

ABOUT THE PROBLEMS OF MANAGEMENT OF LANDS OF PUBLIC BUILDINGS IN UKRAINE

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The article is dedicated to the consideration of problems related with the management of lands of public buildings. The definition of management of lands is given, an analysis of planning documentation has been made.

Lands of public buildings, management of lands, planning documentation, general plan of the settlement.

Lands of public buildings are the part of the category of lands of residential and public buildings. These lands can be located only in the settlements. They are considered as the foundation, the location and the territorial basis of the building. The development of cities makes it necessary to ensure the best use of these lands, which in turn requires strict compliance with the conditions regulated by law and the order of their availability and use. Despite the fact that the lands of public buildings occupy a small area in relation to other lands in settlements, its significance occupies a leading position, because buildings and structures of administrative, commercial, cultural, municipal enterprises, institutions and organizations are located on their territories.

The successful resolving of the problem for the most rational use of land of public building requires the theoretical development of this issue.

A study of some aspects of the management and use of lands of public buildings carried out by the leading scientists of land and legal science: V.I. Andreytsev, E.O. Ivanova, I.I. Karakash, P.F. Kylinich, A.M. Miroshnichenko, M.V. Shulga and others.

Lands of public buildings are kind of lands of building on which the buildings and structures for public use are settled: hospitals, universities, schools etc. A detailed list of public buildings is provided in the Instruction for the technical inventory of real property [2], developed in accordance with DBN 2.2-9-99 «Public buildings and facilities».

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According to Art. 38 of the Land Code of Ukraine (here and after – LC) «the lands of residential and public buildings include land within settlements ...». Article 173 of LC provides that the boundary of the region, village, town, city or area in the city is a conditional closed curve on the surface, which separates the territory of the district, village, town, city or area in the city from the other areas. The boundaries of the district, village, town, city or area in the city are established and changed according to land development projects on the establishment of (changes in) the boundaries of administrative units. Land development projects of the boundaries of settlements developed on the basis of general plans of those settlements.

The scientific literature calls management as a based on the law, purposeful activity of state authorities, local governments, citizens and their associations to ensure the efficient and effective use of land. The management of use of lands of residential and public buildings, according to representatives of land and legal science, is based on the principles that should be considered when making regulations: compact construction while using the lands of residential and public buildings; sustainable development of settlements; taking into account the public and private interests in the management of these lands; public participation in the discussion and decision-making in the direction of urban planning, etc.

Former theoretical models of the formation of land relations in the settlements, as well as public management, are now outdated, as they were developed in the Soviet legal science, and were based on different economic and legal principles. That is why they can not be applied nowadays. A new theoretical basis of legal support of managing of lands within settlements is forming nowadays, which will take into account new legal principles and would be focused on the efficient development of land relations in the new economy. B.V. Erofeev noted that the planned and the most rational distribution of productive forces and the population creates prerequisites for effective regulation of the emergence and growth of cities and the urban population. [4, p. 54]

An important feature of the management of land use in the sphere of social development is the implementation of dual planning. The basis of such plan is put into urban planning and land management documentation. Thus, zoning is a kind of spatial planning, which takes place within the settlements. Zoning for development or other uses is determined by the area development plan, the requirements for the design and content of which are provided by the Law of Ukraine «On regulation of urban development». However, land use planning is also carried out on the basis

of land documents. Thus, according to the Law of Ukraine «On State Land Cadastre» the cadastral land zoning is carried out within the territory of Ukraine. The country is divided into cadastral zones, which include cadastral districts. The latter are legally called as a compact territory defined for the rational organization of cadastral numbering and boundaries of which usually coincide with natural or artificial boundaries (rivers, streams, canals, forests, streets, roads, engineering works, fences, building facades, line structures etc.). For the cities of Kiev, Sevastopol and the cities of regional importance cadastral zones and cadastral districts are usually identified, but for the cities of regional subordination there are only cadastral districts.

A few words should be said about the urban cadastre, which is a state system of storage and use of geospatial data for the territory of the administrative-territorial units, environmental, geotechnical conditions, information resources, building codes, standards and government regulations to satisfy the information needs in the planning areas and construction, the formation of public sector component of geographic information resources [5]. Due to the fact that the legal regime of the land and buildings located on it are inextricably linked, so the data of the urban cadastre is very important for effective management. We agree with the opinion of the scientists that the urban cadastre has the right for an independent existence from the land cadastre.

Most of the lands of public buildings are in the municipal property. Disposition on these lands are carried out by village, town and city councils, whose powers in the sphere of land relations are defined by the Land Code (Article 12) and the Law of Ukraine «On Local Self-Government in Ukraine». These authorities convey lands from the communal ownership into a private property of individuals and legal entities, or provide for the use, including for hire.

Nobody has the right to decide the question on the use of lands of public buildings without prior approval from the local councils. It can be said that local councils carry out executive and administrative activities in the lands public buildings (as well as for other categories of lands located within settlements). Executive acts of state bodies is usually associated with the order, because in this version the local councils are taking management decisions. Executive and administrative activity is expressed in total submission of the managed object to of its subject. The subjects of management are endowed with defined terms of reference, the right to take legal and individual acts that contain the mandatory prescriptions. [6]

The need to manage the processes of land use in interests of the population of the settlements, society and the state requires regulatory and methodological base and specific recommendations. It will be possible to ensure the interests of different land users if those recommendations are provided. Management in the sphere of using lands of public buildings should be carried out in accordance with town planning documents to ensure the efficient and effective use of public land development, favorable living conditions of the population.

According to the Law of Ukraine «On regulation of urban development» (Article 1) the planning documentation is defined as approved text and graphics materials on the management of planning, building and other land use. [7] There are planning documentation: 1) nationwide – is a Master Plan for planning the territory of Ukraine (the Law of Ukraine «On the general planning scheme in the Ukraine»), 2) regional – planning scheme areas, regions and within regions having a special administrative status or special environmental situation, and 3) local – is expressed in the general plans of settlements and the number of corresponding documents (zoning plans, plans of red lines, etc.).

Planning documentation as the principal instrument of government regulation of territory planning is a process of regulating the use of the territory, which consists of the creation and implementation of planning documentation, adoption and implementation of appropriate solutions.

The general plan of a settlement takes a leading place among the planning documentation. It is the basis for establishing the boundaries of the appropriate administrative-territorial unit. It defines the main directions of the future use of the land within the boundaries of the village for housing and public building, engineering and development of the transport network, the implementation of green building and landscaping, etc.

This document defines: 1) the boundaries of functional areas, priority and permitted kinds of using and building of territories; 2) territories with constructional, sanitary, environmental and other restrictions on their use; 3) sequence and priority of development and other land use etc.

It is necessary to notice that a significant number of settlements of our country (first of all – villages and towns) have no general plans. The main reason for this problem is administrative, because the mechanism of making and development of planning documentation has a great range of different state bodies involved in it. All this leads to such problems as: it is impossible to establish a real area of the village, and with it the real number of its population; a chaotic building of settlements is carried out; the land

has undefined boundaries and ownership, etc. It seems appropriate to reduce the number of agencies involved in the «permissive-project work», which will contribute to a more rapid and effective adoption of general plans for settlements and other planning documentation.

A detailed plan specifies principles of the general plan of the settlement. It directly regulates the use of lands of public buildings. It is developed to determine the planning organization and functionality, spatial composition and parameters of the building and landscape organization of the quarter, the neighborhood and other parts of the territory of settlements. It is a detailed plan which determines the functionality, mode and parameters of building of one or more land plots. It also determines the needs for enterprises and public service facilities of the settlements and places of their location. In other words the detailed plan determines where within a particular quarter or neighborhood kindergartens, schools, shops should be located. The red lines and the lines of regulation of building are determined by the detailed plan. The determination of the last two is given in the Law of Ukraine «On regulation of urban development»: the red line is defined in the planning documentation regarding points of geodetic network boundaries of existing and projected streets, roads, squares that share the building area and the territory of other purposes; the line of regulation of building is defined in the planning documentation border of location of buildings and structures in relation to the red lines, the boundaries of individual plots of land, natural boundaries and other areas. Thanks to the red lines and the lines of regulation of building the boundaries of land plots can be defined, their functional purpose can be clearly established.

Nowadays the management of lands of public buildings must be based on the rational use of land within settlements for providing the population of cities, villages, towns by full aspects of development of personality, improving efficiency of social production. Lands of public buildings are intended precisely to satisfy the needs of society, the public interest, that's why the proper management, using them according to the settlement's planning documents is an important element in ensuring the well-being of the population.

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