

532.

On basis of Articles 92 and 155 of the Planning Law – Consolidated text (Official Gazette of Republic of Srpska, no. 84/02, 14/03, 112/06 and 53/07 ), Article 30 of the Law on Local Self-Governance (Official Gazette of Republic of Srpska, no. 101/04, 42/05, and 118/05) and Article 32. of the Statute of Banja Luka City (City of Banja Luka Official Gazette, no. 25/05), Banja Luka City Assembly, at its 46<sup>th</sup> session held on October 8, 2007, passed the

**D E C I S I O N**  
**on legalization of illegally built structures**  
**on the territory of Banja Luka City**

Article 1

This Decision determines the conditions and procedure, amounts, deadlines and methods of payment for legalization, that is temporary retaining of structures – on the basis of regulation, acquisition and use of construction land on the territory of city of Banja Luka (hereinafter: the City).

Article 2

The legalization, in sense of this decision, implies subsequent issuance of land use permit, building permit or decision o temporary retaining of structure – constructed without construction permit, in accordance with provisions of the Planning Law – Consolidated text (Official Gazette of Republic of Srpska, no. 84/02, 14/03, 112/06 and 53/07).

Article 3

Expressions used in this Decision have the following meaning:

- „**illegally built structure**“ is the structure (or part of the structure) built or commenced construction without building permit, that is structure which had been built with discrepancy against the issued building permit;
- “**permanently legalized, illegally built structure**” is structure for which, after conducted procedure, the decision on subsequent building permit is passed;
- “**temporary retained illegally built structure**” is the one for which, after conducted procedure, decision on temporary retaining is passed;
- „**demolition**” is the procedure of removal of illegally built structure for which, in the conducted procedure, it was established that there is no possibility for permanent or temporary retaining.
- “**technical documentation**”, in sense of this decision, implies design of constructed structure;
- “**urban planning documentation**” is set of documents including: spatial, town, regulatory plans, town designs, plans of land division and planning-technical requirements, prepared within activities of spatial planning as well as documents with data from spatial information system.

Article 4

Under provisions of this Decision – legalization is going to be done for the structures illegally built on territory of Banja Luka city, which were built after completed aerophotogrametric recording, or until June 18, 2004.

Existence of illegally built structures is defined solely on the basis of aerophotogrametric image.

#### Article 5

Following structures shall not be considered as illegally built:

1. structures built before 1969 within the size of aerophotogrametric recording - 1969;
2. structures built before May 31, 1974 on the territory for which (according to existing regulations at that time) building permit was not necessary, whose borders are shown on the map – which is integral part of this decision and for which investor has the certificate from competent body, or obtains the certificate on existence of structure from Republic administration for geodetic and property-legal issues, PJ Banja Luka;
3. structures for which investor has a decision on rehabilitation.

#### Article 6

Legalization of illegally built structures shall be initiated upon the request of authorized person (investor of illegally built structure, or person who acquired illegally built structure on other – legal way) for issuance of subsequent land use permit, subsequent building permit or decision on temporary retaining.

Upon previously obtained decision on subsequent land use permit, the subsequent decision on construction permit, or decision on temporary retaining is to be issued to the investor.

Request from paragraph 1 of this article shall be submitted to the Planning department of the Administration Department of Banja Luka City (hereinafter: competent Body).

#### Article 7

Request for subsequent issuance of the decision on land use permit and construction permit from Article 6 of this decision shall be submitted simultaneously within six month from the day of application of the decision.

The right for submission of this request shall be forfeit by expiration of this deadline.

#### Article 8

With the request from Article 7 paragraph 1 enclosed shall be:

- land-book excerpt, contract or corresponding document of competent governmental body or court, as well as other evidence which serves as a ground for acquisition of ownership;
- title deed;
- copy of cadastre plan;
- updated geodetic recording – with sketch of the plot, structures and size of structures;
- certificate on existence of structures (aerophotogrametric record);
- photo of structure;
- eventual approvals, stipulated by Article 71 paragraph 1, items d), đ) and e) of the Planning Law.

After issuance of subsequent land use permit, the investor shall provide as well:

- design of constructed structure – two copies;
- evidence on ownership (land registry book excerpt, sale and purchase agreement, deed of donation, decisions of competent governmental bodies, courts and other evidences serving as ground for acquisition of ownership) or land lease agreement or evidence on right of land use for structures which are going to be retained temporary;

- special approvals for cases determined by other regulations.

#### Article 9

In conducting of procedure, upon submitted request from the previous article, competent Body is obliged to make a conclusion from the evidence and to define all important facts, primarily consider – whether structure in question complies to relevant plans or other documents which in sense of the Planning Law, supersede the plans.

Competent Body shall permanently legalize illegally built structure if it, by its purpose, size, position and function – meets (in sense of the Planning Law) conditions for obtaining the subsequent land use permit or approval for construction.

If illegally built structure, on the day of submission of request from the Article 8 of this decision, has not been completed, the execution of works necessary for completion of commenced structure, shall be approved by subsequent decision on land use permit, and, as such, be legalized in accordance with provision of this decision.

#### Article 10

Exceptionally of the article 9 of this decision – in cases of insignificant discrepancies from planned horizontal and vertical dimensions, dislocation of structure in relation to given construction line and construction parcel – illegally built structure may be permanently legalized, if competent Body, by analyzing location, determines that it corresponds with purpose of the land defined by relevant planning document, that executed works do not disturb nearby structures and that construction concerned is in accordance with construction on that location.

In analysis of location and assessment of all relevant facts, the competent Body may obtain expert opinion of authorized company or other legal entity – responsible for preparation of planning document.

#### Article 11

If illegally built structure does not meet conditions from Articles 9 and 10, it shall be retained temporarily – at longest until the final decision on land use permit for construction of structure or for other works – due to bringing land to its final purpose, determined by relevant planning document.

#### Article 12

Decision from previous Article can not be passed in following cases:

- if a land slide is on the location;
- if the structure is located within the area of immediate and the first protection zone, water intake area Novoselija – Karanovac (Official Gazette of the Banja Luka municipality, no. 7/77, 5/90, 10/91, 1/93, 3/93, 2/94 and Official Gazette of Banja Luka City, no. 2/00).

#### Article 13

For the temporary retained structure, a temporary construction parcel shall be determined – which user has to regulate and maintain in accordance with given planning-technical conditions.

Land division can not be made on basis of temporary construction parcel.

## Article 14

If illegally built structure, on the day of taking a decision on subsequent land use permit for temporary retained structure, is not completed, execution of works – necessary for completion of structure - shall be approved by the same decision.

By decision from article 1, the increase of horizontal dimensions of structure, or increase of vertical dimensions over commenced floor can not be approved.

## Article 15

Decision on subsequently obtained land use permit expires if investor, within deadline prescribed by law, does not enclose documentation from article 8, paragraph 2 to application for issuance of subsequent land use permit, subsequent approval for construction or decision on temporary retaining.

## Article 16

For residential structures BGP up to 400 m<sup>2</sup>, as well as for auxiliary and commercial structures, a design of constructed structure implies technical documentation – prepared in scale 1 : 100, except for structures which horizontal projection is less than 50m<sup>2</sup>, when technical documentation is to be prepared in scale 1:50. For residential structures BGP over 400 m<sup>2</sup>, residential-commercial, commercial and other structures, regardless to BGP, technical documentation shall be prepared in accordance with provisions of the Planning Law.

Audit of project documentation from the previous paragraph shall be performed by competent Body by a commission or through project organization – registered for preparation of relevant technical documentation and which can be entrusted for works.

## Article 17

A design of constructed residential building BGP up to 400m<sup>2</sup>, as well as auxiliary and commercial facility, includes: general, textual and graphical part.

- General part is standard
- Textual part includes:

1. report on level of completeness of the structure (enclosure: form no. 1);
2. statement on the structure construction method, as well as other hidden works which can't be seen (control calculation of construction only for basic elements of structure construction and fundamental construction – it is to be done only in case when damage is identified, such as fractures, cracks and deformations of construction elements, in range over 6,00)(enclosure: form no. 2);

3. technical reports on conditions of structure, installations, infrastructure network and external design (special overview on fulfilled conditions for use in sense of stability, that is safety);

Bill of quantities and priced bill of quantities (estimation of executed works cost).

- Graphic work includes:

1. site plan;
2. basis of all floors and roof;
3. characteristic longitudinal and cross-section through structure;
4. all appearances (façade) of the structure, or photos – if the structure is completed;
5. all enclosed documents for all installations – for structures which are not in function due to incompleteness, while for completed structures, that is for those in function – shall

be enclosed: verified invoices of competent utility companies as an evidence that investor is registered as user and attestation on measuring of electric installation.

#### Article 18

For illegally built structures which were built in period from 1969 until June 18, 2004, the planning expense shall be paid – in amount of 60% out of total expenses for planned structure on same location.

If the investor of illegally built structure pays in cash, expenses are 40% out of planning expense for planned structure on the same location.

The amount of municipal fee for illegally built structures from paragraph above is defined in accordance with existing regulations – in amount of 60%.

If investor pays in cash the single amount of the municipal fee is 40% of total amount.

For illegally built structures, built for market (collective residential and residential-commercial facilities and commercial buildings), the planning costs and municipal fee shall be paid in full amount.

Deadlines and method of payment of fees are regulated by the Decision on construction land.

#### Article 19

All other fees (cadastre, transfer of agriculture land into construction land) – for illegally built construction from the previous article, shall be paid in accordance with existing regulations.

#### Article 20

Investor or owner of illegally built structure which is temporary retained, shall pay the fee for planning of construction land, and municipal fee – in percentage of 15% out of total fee amount for permanent legalization.

#### Article 21

Decision on temporary retaining of illegally built structure gives legal ground for temporary connection to utility and other infrastructure installations (water supply system, sewage, electric and heating installations, public road, gas supply system etc).

#### Article 22

The owner of illegally built construction, which is temporary retained, at longest until final decision on land use permit for construction of structure, or for other works – due to bringing land to its final purpose, defined by relevant planning document - is obliged to remove temporary retained structure on his own expense or under threat of force of execution.

In case of removal of the structure from previous paragraph, the owner has no right for reimbursement.

#### Article 23

For illegally built structure, or commenced structure, for which owner shall not submit a request for temporary retaining or decision on temporary retaining, until the deadline defined in article 7 of this decision, or if that request is validly rejected, as well as for structures commenced without building permit – after the day of aerophotogrametric

recording – competent inspection body shall pass a decision on demolition of structure pursuant to article 138 item 8 or 9 of the Planning Law.

#### Article 24

Procedures initiated before this decision came into effect, and which are not finished, shall be carried out in accordance with provisions of this Decision, as well as the procedures initiated upon the request of the party for a change of legally binding decision on land use permit for legalization, on basis of which there was no approval for construction adopted, and they were issued after effectiveness of the Law on construction land of Republic of Srpska (Official gazette of Republic of Srpska, number 112/06).

For structures whose construction started after the aerophotogrametric recording, or after June 18, 2004, the procedure for issuing of approval for construction shall be guided by valid legal regulations.

#### Article 25

This Decision comes into effect on the eighth day from the day it was published in Official gazette of Banja Luka city, and it shall be applied from January 01, 2008.

#### Article 26

With the day of effectiveness of this Decision, the Decision on status of illegally built structures (Official gazette of Banja Luka city number 9/03) comes out of the force.

Ref: 07-013-646/07.

CHAIRMAN OF THE  
CITY ASSEMBLY  
**Slobodan Gavranovic, s.r.**

### **533.**

On basis of Article 32 of the Statute of Banja Luka city (Official gazette of Banja Luka city, number 25/05), the Assembly of the Banja Luka city at the 46<sup>th</sup> session held on October 08, 2007, adopted the Decision on legalization of illegally built structures in area of Banja Luka city, with the following

#### **CONCLUSION**

1. The City Assembly commits the Mayor and Planning Department to, in period from the days when the Decision comes into effect to the day of its application, plan and provide implementation of organizational, personnel and other necessary measures for undisturbed implementation of this Decision.

2. Planning Department is committed to, in third quarter of 2008, and for needs of City Assembly, prepare the necessary information on effects of application of this Decision and problems related to its practical implementation.

3. This Conclusion comes into effect on the day of its adoption, and it shall be published in Official gazette of Banja Luka city.

*Number: 07-013-659/07.*

CHAIRMAN OF THE  
CITY ASSEMBLY  
**Slobodan Gavranovic, s.r.**