The Agency for the Protection of the Right to Free Access to Public Information, based on Article 109 paragraphs 1 and 2 of the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia" No. 124/2015), and in accordance with Article 27 and Article 34 paragraph 1 of the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/2019) and in accordance with the provisions of the Guidelines for the Implementation of the Law on Free Access to Public Information ("Official Gazette of Republic of North Macedonia" no. 60/20), acting on the appeal filed by D.B. from Prilep, submitted against the Real Estate Cadastre Agency on 03/20/2024 brought the following

**DECISION**

The appeal by D.B. from Prilep filed against the Real Estate Cadastre Agency, registered in the archives of the Agency for the Protection of the Right to Free Access to Public Information under No. 08-48 on 05.03.2024 **IS** **DISMISSED as inadmissible**.

**ABOUT DEVELOPMENT**

Dafina Bogeska from Prilep, as stated in the appeal, on 13.02.2024 submitted a Request for access to public information to the Agency for Real Estate Cadastre, with which she requested that an answer be provided electronically to the following questions:

 "1. Are the above-ground and underground infrastructure facilities marked on the same property sheet or separate property sheets?

 2. Can underground and above-ground infrastructure facilities be recorded on the same property sheet?

 3. With which code - designation in the property sheet is an underground copper cable indicated?

 4. With which code - designation in the property sheet is an above-ground concrete pole for telecommunications indicated?

5. What is required to issue a title deed for an overhead concrete telecommunications pole?

 6. What is required to issue a title deed for an underground copper cable?

 7. In order to issue a title deed to an overhead concrete telecommunications pole, is it necessary that the land on which the pole is placed be owned by the owner of the building?

 8. What does the property sheet for infrastructure facilities No. 1425 refer to?

 9. Is the title deed no. 1425 for infrastructure facilities refers to an underground copper cable or an overhead concrete telecommunications pole?

10. Are there different codes for marking underground and above-ground infrastructure facilities?

 11. Are the infrastructural objects in the property list recorded and marked according to the codes-marks in the Rulebook for cadastral plans and plans of infrastructural objects?

12. What does the prefix EKIEKMS4 mean in the property sheet for infrastructure facilities No. 1425?

13. With which prefix is ​​an infrastructural object - a concrete pillar for telecommunications marked in a property document?

14. Is the installed concrete telecommunications pole at KP 20899/1 and KP 20899/2 on Jonche Krstechanec street no. 51 Prilep is legally established and has a title deed or is it an ILLEGAL CONSTRUCTION?

15. What does the term illegal construction mean?

16. Are buildings that do not have a title deed and are not recorded in a public book considered illegal construction?

17. If a concrete telecommunication pole for which a title deed has not been established, does it constitute illegal construction? ".

 The holder of information, acting on the stated request, submitted to the Requester a Response to request no. 0312-3367/2 dated 29.02.2024, which states: "On February 13, we received your request for access to public information, where you have stated a series of **17 questions**. For the information you are looking for, we refer you to the website of the Real Estate Cadastre Agency in the "Regulations" section, where you can find the Laws and Regulations that contain a large part of the requested data. Also, the data created and owned by the Real Estate Cadastre Agency are publicly available on the websites: katastar.gov.mk and ossp.katastar.gov.mk/OSSP/ Here, you can also search for title deeds and get the data which you need".

Dissatisfied with the received Answer, the Information Requester submitted an appeal within the legally stipulated period, filed in the Agency's archive under No. 08-48 on 03.05.2024.

The Agency, via e-mail registered under No. 08-48 dated 05.03.2024, forwarded the appeal to the Holder of Information and requested within 7 days to rule on it and to submit all the documents related to the matter to the Agency.

On 02.26.2024, the Information Holder instead of issuing an appeal to the Agency submitted Decision No. 0312-3367/4 from 03.02.2024 by which the request for access to public information of the Applicant is respected. The Decision states: "... Acting on the stated request and insight into its content, I inform you that part of the requested information can be found on the website of the Real Estate Cadastre Agency,[www.katastar.gov.mk](http://www.katastar.gov.mk), in the Regulation section, under Regulations, Real Estate Survey Regulations, and regarding information on terms related to illegal constructions, I refer you to the Law on Dealing with Illegally Built Buildings. In connection with the information relating to data from the specified property list number 1425, we inform you that according to the Law on Real Estate Cadastre... a fee is paid for the use and inspection of the data from the Geodetic-Cadastre Information System, except when the data is issued to the courts, the public prosecutor's offices, the State Attorney's Office of the Republic of North Macedonia and the ministries, for the procedures they lead, as well as to other entities in cases established by law. The amount of the fee for the use and inspection of the data is determined in the Tariff for the amount of the fee for the use and inspection of the data from the geodetic and cadastral information system, as well as for the issuance of authorization for the production of cartographic products and the amount of the fee for issuing consent for putting the cartographic product into use. Given the above, it is necessary to submit a request to the Real Estate Cadastre Agency for the use and inspection of the data from the real estate cadastre, with proof of the fee paid in accordance with the Tariff, and to state the required information in the same so that the requested search can be performed and data submission'.

 The Agency for the Protection of the Right to Free Access to Public Information, in accordance with the provisions of the Law on Free Access to Public Information, reviewed the appeal filed by the Information Requester, and **dismissed** **it as ineligible**, due to the following:

The Agency determined that the Request submitted to the Real Estate Cadastre Agency is not a request for access to public information, but a request of personal interest that requires the interpretation of legal provisions, that is, a request under the jurisdiction of the Real Estate Cadastre Agency.

Pursuant to Article 26 of the Law on Free Access to Public Information "The applicant who submitted a request for access to information in accordance with Article 12 paragraph (1) of this Law has the right to legal protection in accordance with this law". In this specific case, the Requester tried to get information from the Information Holder, unfoundedly referring to the Law on Free Access to Public Information.

The Agency indicates to the Information Requester that after the submission of questions, The owner of the information is not obliged to interpret legal provisions, which in the specific case is required with the requested information.

According to Article 3 paragraph 1 paragraph 2 of the Law on free access to public information, "public information" is information in any form created or with which the holder of the information disposes in accordance with their competencies.

The holder of information is not obliged to create new information, or to take additional actions of their competence, to satisfy the Requester regarding their submitted Information Request for free access to public information.

The Agency determined that in this case the Real Estate Cadastre Agency, with the adopted Decision No. 0312-3367/4 of 02.03.2024, determined that part of the requested information represents data to which access is subject to a standard procedure, that is, it should be charged with an appropriate fee with the Tariff of the Real Estate Cadastre Agency, for which in fact the Owner asked the Information Requester to make a payment for the same.

The Agency considers that the Requester of Information consciously avoids submitting a standardised Request under the authority of the Real Estate Cadastre Agency for the requested information to pay an amount in accordance with the legally established Tariff for administrative fees, fees and services performed by the Real Estate Cadastre Agency.

The Agency points out to the complainant that the purpose of the Law on Free Access to Public Information and the Guidelines for the Implementation of the Law on Free Access to Public Information is to enable natural and legal persons to exercise their right to free access to public information and ensure publicity and openness in the operation of the bodies, for the way of using and spending public money, citizens' money, to enable the participation of citizens in the creation and management of public policies and the like.

The Law on Free Access does not aim for, by submitting a request for access to public information, information seekers to exercise personal, private or individual rights or as parties to provide evidence for the conduct of court proceedings, additionally to request and propose taking over administrative actions and adoption of certificates, reports and/or other acts, which are in progress, or based on the requested data, proceedings will be initiated before the competent courts, where the applicant for access to public information is one of the parties in the dispute.

The law on free access to public information ensures the realisation of public interest, described and exhaustively enumerated in article 3 paragraph 1 paragraph 7 and reads: "Public interest in the realisation of the right of access to information implies, but is not limited to, an interest in information whose publication... 1. will reveal abuse of official position and corrupt behaviour; 2. illegal acquisition or spending of budget funds will be revealed; 3. a potential conflict of interest will be revealed; 4. serious threats to people's health and life will be prevented and discovered; 5. environmental threats will be prevented and detected; 6. it will help to understand the issue for which public policy is created or a parliamentary debate is conducted and 7. it will enable equal treatment of every citizen before the laws". The legal definition of "public interest" means that the realisation of the public interest implies the realisation of the interest of the wider community as a whole, which has priority over the individual needs and rights of individuals.

Following the above, the Agency for the Protection of the Right to Free Access to Public Information decided as the dispositive of this Decision.

This Decision is final in the administrative procedure and there is no room for appeal against it.

**LEGAL REMEDY:** Against this Decision, the party can initiate an administrative dispute before the Administrative Court within 30 days.

 **Director,**

 **Plamenka Bojcheva**