The Agency for the Protection of the Right to Free Access to Public Information based on Article 109 Paragraph 13 of the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia" No. 124/2015), and in accordance with Article 27, Article 34 Paragraph 1 from the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/2019), and in accordance with the Guidelines for the Implementation of the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" no. 60/20), acting upon an appeal filed by T.Ch. from Skopje, filed against the Decision of the Municipality of Karposh, upon Request for access to public information, on 25.03.2024, brought the following

 **DECISION**

1. The appeal stated by T.Ch, from Skopje, submitted against the Decision of the Municipality of Karposh no. 12-1869/11 of 12.03.2024, registered in the Agency under no. 08-33 on 20.03.2024, on the subject Request for access to declassified information **IS UPHELD**.
2. The Decision of the Holder of Information No. 12-1869/11 of 12.03.2024 **IS ANNULED.**

**3.** The information holder **IS OBLIGED** to provide the requested information to the Requester in the manner and the form specified in the Request.

**4.** The information holder must implement this Decision within 15 days of its receipt and notify the Agency about it.

 **EXPLANATION**

T.Ch. from Skopje, as stated in the appeal, on 02.02.2024, submitted a Request for access to public information to the Municipality of Karpoš via e-mail, with which she requested an electronic record of the following information to be delivered:

1. The complete documentation and content of the DUP for City Quarter 3 05, with all its parts, was adopted on November 6, 2013.

2. Minutes, stenographic notes and video recording of the ninth session of the Council of the Municipality of Karposh held on November 6, 2013.

3. CV or biography listing the necessary qualifications of all members of the Urban Planning Commission composed by the mayor and where each employee is.

4. Copy of the final approval for building UP1 No. 47-560 dated 18.01.2024.

The information holder did not respond to this request within the legally stipulated period, which is why the requester of the information, within the legally stipulated period, filed an appeal registered with the Agency under no. 08-33 on February 26, 2024.

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, with Decision No. 08-33 of 03/06/2024, **UPHELD the appeal and sent it back to the first instance authority for further proceedings** with indications and directions for further action.

Acting according to the stated Decision of the Agency, on 15.03.2024, the Information Holder submitted to the Agency Letter No. 12-1869/10 dated 12.03.2024, which states: "...We hereby inform you that we have acted in accordance with your Decision No. 08-33 from 06.03.2024...". Decision No. 12-1869/11 of March 12, 2024, is attached, which respects the applicant's request. In the Reasoning of the Decision, it is stated that: "Acting upon the request of the party, and guided primarily by the principle of legality, the appointed official for mediating public information carried out a detailed inspection of the case and determined that they should act in accordance with Article 24 Paragraph 1 of LFAPI. They also submitted the response of the Department of Urban Planning, which states: "...We inform you that the procedure for adopting it is not electronic, but in paper format and it is available in such format in the premises of the Municipality of Karposh, based on which you can inspect it in the Department of Urbanism... As for issuing a copy of the graphic attachments, we inform you that if the legal interest is established, it is necessary to reimburse the costs of copying in accordance with Article 37, tariff number 73 of the Law on Administrative Fees… Regarding the part of the request for minutes, stenographic notes and video recording of the cited council session, we inform you that according to the Decision on adopting a list of public information of the Municipality of Karpoš… the requested material does not represent public information... The Commission for Urbanism was established by the Mayor in accordance with the provisions of Article 38 of the Law on Urban Planning, and the biographies and professional qualifications of the members are also not public information. The legally valid building approval Up1 no. 47-560 of 18.01.2024, after its adoption, was published on the website of the Municipality of Karpoš: <https://karpos.gov.mk/>“.

On March 20, 2024, the information requester submitted an appeal to the Agency, filed under No. 08-33, stating: "...I received a response from the Municipality of Karposh to my appeal to you. All information has yet to be provided and is not even partially provided.”

1. The explanation for not providing information about DUP Z 05 is that the procedure for its adoption is not electronic but paper, and it is available in that format in the premises of the Municipality of Karposh. Part of this DUP Z 05 has been sent electronically by email before, which means that it is possible, and according to Article 106 of the Law on Urban Planning, the municipality is obliged to submit all adopted urban plans that are in force in electronic form in the electronic register of adopted urban plans within the e-urbanism information system, within six months from the day of the start of the application of the law...;

2. Submission of the minutes, stenographic notes and video recording of the session of the Council of the Municipality of Karposh, as well as the biographies and professional qualifications of the members of the Urban Planning Commission, is refused on the grounds that they do not represent public information in accordance with the Decision made by the Council on 30.01.2019. According to the Law on Free Access to Public Information, the holders of information about their work are obliged to provide information to the public, and the exception to free access to information is defined in Article 6 of the law. None of the requested information falls within this exception. In addition, on the website of the municipality of Karpos, the minutes of the Council sessions from 2020 and 2021 were published after the Decision referred to by the owner; it is not public information;

3. It is stated that the valid approval for building Up1 no. 47-560 of 18.01.2024, after its adoption, was published on the website of the Municipality of Karposh, but only the information about this building permit was published, not the building permit itself that was requested:<https://karpos.gov.mk/>...;

4. The official person of the municipality of Karposh for mediating public information, instead of the e-mail address specified in the request, sent the decision and the answer to another e-mail address, which is unacceptable. The information from both emails was sent to another address..."

The Agency, via e-mail registered under No. 08-33 dated 20.03.2024, forwarded the appeal to the Holder of Information and requested within seven days to issue a ruling on it and to submit all documents related to the matter to the Agency.

On the same day, on 20.03.2024, the holder of the information submitted to the Agency via e-mail a Letter registered under no. 08-33, they stated: "We maintain our stance with the response provided by the Municipality of Karposh's Department of Urbanism, which is also delivered to both you and the complaining party by mail."

In compliance with the Law on Free Access to Public Information, the Agency for the Protection of the Right to Free Access to Public Information examined the appeal made by the information requester and other available documents. It also **respected and required the information holder to give the requester the requested information in the format and manner specified in the request within 15 days of the decision's delivery** because of the following:

After reviewing the appeal and the files related to the case, the Agency concludes that the Information Holder did not implement the Agency's Decision No. 08-33 of 03.06.2024, i.e. did not act in accordance with the provisions of the Law on Free Access to Public Information.

The Agency points out to the Owner of the information that according to Article 3 Paragraph 1 Paragraph 2 of the Law on Free Access to Public Information it is established that: "Public information is information in any form created by or available to the owner of the information in accordance with his competences", and according to Article 10 Paragraph 1 paragraph 1, 15, 21 and 22 of the same they carry out, i.e. determined by law, types services provided by the holders of information (information on the physical availability for the provision of services and information on e-services, data on legal bases, the name of the services, documents and data required for the provision of each of the services, mechanisms for legal protection and other relevant data), statistical data on the work, as well as other information, acts and measures that affect the life and work of citizens and that result from the competence and work of the holder of information and other information that result from the competence and work of the holder of the information .

Pursuant to Article 106 of the Law on Urban Planning ("Official Gazette of the Republic of North Macedonia" no. 32/20), "Local self-government units are obliged to implement all adopted urban plans that are in force within six months from the date of commencement of the application of this law, to submit them in electronic form in the electronic register of adopted urban plans within the framework of the e-urbanism information system".

The Agency considers that the requested information is public. In this case, we are not discussing an exception to free access to public information, but a duty to inform the public about matters under the authority of the Information Holder, i.e. about requested documents that, according to Article 10 paragraph 1 of the Law on Free Access to Public Information, The owner of the information is obliged to inform the public.

As for the allegations in the part of the Answer that "...According to the Decision on the adoption of a list of public information of the Municipality of Karposh… the requested material does not constitute public information...", the Agency indicates to the Owner of the information that the List of Information is not final, according to Article 9 of the Law on Free Access to Public Information "The holders of information are obliged to maintain and update the list of information they have regularly and to publish it in a manner accessible to the public (website, bulletin board, etc.)."

In the specific case, the Holder of the information is obliged to act in accordance with the instructions of the Agency to adopt a Decision that will respect the Request and provide the requested information to the requester **in the manner and form specified in the Request**.

Providing the requested information will ensure greater transparency and accountability of the work of the Information Holder.

In accordance with 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**