

## SPECIFICS OF THE REAL ESTATE CADASTRE ESTABLISHMENT PROCEDURE IN THE REPUBLIC OF SRPSKA

Mladen Đurić<sup>1</sup>

Dragan Macanović<sup>2</sup>

Mladen Amović<sup>3</sup>

Branimir Popović<sup>4</sup>

UDK: 528.4(497.6)

DOI:10.14415/konferencijaGFS2017.093

*Summary: The establishment of real estate cadastre in the Republic of Srpska, as well as the basic records of real estate and rights to real estate, is an integral part of the Real Estate Registration Project in Bosnia and Herzegovina. In the Republic of Srpska used an approach that aims at forming a record that combines geodetic-technical and legal-property data into a single record, which is in line with the European recommendations and directives. This project has been funded by the World Bank and The fund of the Republic Administration for Geodetic and Property Affairs, which is the main carrier of the activities related to the establishment of real estate cadastre. The establishment of real estate cadastre is done through the Public Display of data on immovable property and establishing property rights. The paper gives an overview of specifics in the process of establishing the real estate cadastre.*

**Keywords:** real estate cadastre, real estate records

### 1. INTRODUCTION

The establishment of real estate cadastre as a unique record that combines geodetic-technical and legal-property data on real estate, is an integral part of the Real Estate Registration Project. The project is funded by the World Bank and own resources of the Republic Administration for Geodetic and Property Affairs (hereinafter-RUGIP), which is the main carrier of all activities. The project is being carried out on the entire territory of Bosnia and Herzegovina, with the proviso that in the Federation of Bosnia and Herzegovina and the Brcko District uses a different approach, which involves the reconstruction and establishment of land registry. In the Republic of Srpska benefits

<sup>1</sup> Mladen Đurić, dipl.inž.geodezije, Consultant at Republic Administration for Geodetic and Property Affairs Banja Luka, PJ Brod, Tel. +38765 378 598, E-mail: djomla.dj@gmail.com,

<sup>2</sup> Dr Dragan Macanović, dipl.inž.geodezije, University of Banja Luka, Architecture, Civil Engineering and Geodesy, E-mail: dmacanovic@agfbl.org,

<sup>3</sup> Ma Mladen Amović, dipl.inž.geodezije University of Banja Luka, Architecture, Civil Engineering and Geodesy, E-mail: mamovic@agfbl.org,

<sup>4</sup> Branimir Popović, dipl.pravnik, Consultant at Republic Administration for Geodetic and Property Affairs Banja Luka, PJ Modriča, E-mail: pbranimir25@gmail.com

approach that will enable the creation of a single register, which is in line with EU recommendations and directives [1], [2]. The establishment of the real estate cadastre is carried out through the Public Display of data on immovable property and determination of rights to real estate, and the process is governed by the relevant legal acts [3], [4], [5], [6], [17], [18].

## 2. MATERIALS AND METHODS

The study was based on an analysis of the process of establishment of real estate cadastre in a number of cadastral municipalities, the experience of the author in jobs of Public Display of data on immovable property and determining the rights on immovable property (hereinafter: Public Display) and the exchange of experiences with consultants included in process of Public Display.

### 2.1 Previous studies

The process of establishment of real estate cadastre as a single real estate record was not a frequent subject of research, and one of the reasons is the different approach to the establishment of updated records on real estate and rights to real estate in the region. The development of the land administration system in Bosnia and Herzegovina is given in [7]. The state Land Administration in the Republic of Srpska presented in [8], and problems in the process of Public Display in [13]. The establishment of updated records on real estate and rights to real estate in the Federation of Bosnia and Herzegovina is given in [8], and the establishment of these records for the District of Brcko was given in [9].

### 2.2 Research Area

The study refers to the entire territory of the Republic of Srpska. In a larger number of local government units (Banja Luka, Bijeljina, Prijedor, Doboј, Modrica, Derventa, Visegrad, Rogatica, etc.) is in the course of the proceedings Public Display for one or more cadastral municipalities.

## 3. RESULTS AND DISCUSSIONS

### 3.1. The current state record of immovable property in the Republic of Srpska

According to [8], in the territory of the Republic of Srpska, depending on the available data and legislation, over time, established the following types of cadastre:

- real estate cadastre made by [14]
- real estate registry created by [15]

- Cadastre made on the basis of the cadastral survey at [16] and the previous regulations adopted before the adoption Law on Survey and Real Estate Cadastre (1984), or the concept of a single real estate record,
- Cadastre made on the basis of the Austro-Hungarian survey,
- inventory cadastre on areas where there was no survey.

In addition to these records, there is the Land Registry, as a basic record of rights on immovable property, and Book of contracts for the purchase of residential buildings and apartments and Book of contracts on the sale of office buildings, business premises and garages. Based on the above, it can be concluded that the land administration system relies on a total of eight records on real estate and rights to real estate.

### 3.2. Determining the specific moments in the process of establishing the real estate cadastre

Fortified specific moments are the result of past experience of the author on Public Display and exchange of experiences with consultants engaged on Public Display in a number of cities / municipalities in the Srpska Republic. The degree of the impact of certain moments in the process of Public Display varies depending on the characteristics of the cadastral municipality which is the subject of Public Display, such as:

- state records on real estate,
- No records on real estate,
- state cadastral maps,
- cadastral municipality,
- the availability of consultants,
- availability of equipment,
- informing potential participants in the proceedings and Public Display,
- other.

#### 3.2.1. Selection of cadastral municipality for Public Display

During the selection process of the cadastral municipality for Public Display, there is no single methodology of choice, which excludes the subjectivity of decision-makers. Application example method for decision making in the selection of cadastral municipality of exposure is given in [11].

#### 3.2.2. Identification of parcels of old and new survey

*Since the real estate cadastre relies on new survey data, a land register, often but not always rely on old data survey conducted in stereographic projection, there is a difficulty in identifying parcels because data on the same immovable property are often not or hardly comparable because not harmonized data. In such cases it is necessary to synchronize the information on land parcels and rights to them, which are kept in different registers. It is necessary to make a systematic harmonization of cadastral and land registry data, on the basis of which shall be established real estate cadastre [12].* Identification of the plot of the old and the new survey is an integral part of

the process of preparing the data for display and is mandatory in all cadastral municipalities where there are both survey data. In areas where Land Registry is destroyed, Public Display is based on available data from the land cadastre, real estate cadastre, census cadastre and others.

### **3.2.3. Forming the Commission for conducting the proceedings of Public Display**

Forming the Commission for Public Display is often limited by available human resources legal and surveying profession, especially evident in the smaller and less developed municipalities. A possible solution should be sought to improve the working conditions of consultants, in order to motivate the mobility of consultants.

### **3.2.4. Preparation period, the determining the order summoning the parties and dynamics**

In the preparation period, the Commission acquainted with the methodology of work, the relevant regulations governing the fields of Public Display and determine the order and a plan calling parties. The dynamics of labor depends on the size of the cadastral municipality which is the subject of Public Display, population, ways of keeping the procedures of (specific or abbreviated administrative procedure) and other factors. The preparatory period is a particularly sensitive moment for Commissions, which for the first time conducting the Public Display. In this case, significant progress could be toward wider inclusion of the newly formed Commissions on the work of the Commissions who have acquired experience in Public Display [13].

### **3.2.5. Determining the participants in the proceedings**

According to [13], the procedure of Public Display is led by Commission, and the participants in the process are individuals and legal entities, institutions and state and local government bodies, public companies and all other persons with rights on real estate in CM which is the subject of Public Display. For individuals and legal entities in accordance with the Law on Administrative Procedure may appoint legal representatives, and the interests of the country / entity and local governments represented by Attorney General of the Republic of Srpska. Contribution to the procedure of Public Display can be given by local communities, non-governmental organizations, pensioners' associations, civic groups, the Center for Social Work, Red Cross and others.

### **3.2.6. Adequate scaling performance of the Commission conducting the proceedings Public Display**

For effective implementation of the procedure of Public Display, it is necessary to determine the appropriate scaling performance of the Commission, which are proceeding Public Display. The rapid resolution of cases and conditionality high standards negatively

affect the quality of the procedure, and therefore the resolution of cases. In determining the norms it is critical to take into account all the activities that the Commission carries out in the procedure of Public Display. In addition, it is necessary to take into account the specifications of cadastral municipality which is the subject of Public Display and working conditions. Adequate scaling performance of the Commission can motivate the Commission to increase the mobility of staff and ensure efficient resolution of cases and the performance of other works in the process of establishing the real estate cadastre.

### **3.2.7. Resolving cases involving disputed ownership and legal status**

Cases in which there is a dispute regarding the holder of the right of ownership or other real rights to immovable property should be resolved as a preliminary issue, however, a large number of these cases makes it difficult to implement the procedure of exposure, so the Commission decided to conduct the proceedings in these cases in the proceedings. These are the most common items usurpation of land in state ownership, privatization of objects, objects that are not as holders of property rights registered legal successors of the former's legal entities and others.

Problem in the work is as insufficiently defined provisions governing the manner of conducting the proceedings in cases where there is disputed before the administrative or civil, that is contentious, the proceedings before the competent court, and when in the process establish the existence of usurpation social, or state ownership. For these reasons there is a need to be more decisive as prescribed by the course of the proceedings in order to avoid any doubts about the application of other laws in addition to the Law on Survey and Cadastre used in the process of establishing the real estate cadastre.

### **3.2.8. Solving cases in which the right of ownership or the Republic of Srpska local governments**

The specificity of these cases reflected in their scope, and sensitivity to resolve. In addition, there is often the case that the wrong entries of title property rights (eg in cases where the local government units as well as the holder of title registration of property owners often occurs Municipal Assembly or a municipality). It is not uncommon in the records as the registered holders of the rights only managing authorities of public goods, for example, Directorate for Water and Public Enterprise for roads. These items should be dealt with constant consultation with the Regional unit RUGIP, as well as with the RUGIP. Also, it is necessary to coordinate the activities of the Commission for Public Display, the Regional Unit RUGIP, the Attorney of the Republic of Srpska, as well as the local governments.

### **3.2.9. The final period**

In the final period is necessary to ensure maximum coordination of the work of Commissions, regional units RUGIP, RUGIP, local governments, in order to complete all work on the Public Display of the cadastral municipality and allow the entry into force of the real estate cadastre in the shortest possible time.

### 3.2.10. Entry into force of the Real Estate Cadastre

Entry into force of the real estate cadastre for a cadastral municipality in which the procedure of the Public Display is completed shall be published in the Official Gazette of the Republic of Srpska. Bearing in mind that many of the republic, as well as the bodies of local self-government, legal entities, courts, et al., using data on real estate, it is expected that after the entry into force of the Real Estate Cadastre subsequent to the period of harmonization of regulations and procedures.

## 4. CONCLUSION

Bearing in mind the specific status of records on real estate in the Republic of Srpska, it is clear that it is extremely difficult to adopt a uniform methodology for Public Display that would be applicable to all cadastral municipalities. Based on previous experiences, it is possible to identify the most common difficulties relating to the establishment of real estate cadastre and give suggestions of possible solutions.

## REFERENCES

- [1] INSPIRE, [Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community \(INSPIRE\)](#), Official Journal of the European Union, Volume 50, 25 April 2007, ISSN 1725-2555,
- [2] Kaufmann, J. and Steudler, D.: Cadastre 2014, A vision for future cadastral system, *FIG XXI International Congress, 1998.*, Brighton, United Kingdom,
- [3] Zakon o premjeru i katastru Republike Srpske, Službeni glasnik Republike Srpske, br. 6/12, 2012.
- [4] Zakon o opštem upravnom postupku, Službeni glasnik Republike Srpske, br.13/02, 2002.
- [5] Pravilnik o načinu osnivanja i održavanja katastra nepokretnosti Republike Srpske, Službeni glasnik Republike Srpske, br. 11/14,
- [6] Pravilnik o digitalnom geodetskom planu, Službeni glasnik Republike Srpske, br. 43/04,
- [7] Begić, M.: 110 godina katastra zemljišta Bosne i Hercegovine, *Geodetski glasnik br. 32, 1998.*, Savez udruženja građana geodetskih inženjera i geometara Bosne i Hercegovine,
- [8] Macanović, D.: Katastar nepokretnosti u Republici Srpskoj. *II Kongres o katastru u BiH sa međunarodnim suđelovanjem, 2011.*, Ilidža,
- [9] Karabeg, D.: Stanje radova premjera i uspostavljanje katastra nekretnina na teritoriji Federacije Bosne i Hercegovine, *Geodetski glasnik br. 3, 1999.*, Stručni rad, UDK 528.44.
- [10] Latifović, F.: Izlaganje na javni uvid podataka o nekretninama i utvrđivanje prava na zemljištu u funkciji uspostave jedinstvenog registra zemljišta i prava na zemljištu u

- Brčko distriktu BiH, *Geodetski glasnik br. 45, Stručni rad, 2014.*, UDK 345.235:349.41:528:44I,
- [11] Ilić, A., Đurić, M., Amović, M.: Primena TOPSIS metode prilikom izbora katastarske opštine za Izlaganje na javni uvid podataka o nepokretnostima i utvrđivanje prava na nepokretnostima, *Symopis 2016, 2016.*, Zbornik radova, str. 137-140,
- [12] Macanović, D., Đurić, M., Vasiljević, S.: Neki aspekti osnivanja katastra nepokretnosti Republike Srpske, *XII međunarodna naučno-stručna konferencija Savremena teorija i praksa u graditeljstvu, 2016.*, Arhitektonsko-građevinsko-geodetski fakultet Univerziteta u Banjoj Luci, Banja Luka, str. 579-586,
- [13] Đurić M., Macanović D., Vasiljević S.- The Analysis of Problems During the Real Estate Cadastre Establishment Procedure of Public Display of Data on Properties and Property Tights Determination For the CM of Modrica, *International Scientific Conference GEO2016, 2016.*, Str. 61-69, ISBN 978-86-7518-189-7. COBISS.SR-ID 223682828,
- [14] Zakon o premjeru i katastru nekretnina, Službeni glasnik Republike Srpske, br. 19/96, 15/2000;
- [15] Zakon o premjeru i katastru nepokretnosti, Službeni glasnik Republike Srpske, br. 34/2006, 110/08, 15/10;
- [16] Zakon o održavanju premjera i katastra zemljišta, Službeni glasnik Republike Srpske, broj 19/96;
- [17] Zakon o uzurpaciji, Službeni glasnik Republike Srpske, br. 70/06,
- [18] Zakon o uređenju prostora i građenju, Službeni glasnik Republike Srpske, br. 55/10,

## СПЕЦИФИЧНОСТИ ПОСТУПКА ОСНИВАЊА КАТАСТРА НЕПОКРЕТНОСТИ У РЕПУБЛИЦИ СРПСКОЈ

**Резиме:** *Оснивање катастра непокретности у Републици Српској, као основне евиденције о непокретностима и правима на непокретностима, саставни је дио Пројекта регистрације некретнина у Босни и Херцеговини. У Републици Српској користи се приступ који има за циљ формирање евиденције која обједињује геодетско-техничке и имовинско-правне податке у јединствену евиденцију, што је у складу са европских препорукама и директивама. Овај пројекат финансиран је средствима Свјетске банке и средсвима Републичке управе за геодетске и имовинско-правне послове, која је и главни носилац активности везаних за оснивање катастра непокретности. Оснивање катастра непокретности врши се кроз Излагање на јавни увид података о непокретностима и утврђивање права на непокретностима. У раду је дат преглед специфичних момената у поступку оснивања катастра непокретности.*

**Кључне речи:** *катастар непокретности, евиденције непокретности*