

THE ADJACENCY LEVY AS A MATTER OF REGIONAL POLICY AND ITS EFFICIENCY BASED ON SELECTED MUNICIPALITIES

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ABSTRACT

The article presents the cases of determining the adjacency levy based on the example of selected province. The work illustrates how to enter these charges and their impact on the development of local real estate markets. Selected cases relate to the development of technical infrastructure, emerging on both needs of the development companies as well as individual people. In Poland there is a lack of a clear policy on such regulations, although there are paramount rules, which, however, only apply of when the fee was determined. These rules are the basis of the appeal processes and compensation, that is why part of the municipalities of resigns gaining measures. Paper shows the cases of private infrastructure development financing and co-financing from the European Union. Also were analyzed, local approach to the problem, both in the case of the establishment of a sewage system and processes merge and split, or the creation of new roads. The last part of the paper is focused on land use efficiency in presented area and its effect for further regional politics. The last part of the article shows the real growth in property prices is not only due to its division but above all, changes in local land development plan of the area and is here that municipalities should look for your income

Keywords: Land use efficiency, adjacency levy, real estate market, local fees, local politic

INTRODUCTION

The essence of the adjacency charge stems from the decree of Napoleon I of 16 September 1807. As a local fee, should provide compensation for the costs of building the technical infrastructure they receive from the municipality of its inhabitants. In case of adjacency fee in respect of the construction of technical infrastructure facilities, value of the property prior to the construction of technical infrastructure and equipment after their construction shall be determined according to the price on the day of the decision to establish the fees adjacency [12]. This is due to the fact that the essence of this charge is to share the benefit achieved, which is an increase in the value of the property as a percentage established by the municipality, and not de facto complicity in the cost of construction. The amount of this percentage the fees shall be set by resolution of the council of the municipality of not more than 50% of the difference in the value of the property [12]. It is worth here mentioning the NSA's position on setting a zero rate of interest [14], which the law clearly are not mutually exclusive. The court held that the determination of the percentage adjacency levy of 0% is the giving up of the sources of income of the municipality referred to in the Act — is therefore incompatible with the constitutional provisions and the law on real estate economy [12]. Many municipalities use this workaround in yet another way—without the resolution to establish the fees, so it is worth to ask is it really profits from

such fees are effectively for the budget and consider the fact that the vast majority of any such investment is co-financing by the European Union's budget.

In the case of charges adjacency levy from the real estate division, the fees shall be set by resolution of the council of the municipality in the amount of not more than 30% of the difference in the value of the property [12]. In case of charges adjacency levy for merge and split the amount of the percentage fee shall be adjacency levy municipal council, in its resolution on the merger and division of not more than 50% of the difference in the value of the property [12]. The value of the real estate growth is defined in the sampling frame carried out by real estate appraiser. The sampling frame (the selection of similar real estates) is the weakest part of the calculation of the fee. The obligatory of payment the adjacency levy is just as designed in the event of adjacency fee in respect of the division of property and the construction of infrastructure facilities. Although the financial participation of the community in both cases is quite different. Therefore, it is akin to a planning fee, which is also not in accordance with the tax rules in force (this is a kind of tribute), and which also implies the need to charge, this time on the basis of the increase in value due to changes in local land-use plan. The important difference here is that the question of the obligation to pay and the legislative origin of both:

- adjacency levy - regulates by the Act of 21 August 1997 on real estate management, may be determined to be 3 years since the division of immovable property or the construction of infrastructure, independent of the trading real estate
- planning fees - it regulates the law of 27 March 2003 on planning and spatial planning, can be applied on condition that the property will be disposed of at a time for 5 years from the date of the conversion of the property

Thus the holder of real estate destined for agricultural purposes [3], which would transform this property for construction purposes and share it, and then part of the selling may be double-charged the fees on behalf of the municipality.

CASE STUDY ON THE BASIS OF THE SELECTED MUNICIPALITIES ADJACENT TO THE CITY OF KRAKÓW

The first analysis applies to the entering fee adjacency for example municipalities adjacent to the city of Kraków. A small distance and proximity to a large city should affect the uniformity of policies and in the majority of cases this is so-municipalities have given up with the assessment of fees although lead investments improving the infrastructure-related investments are mainly sewage system. The figure below illustrates the territorial scope of the case.



Figure 1. Illustration of the position of the municipalities of the District of Kraków

Most of these municipalities do not have the relevant resolutions relating to the adjacency fee, thus voluntarily resigns from the possibility of receiving income. One such example is the municipality Skawina, another is Zabierzów. The first of them in 2008, resigned from the payment of adjacency levy, giving back the measures so far paid for this purpose (the resolution of the year 2000). Zabierzów possessed a suitable resolution for a year, it was a resolution on 23.10.2003, which was revoked the resolution of 15.04.2004.

A completely different position presents a municipality Zielonki, which takes full advantage of the ability to download such a fee, the percentage is 32% [10]. Municipality Zielonki has a local development plan for the period 2010-2020, specifying the direction of spatial and social policy study of the conditions and directions of land-use planning and local zoning plan covering their area of the whole municipality. Each year, spends approximately 40% of its budget for infrastructure investments [10].

Table 1. Participation fees and income from planning adjacency levy municipal Zielonki

Term of office	1999-2002	2003-2006	2007-2010	2011-2014
Planning fees, fee income and adjacency levy	0 PLN	482 987 PLN	5 196 460 PLN	2 721 900 PLN
The revenues of the municipality	67 275 023 PLN	110 106 369 PLN	181 820 077 PLN	226 425 994 PLN
Percent in the total income of the municipality	0,0%	0,4%	2,9%	1,2%

Table 1 demonstrates that even adding two charges is not a key source of income of the municipality so it is the abandonment of them. The situation is different from the physical persons (property owner), which as a result of the implementation of several actions can significantly enrich themselves by carrying out the conversion process and the properties of division and sales of the property. Increase the value of such property may also not be too spectacular, or even real estate division may reduce its value. The details of such cases are presented in the next chapter, by analysing two different cases: the first is the division of land in Słomniki without altering its destination, the second (more spectacular) is

a division of agricultural real estate with a change to its destination in the local zoning plan, the property as is situated in the Subcarpathian Voivodeship, Radawa City.

FINANCIAL IMPLICATIONS BASED ON THE BASIS OF THE CHARGE THE ADJACENCY AND PLANNING FEES

The first part of the chapter applies to a typical division of real estate and the possibility of charge adjacency levy. As already mentioned above, municipality Słomniki does not have laws to charge such fees. This simulation shows the ability to charge such fees in respect of the allocation of immobility. Two cases were analysed. The first of them has caused the decline in the value of the property, preventing them from charging a fee, the second increase in value and the calculation of the fee.

The subjects of real estate valuations are plots numbered: 85/2, 85/3, 85/4, 85/5, 85/6 693, 693, 693/6, 693/7. Valued real estate is located in the municipality of Słomniki, Kraków County, Lesser Poland Voivodeship.

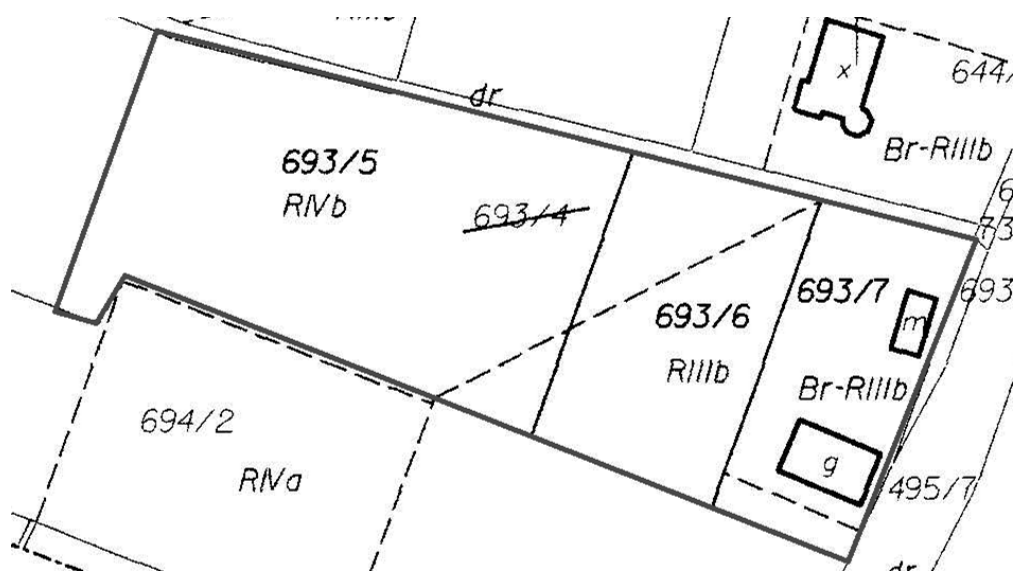


Figure 2. A sketch of the sampling frame showing the subdividing a parcel 693/4 to smaller real estate numbered as 693/5, 693/6, 693/7

Table 2 bellows lists of the value of the property valued method of comparing pairs in accordance with Polish law. Each property has been paired with 3 other similar to being valued and six characteristics in respect of which they were compared with each other (location, surroundings, the shape of the plot, armament, surface) [5], [6].

Table 2. Summary of unit value and area

Parcel number	Area [m ²]	Value [PLN/1m ²]	Value of parcel [PLN]	Parcel number	Area [m ²]	Value [PLN/1m ²]
693/4	6299	48,45	305187	85/2	8803	27,35
693/5	3421	29,68	101535	85/3	1065	47,59
693/6	1550	43,02	66681	85/4	1452	41,25
693/7	1328	59,48	78989	85/5	5865	27,96

Price plots 693/4 before the division amounted to 305 187 PLN (69 361EUR), after summing, the values of the parcels 693, 693/6, 693/7 we get 247 206 PLN (56 183 EUR). These results show that the distribution has lowered the value of 57 981 PLN (13 177 EUR). This result means that the adjacency levy may not be appointed for sharing this plot. Value of parcel 85/2 before the division amounted to 240 762 PLN (54 719 EUR), after the summing the values of the parcels 85/3, 85, 85, 85/6 we get 284 483 PLN (64 655EUR). These results show that the value has increased by 43720 PLN (18%). The effect of this increase would be charging the adjacency levy, i.e. in the amount of 30% of the value obtained. Adjacency fee as a result of the allocation of plots 85/2 is 13 116 PLN (2 981 EUR).

The next example shows how a single property can bring an income just by few divisions and designation changes. As a result of changes in the years 2010-2012 it has gained substantially in value as a result of the operations subject to payment of a planning and adjacency fee. The plot of the area 19, 03 hectare, was in the field for which no local zoning plan has been established. The property was bought by a physical person on 2 April 1993 for 66 605 PLN, i.e. the price of 1ar was 35.00 PLN (7.94 EUR). In 2010, its value was estimated at 168 283 PLN which is 88.43 PLN per 1 ar (20.06 EUR) [7].

In the following years, the owner has taken a number of legal acts (also see table 3):

- In 2010, issued a decision on zoning and land-use fixing the conditions for the objective of building on the part of the plot as the construction of five buildings, single-storey, detached from the commercial attic, construction of internal roads, one of the parcels was sold (which is the basis for the calculation of planning fees)
- In the same year issued a decision approving a project sharing a plot no 780/2, 19,03 ha, result was 7 plots with an area of about 0.10 ha and one surface 18.43 ha (as a result of this action should be paid adjacency fee).
- In the year 2011, issued a decision setting out the conditions for the construction site covering the objectives one of the dedicated plots for the construction of ten five buildings, single-storey, detached from the commercial attic, construction of internal roads. In addition, with the plot of the parent spun off another 12 plots with an average. 0.10 ha and one. 17.4983 ha [4] (these works provoke the emergence of both fees).
- The year 2012 - The decision of setting out the conditions for the objective work, covering a total of twelve buildings, single-storey, detached from the commercial attic, construction of internal roads and a separation of the following 12 plots with an average area 0.10 ha (a reason to charge two fees: adjacency fees for division of real estate and infrastructure construction, and planning-for conversion of property).

Table 3. Plots sold as result from the division of the parent plot over years from 2010 to 2012

No	Year	Area 1 ar	Proce for 1 ar (PLN)	Price for 1 ar (EUR)
1	2010	7	3 420	776
2	2011	11	2 270	515
3	2011	10	2 600	590
4	2011	6	2 600	590
5	2011	9	3 330	756
6	2011	20	2 800	635
7	2011	12	2 800	635
8	2011	10	2 800	635
9	2011	8	2 750	624
10	2011	10	3 000	681
11	2012	6	3 500	794
12	2012	9	2 220	504
13	2012	6	3 500	794
14	2012	10	3 400	771

The sales price after changing the destination of the property by the zoning and subsequent divisions, rose 33 times in the course of the years 2010-2012, it is about 5 401 798 PLN more, which at 30 percent would ensure the need to pay a fee in the amount of PLN 1 620 339 (367 700 EUR). However, should undertake to determine the increase in the price of the real estate division title and build technical infrastructure and for the conversion of the property [5], [6], [12]. If there were any legal acts, the value of the property (as a result of global change) will increase only by 3% over two years [8].

Carried out the procedure significantly affected the shape of the environment. At the same time, a short time (2-3 years) occurring alternately was a symptom of changes occurring in the development of a local area [1], [2], [8]. It is worth noting here that if the municipality had appropriate legislation, it would be necessary to calculate both charges, however, in those years, there was no clear position of what to accept 0% as the percentage [9].

CONCLUSION

This agonizing show approach to fee adjacency from the municipality budget and from a single person. Looking at the receipts to the budget of the municipality-incomes are low and it's not hard to be surprised that the local authorities forgo their establishment. This attitude stands in opposition to the legislative provisions and the final judgments of the Court. However, in the case of small increases in the value of the property is fully justified, because it releases the municipality with a number of technical and administrative activities. The municipality of wanting to adjacency levy guilty of is:

- Establish appropriate rates that charge.
- Specify the value of the property before and after the implementation of the investment (split, merge).
- Issue the appropriate decision about the amount of the fees.

It would then consider the merger of the two institutions, however, this requires changes to two laws parents. Going forward the introduction of tax (not tribute) from the estate of its value to the total elimination of the fees, because the increase in value would be a measure of the tax (currently it is addicted to the surface). Changes in land use planning and the development of technical infrastructure now has a positive influence on the value of the property that the amount of the fees in question implies. Therefore, this action would be the improvement of the whole procedure and would give measurable results proceeds to the budget for the following calendar year following the change. The only action of the community in this respect would be the periodic update of the cadastral value of the real estate.

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