is far beyond the opportunities of local dynamics. The Chamber of Architects, which was organized by six people in 1984, enabled the architect to participate in the process of zoning implementations and halted the speed of unplanned construction. This undocumented, unplanned construction without a project plan has partly come to an end within the process. One of the regulations based on the zoning law is the Regulation on Zoning for Planned Spaces. This regulation was made to be applied for the municipalities out of the scope of the law 3030, namely non-metropolitan municipalities [http://www.hkmo.org.tr/mevzuat/mevzuat\_detay.php?kod=35&turu=YO&tipi=MES]. The plans that will be implemented in locations within and outside the borders of

the municipality and municipal adjacent areas, as well as all of the official and private buildings that will be constructed are subject to the provisions of this Law [TMMOB Mimarlar Odası, Türkiye'de Mimarlık, 2009].

### History of the Regulation on Zoning for Planned Spaces:

The regulation on planned spaces came into force by the publication in the Official Gazette no. 18916, dated 02.11.1985 for the first time and was amended several times due to various problems and needs listed below in chronological order up to the present time.

The Official Gazette No. 19542, dated 12.08.1987

The Official Gazette No. 23072, dated 06.08.1997

The Official Gazette No. 23804, dated 02.09.1999

The Official Gazette No. 24108, dated 13.07.2000

The Official Gazette No. 26972, dated 19.08.2008

The Official Gazette No. 26994, dated 11.09.2008

It survived until today with the amendments, adjudications and supplements published in the Official Gazette No. 28253, dated 03.04.2012. These changes had no radical content and, in general, included amendments and descriptions for some of the definitions in order to clarify problems experienced in relation to implementation. By contrast, some of them contained contemporary concepts and some others implied the removal of outdated concepts from the regulation. However, finally several radical decisions were taken and implemented through amendments to the Regulation on Zoning for Planned Spaces, which came into force by being published in the Official Gazette No. 28664, dated 01.06.2013 and the Official Gazette No. 28759, dated 08.09.2013 [http://www.hkmo.org.tr/mevzuat/mevzuat\_detay.php? kod=35&turu=YO&tipi=MES].

### Innovations Aimed with the Legislative Regulation of 2013:

Through the legislative regulation made in June and September 2013; some radical regulations were achieved, such as;

- Performing implementations related to housing within the scope of definitions made by the Ministry of Environment and Urbanization and providing non-amendment to implementations through the plans and regulations made by the relevant administrations,
- Providing on implementation of plans on a measurable and equitable basis, preventing the emergence of non-projected structures, the development of urban areas without plan and aesthetics and preventing the condensation of cities without the necessary outfit,
- Performing zoning implementations in line with the general provisions specified by the Ministry and actualizing these implementations in accordance with the standards and in compliance with the access and participation of the handicapped in social life,
- Establishing a provision that the land belonging to public economic enterprises in the privatization program, their local zoning plans, and the appropriate zoning statuses will be prepared by the Prime Ministry Privatization Administration and be approved by the Privatization High Council in the privatization of public goods [İmar Kanunu ve ilgili Mevzuat, 2011],
- Creating new definitions for the construction system, preventing any unmeasured and uncontrolled

increases in housing rights designated by the zoning plan and prohibiting concretion not involved in the plan decision for the protection of green areas of private property,

- Preventing the inclusion of garbage sorting chimneys, water tanks, water cisterns, grey water storage reservoirs and cogeneration units, courtyards, interior gardens, outdoor pools, pergolas, ground terraces, parking lots, and garages in the calculation of floor area ratio,
- Preventing the implementation and granting of licenses without the determination of floor area ratios, lot coverage ratios (LCR), structure approach distances, and floor numbers regarding the areas under protection, such as special environmental protection areas, coastal zones, protected areas and forest lands, and thus providing for the improvement of areas under protection in direct accordance with the plan decisions, not the administrative regulations,
- Introducing the restriction for optimum size in connection with the spaces out of floor areas in order to prevent the use of areas for other purposes through legislation which defines the floor area ratio (FAR) as "the number obtained by the ratio of the structure's total floor areas to the zoning lot area",
- Granting a renewal license in accordance with the plan and legislation provisions on the receipt date of the first license, even if the administrative approval exceeds the license term of 5 years regarding the structures for which the license renewal is applied within the 5-year license term,
- Specifying that the implementation and revision projects made, which are subject to the first approved plan change with this revised provision, are very wrong regulations and makes the zoning plans, urban transformation, and plan revisions impossible to be made [Van Mimarlar Odası İmar Mevzuatı paneli, 2010],
- Granting the occupancy license for the structures in which construction is completed in accordance with the license and annexes thereto within the license term of 5 years, but the occupancy license is not issued and thus the license becomes null and void without re-issuance, provided that the inspection report is prepared,
- Granting the occupancy license for buildings that remain in the areas on which the amendment is made for zoning plans of existing structures, in accordance with the plan on the receipt date of the first license,
- Preventing the excavation of the fundamental ground without documentation related to the grades of the building, the lot, and the point where the grade level shall be determined,
- Preventing the excavation and grading for exposing basement floors in violation of the license annex project after the licensing and imposing a fine on individuals committing such a crime,
- Facilitating the receipt of necessary documents through electronic means, shortening the license term, and removing the necessity of the consent of all owners during the issuance of occupancy license or license procedures for the extension of the term after the completion of the structures' license and annexes thereto in accordance with the plan,
- Arranging surveys and projects both in hard copy and digital formats and introducing the obligation to add these documents to the national geographical information system,
- Approving the plot plans of that area, completing its technical infrastructure, not applying building and residential usage licenses for agricultural structures in the village built-up area, starting to construct the building within two years following the license date, and stopping the construction in a contrary situation in order to Building Permit [İmar Kanunu ve ilgili Mevzuat, 2011],
- Removing the obligation to submit documents to administration during application for a construction license that may be submitted after the licensing and some projects that do not pose an obstacle to the commencement of the construction,
- Preventing the assertion of points as prerequisite that are not included in the legislation,
- Preventing the subjection of surveys and projects to the approval of institutions or corporations other than competent authorities that are expressly specified under the laws or requirements of documents by such institutions or corporations,
- Preventing the requirement of documents in the license file or that may be accessed through electronic means and the documents not included in the legislation from the investor,
- Necessitating measures to be taken as required by relevant legislation with respect to the protection against fires and earthquakes, heat and water insulation, and environment and energy efficiency,
- Providing compliance of energy efficiency rules in the buildings in connection with the license procedures of existing buildings and the issuance of energy identity cards,
- In cases in which thermal insulation plans must be prepared for the buildings to be constructed and for the implementation in present buildings, the obligation that the construction and thermal insulation materials in the layer reached from the inner space to the outer space should meet TS 825 standards, and that each construction should have energy efficiency cards,[ İmar Kanunu ve ilgili Mevzuat, 2011 ]
- Performance of zoning inspections and demolition works by the provincial organizations of the Ministry of Environment and Urbanization [http://www.csb.gov.tr/turkce/index.php?Sayfa=fa aliyetdetay&Id=692].

Although changes have been made in several articles, the challenges in the process and implementation, as well as developments such as urban transformation and renewal, make achieving these changed articles difficult. According to the applicable zoning plan, the population density that will increase due to the rise in existing development rights, as well as the locations that land-owners will abandon to road and social reinforcement at certain rates were regulated in the interest of urban transformation partnership.

**The Article of the Legislation Amendment of 2013 with Respect to the Use of Floor Area Ratio:** The definitions of construction system are specified under Article 16 of the relevant legislation. The floor area ratio (FAR) is redefined under Paragraph 4 of this Article.

**In accordance with this definition, the Floor Area Ratio (FAR) is:** the number obtained by the ratio of the structure's total floor areas to the zoning lot area. The implementations are performed according to the net zoning lot in cases in which there is no (statutory) provision specifying that the floor area ratio shall be calculated according to the gross or net lot for the zoning plans. In the case that the floor area ratio is calculated on the basis of gross area, it is mandatory to abandon the areas reserved for the public at no charge. No license may be issued by calculating the floor area ratio on the basis of gross lot area for the locations where the sections reserved for the public are not abandoned at no charge. In the floor area; Terrace roof and roof gardens, canopies, marquees, courtyards on original or grading ground, ground terraces with tops covered by a light material such as penthouse that have one or more than one open edge and are in contact with each independent section, mezzanines that are adjacent to or separate from the building and have one or more than one open edge, garden and retaining walls. Open seats in which the top is closed by detachable-attachable material and have edges closed by windbreak glass panels, children's playground, open penthouses with at least one open side, open buffets, outdoor swimming pools, jumping towers, pergolas and summerhouses. 75 m<sup>2</sup> of each housekeeper's apartment at minimum as set forth by this Regulation and a total of 9 m<sup>2</sup> of gatekeeper's rooms and control cabins.

Shelter area no larger than 30% of the minimum shelter area necessary for the small mosque or building. Non-commercial sections of kindergarten and child care units no bigger than 750 m<sup>2</sup>, provided they do not exceed 5% of the total floor area. Parking lots constructed in the basement floor for the structure's own needs and parking lots constructed on the roofs of public buildings, excluding official institutions, educational and medical facilities, prayer halls, hotels, opera houses, dormitories, museums and libraries. Allocated as common spaces, such as; elevator shafts, fire escape stairs, 6 m<sup>2</sup> of fire safety halls, and skylights. Garbage and waste sorting chimneys, air chimneys, installation shafts and chimneys. Installation floors constructed only for the installation, provided they are no larger than 3% of the floor area included in the floor area ratio for the buildings with a necessity of an installation floor as required by the qualities of the buildings with a structural height taller than 60.50 m. In the building or the facility, such as; boiler room, heating center, treatment facility, water cistern, water grey storage reservoir, fuel and water tanks, silos, transformers, generators, cogeneration units, exchanger and hydrophore compartments. Located on the floors with all sides completely underground and within the structure approach limit, not individually forming independent sections or not being a part or attachment of an independent section and arranged in a size not exceeding 10% of total floor area and 3000 m<sup>2</sup>, and; social facilities and sport units with the nature of common spaces such as gymnasiums, game and hobby rooms, swimming pools, and saunas. Storerooms located on the basement floors with all sides completely under the original ground and no bigger than 5% of the total floor

area. Not having the possibility of being revealed by subsequent excavation, located on the basement floors with all sides completely under the original ground, not causing the appearance of an additional floor on the building sides and not individually forming independent sections, as well as; attachments for storage purposes, no greater than the gross independent section area of the independent section with commercial use and 20% of the gross independent section area of the independent section with residential use. Open or box stairs may not be included, including balconies and ones closed by detachable, attachable, and portable glass panels, open consoles and floor gardens and terraces, winder gardens, interior gardens, installation area, fire safety corridor, building entrance halls, floor halls, elevator lobbies, and floor and intermediate landings, provided that they do not exceed 20% of the total area included in the floor area ratio of the relevant floor. Neither the implementation may be performed nor the license be granted without the determination of floor area ratios, lot coverage ratios (LCR), structure approach distances and floor numbers regarding the areas under protection such as special environmental protection areas, coastal zones, protected areas and forest lands [<http://www.mevzuat.gov.tr/Metin.Aspx?MevzatKod=7.5.4877&sourceXmlSearch=&MevzuatIliski=0>].

**New Regulations Introduced by the Amendment on the Definition of Floor Area Ratio:** As provided in detail in the above description of the floor area ratio, common social spaces where independent sections may not subsequently be constructed, as well as the housekeeper's apartment having a size of 75 m<sup>2</sup> were excluded from the newly introduced regulation. This provision has extremely positive impact in terms of eliminating some problems resulting from the implementation in many cases, as well as encouraging the creation of residential and construction areas with strong social outfits. As introduced by the new regulation, the section that has the greatest impact on the right of floor area ratio use is the introduction of the following provision "open or box stairs may not be included, including balconies as well as the ones closed by detachable, attachable, and portable glass panels, open consoles and floor gardens and terraces, winder gardens, interior gardens, installation area, fire safety corridor, building entrance halls, floor halls, elevator lobbies, floor and intermediate landings, provided they do not exceed 20% of the total area included in the floor area ratio of the relevant floor". Before the amendment, the aforesaid implementation did not contain any provision such as the 20% ratio and included the balconies in the floor area, except for service stairs and open consoles. In addition, the relevant administrative entities are entitled to transfer a part of the building densities which will be re-determined in the form of the increase of the development rights as these rights to the zones will be determined. This, in turn, leads to many issues arising from the use of floor area ratio rights. This issue is discussed in detail in Chapter 3.

**Drawbacks and discussion likely to arise from the new regulation:** Sections with no independent components are common spaces possessed by the apartment owners for license projects with the construction license and an attachment. These spaces may neither be transformed into independent sections subsequent to the receipt of the occupancy license, nor sold for commercial or other reasons. Accordingly, the exclusion of the structure's social and technical outfits from the right of floor area ratio use, under the new regulation, is correct and pertinent

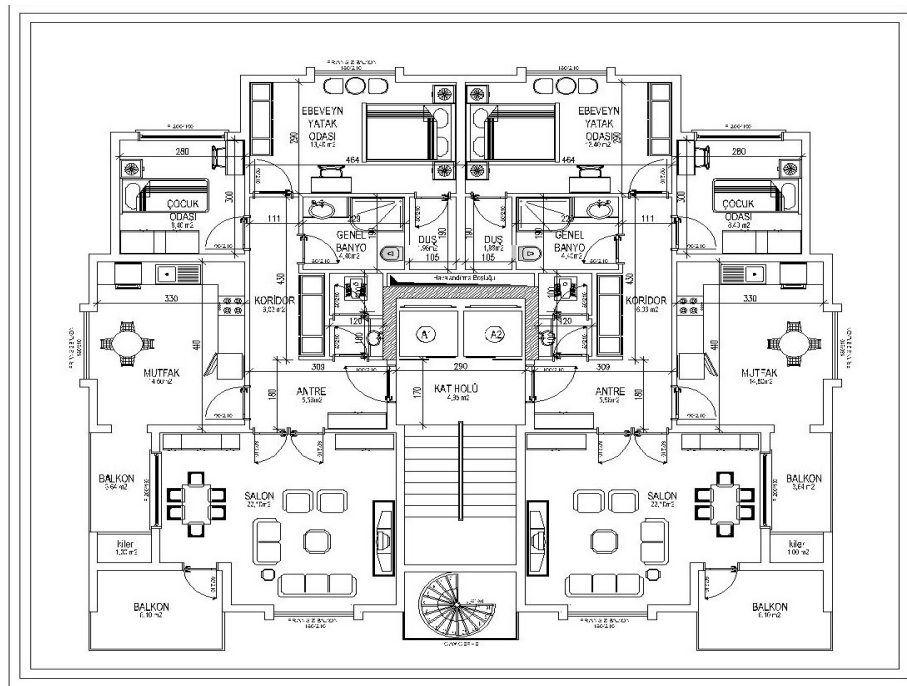


Figure 1. Sample Floor plan 2+1

in terms of urbanization with a strong social and technical infrastructure. However the drawbacks of the provision, which may enable enlargement of independent sections with simple changes after the receipt of occupancy license and may lead to at right of lot use to an extent greater than the measure defined under the zoning plan, should be carefully analyzed. The precautions thereof should be taken into respect. For an analysis on the aforesaid situation, a comparison is made between the floor area calculation of a sample project prior to the regulation of 2013 and the floor area calculation thereafter, and the results are analyzed. The project shown in Figure 1 is an example in order to review and analyze the situation. The sample project has an apartment plant of 2+1. It consists of a 75 m<sup>2</sup> housekeeper's apartment on the basement floor, a boiler room, a storeroom and shelter for the apartment building, and a total of 10 independent sections, 2 independent sections being on the ground floor and 2 independent section being on each of the 1st, 2nd, 3rd and 4th normal floors. The gross construction area of each floor (including balconies and skylights) is 230.00 m<sup>2</sup>. The aforesaid sample project shall be constructed on a lot of 767 m<sup>2</sup>. Information on the lot is as follows:

Lot area is 767 m<sup>2</sup>  
 Lot Coverage Ratio: 0.3  
 Floor Area Ratio: 1.50  
 Eaves Grade: 15.50  
 Area of Use: Residential area.

Table 1. Calculation of floor area ratio use prior to the amendment on the regulation

Floor Name	Gross Area (m <sup>2</sup> )	Net Area (m <sup>2</sup> )	Floor Area (m <sup>2</sup> )
Basement	230.00	230.00	0.00
Floor			
Ground Floor	230.00	16.52	213.48
1st Floor	230.00	16.52	213.48
2nd Floor	230.00	16.52	213.48
3rd Floor	230.00	16.52	213.48
4th Floor	230.00	16.52	213.48
Total	1,380.00	312.60	1,067.40

Based on this information for the use of the lot, a ground placement of  $767.00 * 0.30 = 230.10$  m<sup>2</sup> may be performed on this lot in accordance with the zoning law. The total construction area may be  $767.00 * 1.50 = 1,150.50$  m<sup>2</sup>.

**The Right of Floor Area Ratio Use and the Calculation of Floor Area Ratio according to the Former Regulation:** If the floor plan given in Figure 1 as the sample project had been designed in accordance with the former regulation; The sample project's gross floor area is 230.00 m<sup>2</sup>. Under this condition, it is compliant with the lot coverage ratio calculation for the lot.

Due to the fact that no independent section is regarded on the basement floor for the calculation of areas included in the floor area, the entire basement floor shall be excluded from the calculation of floor area ratio. According to the Former Regulation, the console sections of the balconies apart from their load-bearing systems, elevator shafts, skylights, fire escape stairs, and installation shafts on the ground floor and other normal floors will be excluded from floor area ratio. According to this calculation, the ground floor and each individual normal floor includes as follows:

Sections with consoles on the balcony (2\*3.04 m<sup>2</sup>) :6.08 m<sup>2</sup>  
 Ventilation Shaft :1.18 m<sup>2</sup>  
 Elevator Shaft Space :4.76 m<sup>2</sup>  
 Fire Escape Stairs :4.50 m<sup>2</sup>  
 Total : 16.52 m<sup>2</sup>

This total shall be excluded from the floor area ratio. In brief, due to the reasons mentioned above, a 1067.40 m<sup>2</sup> (Table 1) section of a residential building to be constructed on the total area of 1380.00 m<sup>2</sup> shall be included in the floor area, and the area of 312.60 m<sup>2</sup> shall be excluded from the calculation of the floor area. The ratio of the area included in the floor area to the total gross construction area is  $1,067.40 / 1,380.00 = 77,34\%$ .

**Table 2. Calculation of floor area ratio use after the amendment on the regulation**

Floor Name	Gross Area (m <sup>2</sup> )	Net Area (m <sup>2</sup> )	Floor Area (m <sup>2</sup> )
Basement Floor	230.00	230.00	0.00
Ground Floor	230.00	46.00	184.00
1st Floor	230.00	46.00	184.00
2nd Floor	230.00	46.00	184.00
3rd Floor	230.00	46.00	184.00
4th Floor	230.00	46.00	184.00
Total	1,380.00	460.00	920.00

Due to the fact that the right of floor area ratio use is 1,150.00 m<sup>2</sup> for the existing lot, the ratio of the floor area utilized by the owner to the right of floor area use is  $1,067.40/1,150.00 = 92,83\%$ .

**The Right of Floor Area Ratio Use and the Calculation of Floor Area Ratio according to the New Regulation:** If the floor plan given in Figure 1 as the sample project had been designed in accordance with the new regulation. The sample project's gross floor area is 230.00 m<sup>2</sup>. Under this condition, it is compliant with the lot coverage ratio calculation for this area. Due to the fact that no independent section is regarded on the basement floor for the calculation of areas included in the floor area, the entire basement floor shall be excluded from the calculation of floor area ratio. Balconies on the ground floor and other floors, elevator shafts, skylights, fire escape stairs, service stairs and installation shafts shall be excluded from the calculation (provided that they are not bigger than 20% of the gross floor area). According to this calculation, the ground floor and each individual normal floor includes as follows:

Living room balconies;  
(2\*6.10 m<sup>2</sup>) :12.20 m<sup>2</sup>  
Kitchen balconies  
(2\*3.64 m<sup>2</sup>) :7.28 m<sup>2</sup>  
Ventilation Shaft :1.18 m<sup>2</sup>  
Elevator Shaft Space :4.76 m<sup>2</sup>  
Fire Escape Stairs :4.50 m<sup>2</sup>  
Service Stairs :9.12 m<sup>2</sup>  
Floor Hall :4.85 m<sup>2</sup>  
Total of :60.41 m<sup>2</sup>

This total shall be excluded from the floor area ratio. Due to the fact that the gross floor area is 230.00 m<sup>2</sup>, 46.00 m<sup>2</sup> forming 20% of this area shall be excluded from the floor area ratio. Since 60.41 m<sup>2</sup> is greater than 46.00 m<sup>2</sup>, 46.00 m<sup>2</sup> shall be excluded from the floor area ratio. In brief, due to the reasons mentioned above, a 920.00 m<sup>2</sup> (Table 2) section of a residential building to be constructed on the total construction area of 1380.00 m<sup>2</sup> shall be included in the floor area, and the area of 460.00 m<sup>2</sup> shall be excluded from the calculation of the floor area. The ratio of the area included in the floor area to the total gross construction area is  $920.00 / 1,380.00 = 66.66\%$ . Due to the fact that the right of floor area ratio use is 1,150.00 m<sup>2</sup> for the existing lot, the ratio of the floor area utilized by the owner to the right of floor area use is  $920.00/1,150.00 = 80.00\%$ .

## Conclusion

The regulations implemented by the zoning legislation are of significant importance in terms of the actualization of such duties assigned to the State.

The duties assigned to the State under Articles 5 and 56 of the Constitution may be fulfilled through supervision and inspection within a specific plan and program. An environment arranged under a specific plan and program shall undoubtedly be included in the concept of a "healthy and well-balanced environment" specified under the Constitution, as well as an environment where air and water pollution resulting from urbanization and industrialization are prevented. However, all applicable laws and regulations of our nation are continuously revised for the purpose of correcting the emerging faults and irregularities, rather than projecting the future. In recent years, the Zoning Law has undergone a fundamental and radical change and by way of a parallel, the Regulation on Zoning for Planned Spaces has almost completely been renewed and put into effect particularly in 2013. The zoning implementations of Turkey have been carried out from 1950's to date in accordance with the Laws No. 6785 and 1605 and lastly in accordance with the Law No. 3194 which was enacted in 1985 and which is already in effect. The aforesaid laws were amended frequently and not the housing objectives for the future, but the elimination of the failing aspects of the current mechanism and particularly of the implementations were aimed through these amendments. Based on the Law No. 3194, the regulations were made with an objective of local implementation and in parallel with the Law, the aforesaid regulations were amended, adjudicated and supplemented in the course of time. One of the regulations based on the zoning law is the Regulation on Zoning for Planned Spaces. This regulation was made and finalized to be applied to municipalities outside the scope of the law, namely non-metropolitan municipalities.

The regulation on planned spaces came into force by the publication in the Official Gazette no. 18916, dated 02.11.1985 and was amended several times due to various problems and needs up to the present time. These changes had no radical content and, in general, included amendments and descriptions for some definitions to clarify problems experienced in relation to the implementation, while some of them contained contemporary concepts and others implied the removal of outdated concepts from the regulation. However lastly, some very radical decisions were taken and put into practice through the amendments on the Regulation on Zoning for Planned Spaces which came into force by being published in the Official Gazette No. 28664, dated 01.06.2013 and the Official Gazette No. 28759, dated 08.09.2013. Through the legislative regulations made in June and September 2013, positive and controllable radical regulations were achieved, blocking arbitrary implementations of municipalities and allowing the Ministry of Environment and Urbanization and the provincial organization to monitor local implementations. They were able to do so in such a manner that some definitions and concepts were reviewed, concepts such as the urban aesthetic board were introduced to the literature, social and technical outfit areas were encouraged, documents could be submitted through electronic means, and new approaches such as energy efficiency and energy identity cards were introduced. In addition to these positive arrangements, some provisions susceptible to abuse were also introduced. The floor Area Ratio (FAR) was redefined under Paragraph 4 of Article 16 in which the definitions of the construction system were regulated. The section that had the greatest impact on the right of floor area ratio use is the introduction of the following provision "open or box stairs may not be included, including balconies as well as

the ones closed by detachable, attachable, and portable glass panels, open consoles and floor gardens and terraces, winder gardens, interior gardens, installation area, fire safety corridor, building entrance halls, floor halls, elevator lobbies, and floor and intermediate landings, provided that they do not exceed 20% of the total area included in the floor area ratio of the relevant floor". When the aforesaid provision is reviewed according to the sample project. In accordance with the old status of the legislation, a 1067.40 m<sup>2</sup> section of a residential building to be constructed on the total area of 1380.00 m<sup>2</sup> shall be included in the floor area and the area of 312.60 m<sup>2</sup> shall be excluded from the calculation of the floor area. The ratio of the area included in the floor area to the total gross construction area is 77.34%, while the ratio of the floor area utilized by the owner to the right of floor area use is 92.83%. In accordance with the new status of the legislation, a 920.00 m<sup>2</sup> section of a residential building to be constructed on the total area of 1380.00 m<sup>2</sup> shall be included in the floor area and the area of 460.00 m<sup>2</sup> shall be excluded from the calculation of the floor area. The ratio of the area included in the floor area to the total gross construction area is 66.66%, while the ratio of the floor area utilized by the owner to the right of floor area use is 80.00%. The old legislation and the new legislation were comparatively established, and it was seen that the right of lot use was increased by a gross-net ratio of 11-12% due to the amendment on the legislation made for the same lot.

This situation directly resulted in unjust enrichment and is susceptible for abuse by the owners such as using the sections of 20% out of the floor area at the maximum level during the licensing of the construction, as well as including these areas in independent sections and enlarging these sections after obtaining the occupancy license. The aforesaid amendment on the legislation opened the door for positive developments in general, whereas the amendment on the definition of floor area appears to be able to allow unlawful profits, unjust enrichment, and abuse in relation to implementations in the future. Consequently, reconsidering the above-mentioned negative sections of the regulation is of vital importance for a healthy and livable urbanization.

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