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FACTORS THAT ARE TAKEN INTO ACCOUNT WHEN DIVIDING LAND PLOTS

The division of the land plot must be carried out in accordance with the current norms, standards and rules, first of all - the state building codes of Ukraine. There are cases of impossibility of dividing a land plot, such a process should not be interpreted as a restriction on the implementation of the right to private ownership of land, since this is consistent with the principle of rational use of land. There are factors that can make it impossible to divide a land plot:

- insufficient size of the land plot;
- lack of access to the land plot;
- the impossibility of dividing a residential building located on the site.

The division of the land plot is carried out by developing technical documentation on land management regarding the division and unification of land plots and, with the written consent of the owner of the land plot, new land plots are formed with correspondingly new cadastral numbers.

In the event that the land plot is built-up, as a rule, the division of the building located on the land plot is carried out. At the same time, in accordance with clause 1.2 of the Instruction on the division, allocation and calculation of shares of immovable property, approved by the Order of the Ministry of Housing and Utilities of 18.06.2007 No. 55, the division and allocation of a share in kind is carried out in accordance with the legislation with the provision of an opinion about the technical feasibility of dividing the real estate object. If a conclusion is reached that it is impossible to divide the house, the division of the land will also not occur. All of the above factors force the land plots formed as a result of division to meet certain criteria. Otherwise, the division of the land may not be possible.

In some cases, the division of a land plot is carried out in court as a result of the division of the spouses' property as a result of divorce, as a result of property claims of the heirs of immovable property, foreclosure on the share of property in common joint ownership to each other, and the like. In this case, documentation on land management is not developed, and all calculations are developed by a forensic expert in the expert specialty "land allocation and determination of the procedure for using land plots", who is a person who has the necessary knowledge to provide an opinion on the issues under study.

In the order of item "A" part 1 of Art. 90 of the Land Code of Ukraine, owners of land plots are obliged to ensure the use of land plots for their intended purpose, and, as noted above, in compliance with building codes, state standards and regulations.

Thus, even with the smallest size of the land plot, there should be a 3.5 meter wide entrance, the distance from the fence to the residential building should be at least 1 meter, and the distance to the neighboring residential building should be at least 6 meters; in addition, it is necessary to deviate from red building line.

The lack of access to a land plot is permissible only if the owner of such a land plot and an adjacent land plot is provided with access to the entrance, there is one and the same person.

According to the norm of Part 4 of Art. 120 of the Land Code of Ukraine in the case of acquisition of ownership of a residential house, building or construction by several persons, the right to a land plot is determined in proportion to the shares of persons in the ownership of a residential house, building or structure.

According to Part 2 of Art. 372 of the Civil Code of Ukraine in the event of a division of property in common joint ownership, it is considered that the shares of co-owners in the right of common joint

ownership are equal, unless otherwise established by an agreement between them or by law. When dividing it, the dwelling house located on it is also subject to division. The motives for the division of a land plot arise in connection with the division of a residential building. Guided by clause 1.2 of the Instruction on the division, allocation and calculation of shares of immovable property, approved by Order of the Ministry of Housing and Utilities of 18.06.2007 No. 55, the division and allocation of a share of an immovable property in kind is carried out in accordance with the legislation with the provision of a Conclusion regarding the technical feasibility of dividing a real estate object, in which it is noted whether or not it is possible to divide one or another real estate object. In the case of the technical feasibility of dividing a residential building, the division of the land plot is carried out taking into account the placement of real estate objects and their division.

The division of a land plot occurs at the initiative of the owner of such a plot or in court. In both cases, such one must comply with state building codes and standards, and, moreover, not violate the possibility of using the land plot for its intended purpose.

References

1. Land Code of Ukraine: as of November 07, 2012 [Electronic resource] / Verkhovna Rada of Ukraine. - Ofits.vid. - Kyiv: Bulletin of the Verkhovna Rada of Ukraine, 2002. - № 3. - Article 27. - Mode of access to the text: <http://zakon2.rada.gov.ua/laws/show/2768-14>.
2. Law of Ukraine "On Land Management" dated 22.05.2003 № 858-IV [Electronic resource] / The Verkhovna Rada of Ukraine. - Ofits.vid. - Kyiv: Bulletin of the Verkhovna Rada of Ukraine, 2003. - № 36. - Art. 282. - Mode of access to the text: <http://zakon4.rada.gov.ua/laws/show/858-15>
3. planning and development of territories: State building codes of Ukraine: DBN Б.2.2-12:2019. - Mode of access to the text: <https://dreamdim.ua/wp-content/uploads/2019/07/DBN-B22-12-2019.pdf>
4. Organization of forensic construction and technical examinations of civil cases: methods of engineering and technical examinations / Kyiv NDISE Ministry of Justice of Ukraine. - K. : KNDISE, 1999.
5. Shulga MV Anisimova GV, Bagay NO, Hetman AP *Zemelne pravo Ukrainy* [Electronic resource] / MV Anisimova, Shulga GV Anisimova, NO Bagay, AP Hetman. - K. : Jurinkom Inter, 2004. - 368 p. - Access mode: <http://textbooks.net.ua/content/section/12/18/>.
6. Sheremet AA *Land law of Ukraine: textbook. pos. [for students. higher textbook lock]* / AP Sheremet - [2nd ed.]. - Kyiv: Center for Educational Literature, 2009. - 632 p. 7. Miroshnichenko AM *Land law of Ukraine: Textbook* [Electronic resource] / A. M. Miroshnichenko. - Textbook. - K. : Алєра; Center for Educational Literature, 2011. - 680 pp.- Access mode: <http://www.amm.org.ua/ua/study-book/7-land-acquisition/67-acquisitionland-parcels-with-buildings>.
7. Law of Ukraine "On the State Land Cadastre" dated 07.07.2011 № 3613- VI: [Electronic resource] / The Verkhovna Rada of Ukraine. - Ofits.vid. - Kyiv: Bulletin of the Verkhovna Rada of Ukraine, 2012. - № 8. - Art. 61. - Mode of access to the text: <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=3613-17>.