

HARJU COUNTY GOVERNMENT

Mr. Georgi Böstrov
Maardu City Government
Kallasmaa 1
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25th October 2007 No. 2.1-13/2906

Supervision of the detailed plan of Vana-Narva Road 27a registered immovable

Maardu City Government has submitted to the County Governor in its letter No. 7-1.3/3168 from 5th September 2007 the detailed plan of the Vana-Narva Road 27a registered movable, whereof permission is granted for building two 100,000 m³ oil containers and buildings servicing the oil terminal, for exercising supervision and resolving objections.

As becomes evident from the materials submitted for exercising supervision, the Ministry of Justice raised objections with regard to the plan solution during the public display of the plan (13th July to 27th July 2007) in its letter No. 1-2-36/7995 from 27th July 2007. According to letter No. 7-1.3/3168 of the Maardu City Government from 5th September 2007, no common position was reached during the discussion with the Ministry of Justice regarding articles 2, 3, 4, and 6 of the letter No. 1-2-36/7995 of the Ministry of Justice from 27th July 2007.

According to § 23, section 3, subsection 5 of the Planning Act, the County Governor exercising supervision shall hear persons who have presented written objections concerning a plan during the public display thereof and the local government administering preparation of the plan, and to present an opinion concerning the objections if they have not been taken into consideration in planning.

Pursuant to § 23, section 3, subsection 5 of the Planning Act, a meeting was held on 23rd September 2007 in Harju County Government for hearing the positions of the person having presented objections during the public display of the detailed plan of the Vana-Narva Road 13 land unit and its neighbouring area, and of the representatives of the local government.

In addition to the members of the Harju County Government Supervisory Committee for Plans, Rein Meel, Riina Liivamägi and Silvia Riige from Maardu City Government, Aivar Lääne from AS E.O.S, representatives of AS E.O.S. Jüri Raidla and Martin Triipan from advocate's law office Raidla & Partners, Mart Kivi from AS K-Projekt, Aide Kaar from OÜ E-Konsult, and Ilmar Kaljurand from the Harju County Environmental Authority attended the meeting.

The representatives of the Ministry of Justice who raised objections did not attend the meeting. As the Ministry of Justice has not waived its objections, I will consider those objections presented at the public display concerning which no agreement was reached with the local government, as remaining objections, with regard to which I will present my written opinion pursuant to § 23, section 4 of the Planning Act.

In its letter No. 1-2-36/7995 from 27th July 2007, the Ministry of Justice informed the local government about the negative impacts arising from the detailed plan of the Vana-Narva Road 27a registered immovable (oil terminal of AS E.O.S.) and asked for information about the surveillance of the negative impacts and about specific measures for reducing those impacts. The Ministry of Justice found that the impacts arising from the oil terminal had not been considered thoroughly enough upon preparing the plan, the Ministry also doubted if all the conditions set out by the Harju County Environmental Authority and the request to build the buffer zone established in the Maardu City comprehensive plan under preparation have been considered upon preparing the plan.

Having examined the letter No. 1-2-36/7995 of the Ministry of Justice from 27th July 2007, the plan documents, and the opinions of the local government, I find that the impacts arising from the solution of the Vana-Narva Road 27a detailed plan have been given sufficient consideration upon preparing the detailed plan of the Vana-Narva Road 27a registered immovable. In the plan documents (including in articles 4.1.3 and 4.4 of the explanatory letter of the plan, in article 10 of the explanatory letter of strategic assessment of

environmental impact), the surveillance measures of the negative impacts arising from the oil terminal (including requirements for air surveillance station and for measurement of air pollution level) are described, as well as measures reducing the impacts (including measures that reduce noise, air pollution, fire safety, groundwater pollution, and danger of major accidents). The environmental protection plan 2007-2008 of AS E.O.S. added to the plan documents prescribes that environmental management system is to be introduced and establishes environmental protection activity plans (regarding reduction of noise, reduction of emission of pollutants into ambient air, elimination of surface and ground water pollution, and other fields) in order to reduce environmental impacts, organise continuous surveillance and guarantee required pollution levels.

In its letter No. 7-1.3/3168 from 5th September 2007, the Maardu City Government has mentioned about the green zone of the buffer zone separating the Vana-Narva Road 27a oil terminal that the detailed plan of the Vana-Narva Road 27 registered immovable does not include the green buffer zone prescribed in the Maardu City comprehensive plan and is not in conflict with it. According to the letter of the City Government, the green zone greenery planned in the comprehensive plan shall be resolved in the course of implementing the detailed plan at the next stages of designing.

The environmental impact assessment report of the Vana-Narva Road 27a registered immovable has been approved by the Harju County Environmental Authority, who exercises state supervision of the legality of the strategic assessment of environmental impact pursuant to § 38, section 1 of the Environmental Impact Assessment and Environmental Management System Act.

The Harju County Environmental Authority has also approved the detailed plan of the Vana-Narva Road 27a registered immovable. In its letter of approval (No. 30-12-3/44278-2 from 3rd October 2007) the Harju County Environmental Authority has stated that the detailed plan of the Vana-Narva Road 27a registered immovable submitted for approval has been supplemented and corrected, being guided by the comments made in letter No. 30-12-1/5236-4 from 15th December 2006 and No. 30-12-3/30044-2 from 18th January 2007 of the Harju County Environmental Authority, which must be considered in a design solution of the detailed plan. The environmental impact surveillance measures provided in the letter of approval of the strategic assessment of the environmental impact of the detailed plan (No. 5236-4 from 15th December 2006) are to be implemented according to AS E.O.S. environmental protection program 2007-2008.

Thus, the Harju County Environmental Authority, who is exercising state supervision of strategic assessment of environmental impact has not identified that the detailed plan solution of the Vana-Narva Road 27a registered immovable would be in conflict with environmental protection requirements or that the detailed plan solutions of the oil terminal and Vana-Narva Road 13 and its neighbouring area would exclude one another. I mentioned that in my letter No. 2.1-13/2906 from 16th October 2007 as well, whereby I stated my opinion regarding supervision about the detailed plan of Vana-Narva Road 13 and its neighbouring area.

As a result of exercising supervision I can take the stand that the legal rights of the person having raised those objections that would be subject to safeguarding by the person executing supervision, have not been violated. The impacts arising from the building right of the oil terminal and the impacts arising from the abovementioned oil terminal and the measures reducing risks have been considered upon preparing the plan. Information regarding material circumstances, which may enable the local government to make a reasoned consideration decision as to the adoption of the detailed plan of the Vana-Narva Road 27a registered immovable has been gathered upon proceeding the detailed plan.

The detailed plan has among other institutions been approved by the Tallinn Health Protection Office, Harju County Environmental Authority, and North Estonian Regional Rescue Centre. The mentioned institutions have not found the detailed plan solution of the Vana-Narva Road 27a registered immovable to be in conflict with health protection, environmental protection, or fire safety requirements. Harju County Government has no reason to question the reasonability of the statements of those institutions.

Pursuant to article 17 of resolution No. 3-3-1-54-03 of the Supreme Court from 14th October 2003, replies given by a local government to the objections of persons interested in a plan do not determine permanently, in which form the plan shall be adopted. A reply is not an administrative legislation. Replying to the proposals and objections of persons interested in the plan solution is a part of the public discussion held between those persons and the local government about the future plan. The local government may after rejecting the proposal still consider it upon adopting the plan. The resolution on adopting a detailed plan shall be the final resolution as to proposals and objections, not the reply to the objections and proposals.

As a detailed plan subject to the supervision of county governor must be adopted by city council, in this case the Maardu City Council shall decide, whether the detailed plan solution of the Vana-Narva Road 27a registered immovable guarantees the conditions that consider the needs and interests of as many members of the community as possible (including the interests of the person having raised objections) upon designing city space. Opinions presented by the person having raised objections have been added to the plan documents and everyone who examines the plan (including members of city council) has the opportunity to get an overview of the contents of the objections.

Being guided by the limits of competence of the city governor and basing upon § 23, section 6 of the Planning Act, I hereby grant approval for the detailed plan of the Vana-Narva Road 27a registered immovable and return the plan to the local government for further proceeding.

If the person having raised objections continues to disapprove the plan solution, that person can upon not reaching an extrajudicial agreement with the local government and AS E.O.S. address administrative court to protect his/her subjective rights pursuant to procedure established in the Code of Administrative Court Procedure.

Similarly to what I pointed out in my letter No. 2.1-13/2906 from 16th October 2007, I recommend also in the case of this plan that the Maardu City Government continue constructive cooperation with AS E.O.S. and with the Ministry of Justice in order to guarantee better execution of the detailed plan of the Vana-Narva Road 27a registered immovable.

Sincerely yours

/Signature/

Värner Lootsmann
County Governor

Transcripts:

1. Harju County Environmental Authority, Viljandi Road 16, 11216 TALLINN
2. OÜ E-Konsult, Laki St. 12A-501, 10621 TALLINN
3. AS EOS, Regati Blv 1, 11911 TALLINN
4. Ministry of Justice, Tõnismägi 5A, 15191 TALLINN

Jaan Saulin 6118 788

/Signature/

25th October 2007