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THE SIGNIFICANCE OF ROADS FOR THE DEVELOPMENT OF REGION

ZNAČAJ PROMETNICA U RAZVOJU REGIJE

ABSTRACT

This paper will focus on the importance of roads in the development of a region, particularly Eastern Croatia with the special emphasis on Požega-Slavonia County. The main characteristic of the construction of roads is connecting people from different parts of the county in order to ensure their participation in all aspects of life together with free movement of goods and passengers.

County and local roads are of great importance as a part of the road network in the distribution of traffic at a lower level. Modernization in all aspects of life requires modernization and development of transport infrastructure, which leads to faster and better flow of transport services.

Based on the provisions of the Road Act public roads are divided into: motorways, state roads, county roads and local roads. County roads are public roads connecting county seat with towns and municipalities. Local roads are public roads connecting the towns or a municipality with settlements of more than 50 residents within the town or municipality.

County Roads Administration is an institution for management, construction, reconstruction and maintenance of county and local roads. One of the main activities of County Roads Administration is the construction of roads. In the process of performing its basic activity the County Roads Administration faces issues with the ongoing implementation of the actions required for the settlement of property rights relations. Settlement of property rights relations is the key part in the procedure of road construction. The issue of resolving property rights relations arises from complex property relations of real estate that are necessary for the construction of a particular road.

The aim of this paper is to show the way and phases in the process of resolving property relations concerning real estates planned to become an integral part of the road, the conclusion of contracts with property owners as well as the expropriation procedure that occurs if the owners disagree with the donation or sale of their property.

Keywords: county and local roads, County Roads Administration, property rights relations, compensation for purchase and sale of real estate, donate, expropriate

SAŽETAK

Rad obrađuje značaj prometnica u razvoju regije i to Istočne Hrvatske, točnije Požeško-slavonske županije.

Osnovna značajka izgradnje prometnica je povezivanje stanovništva jednog dijela županije s njenim ostalim dijelovima. Tako se ujedno omogućuje ravnomjerno sudjelovanje stanovnika županije u svim aspektima života te dolazi do slobodnog kretanja robe i putnika.

Županijske i lokalne prometnice od izuzetne su važnosti kao dio cestovne mreže u raspodjeli prometa na nižoj razini. Modernizacija u svim životnim aspektima iziskuje modernizaciju i razvoj prometne infrastrukture, što vodi prema bržem i kvalitetnijem protoku prometnih usluga.

Temeljem odredaba Zakona o cestama javne ceste se dijele na: autoceste, državne ceste, županijske ceste i lokalne ceste. Županijske ceste su javne ceste koje povezuju sjedišta županija s gradovima i općinskim sjedištima. Lokalne ceste su javne ceste koje povezuju sjedište grada, odnosno općine s naseljima s više od 50 stanovnika unutar grada ili općine.

Županijska uprava za ceste (ŽUC) je ustanova za upravljanje, građenje, rekonstrukciju i održavanje županijskih i lokanih cesta. Upravo je izgradnja prometnica jedna od osnovnih djelatnosti županijske uprave za ceste. U procesu obavljanja osnovne djelatnosti županijska uprava za ceste nailazi na problematiku u tijeku provođenja radnji potrebnih za rješavanje imovinskopravnih odnosa. Rješavanje imovinskopravnih odnosa je ključni dio faze u postupku izgradnje prometnica i nužno je kako bi uopće došlo do realizacije projekta predviđene prometnice. Problematika rješavanja imovinskopravnih odnosa proizlazi iz kompleksnih vlasničkih odnosa na nekretninama koje su potrebne za trasu prometnice.

Cilj rada je prikazati način i faze u postupku rješavanja imovinskopravnih odnosa koji se tiču nekretnina predviđenih da budu sastavnim dijelom prometnice, sklapanje ugovora s vlasnicima nekretnina te postupak izvlaštenja do kojega dolazi ukoliko vlasnici nisu suglasni s darovanjem ili prodajom svoje nekretnine.

Ključne riječi: županijske i lokalne ceste, županijska uprava za ceste (ŽUC), imovinskopravni odnosi, naknada u svrhu kupoprodaje nekretnina, darovati, izvlastiti

1. Introduction

In accordance with the provisions of Article 2 of the Road Act: "Public roads are roads that anyone can use in the manner prescribed by the Road Act and other regulations. Public roads are public property in general use owned by the Republic of Croatia". "The public road will be registered in the Land Register on the basis of a final occupancy permit as public good in general use and as inalienable property of the Republic of Croatia with the entry of the County Roads Department as a person authorized to manage the county and local roads." (Road Act, Official Gazette, No. 84/11).

The overall objective of the development of public roads in Pozega-Slavonia County is the effective connecting of the main county centres and linking the same with neighbouring counties. It is also necessary to ensure that the newly renovated and newly built traffic systems respect the criteria of environmental protection, all in accordance with the provisions of the European Union. For that reason the vision of the County Roads Administration of Pozega -Slavonia County is to ensure high quality of traffic connections for Pozega-Slavonia County.

Map 1 Classified public roads in the Republic of Croatia



Source: website of the Ministry of Maritime Affairs, Transport and Infrastructure www.mppi.hr

Roads: 26,958.5 kilometers in total length

- Administratively divided into:
- Motorways and half-motorways: 1,416.5 kilometers
- State roads: 6,858.9 kilometers
- County roads: 9,703.4 kilometers
- Local roads: 8,979.7 kilometers

2. Phases in the process of constructing the roads

Upon completing the procedures which precede the process of settlement of property relations (geodetic survey, preliminary design, obtaining the location permit and making of parcelling study), next step is to make contact with property owners whose real estates are on the road route and prepare the price calculation for the same or donation for the purpose of solving property-rights relations.

Owners with their free declaration of will sign a contract on the donation or purchase and sale of real estate and notarization allows the registration of ownership of part of their property in the Land Register in the name of the Republic of Croatia. Only after obtaining the final occupancy permit, the County Roads Administration can be enrolled in the Land Register as a legal person authorized to manage the county and local roads. A large number of problems arise in the first steps of the process of realization of the project in order to build roads

3. Problems in resolving property-rights relations

As an example we will take a possible future investment of the County Roads Administration of Pozega-Slavonia County in the area of the town Pleternica in terms of extension of the existing local road with the purpose of enabling better traffic connection for the population of that part of the county.

Upon examination of the list of particles which are according to the project supposed to become an integral part of the alignment road we find different data in deeds of title from the cadastre (which is in charge for the description of property) from the data in the Land Registry of the Municipal Court (where the rights to the property are registered). The particular properties are the integral part of the contract that the County Roads Administration must conclude with its owners in order to resolve property relations and in the name and for the account of the Republic of Croatia acquire the ownership of the property. In preparing the contract the County Roads Administration of Pozega-Slavonia County is led by the records in the Land Registry of the Municipal Court (registered land certificates) which establish the right of ownership.

Properties are frequently under some sort of burden. Burdens can be record of personal easement or rights of lien in favor of banks. In addition, there are records of disputes over real estate. In order to accomplish the possibility of implementation of previously signed contracts into the Land Registry recorded rights must be systematically dealt with by sending an application to the holder of the lien-bank for granting an approval for the conclusion of the donation contract or purchase and sale contract with the owner of the property where there is a record on the grounds that the realization and implementation of a road construction project will increase the market value of the property, which is of a great significance for the registered holder of the lien-bank. Upon conclusion of a contract with a potential donor or seller for a particle entering the route of the road, the user of the lien is requested a cancellation clause, a statement to delete the lien on the separation of the particle, which is now designated as: road, while maintaining a lien on the rest of the particle.

Furthermore, common are the cases of registration of the right of servitude, for example, Croatian Electrical Power Industry d. d. (Hrvatska elektroprivreda d. d.), in the registration of the right of servitude for the installation of transmission lines for which a cancellation declaration and the right of personal servitude also has to be obtained.

All mentioned above is a very complex process that requires cooperation between the investor and the property owner with the purpose to achieve a larger goal which is the construction of a road which means better connection and modernization of the road network, as well as the increase in the market value of the property which is located on the road route.

In the process of solving the property-rights relations property owners are very frequently dissatisfied with the offered price for the purchase of their property, or are not willing to donate the same and then it is necessary to access the procedure of complete expropriation. The basis for expropriation is to determine the interests of the Republic of Croatia which is derived from the Provisions of the Road Act.

In accordance with the provisions of Article 5 of the Law on Expropriation and Compensation: "the complete expropriation terminates the right of the former owner and other rights to the property."

"The property in terms of paragraph 1 of this Article may be expropriated in order to construct building or facilities of economic infrastructure, cemeteries and other objects of municipal infrastructure, health, educational, cultural and sports buildings, industrial, energy, water management, transport and electronic communication facilities, buildings for the needs of the Croatian judiciary, army and police, as well as exploration and exploitation of minerals and other resources." (Law on Expropriation and Compensation, Official Gazette No.74/14).

The new Law on Expropriation and Compensation brings novelty related to the expropriation of more than ten real estates and more than ten property owners in terms of public offering to the owners. Public offering must be published in the media or through the press for becoming known to a wider range of people, in order to agree to sign a contract and the offered price. In cases when owners still do not agree on the price offered follows the procedure in front of the State

Administration Office. The final outcome of the procedure for property owners and holders of personal rights is a fair compensation in the market value of the property, while for the County Roads Administration as an investor it means obtaining the expropriation order by the competent body. Additionally, the investor and the user of expropriation bear various costs of the procedure. Although the previously described process is shortened and may not seem complicated, in practice it requires the loss of valuable time throughout the course of the proceedings until the final stages of implementation of the project. The investor or contractor in the construction of a road depends on weather conditions to a large degree and often due to all the above-described phases of the process loses a lot of time before the construction of the road starts.

4. Conclusion

Region of Eastern Croatia, as a region in which the main economic activity is agriculture is not as competitive as other regions and that is why the investments are necessary.

Investments in road infrastructure are extremely significant because they enable faster connectivity within the transport network, which greatly affects the development of tourism and winemaking in the area of Pozega-Slavonia County.

In order to improve transport links and for the purpose of construction of planned road in the realization of property relations the investor of construction of a particular road is faced with many problems, from obtaining the required documentation for the purpose of preparation of the contract to the loss of time in the process of collecting of the necessary approvals, cancelling clauses and expertise.

Furthermore, if we look at the financial part, namely the costs that County Roads Administration of Pozega-Slavonia County has for the payment of compensation for the value of the property that will be the part of the future road it is important to mention that the costs can be very high. The financial service includes the planning investment into the financial plan.

The legal and economic professionals who participate in the process of settlement of property relations connected with construction of roads must familiarize real estate owners with the final outcome of the project realization. Each construction or reconstruction of a road with the aim to improve the existing conditions is important and valuable public property owned by the Republic of Croatia and as such available to use for all of us and the future generations.

Investment in road infrastructure is therefore an investment in future through the modernization of roads that affect the economy of the entire region.

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