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Decision of January 27, 2022 in case No. A32-44788/2020

[Arbitration Court of the Krasnodar Territory \(AC of the Krasnodar Territory\)](#)

Arbitration Court of the Krasnodar Territory

In the Name of the Russian Federation



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SOLUTION

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Krasnodar case No. A32-44788/2020

The operative part of the decision was announced on January 12, 2022.

The full text of the decision was made on January 27, 2022.

The Arbitration Court of the Krasnodar Territory, composed of Judge Savin R.Yu., while maintaining the minutes of the court session by assistant judge Magulyan E.I., examined the case at the court hearing according to the application of

the applicant: Elavan Power LLC (TIN <***>, OGRN < ***>),

interested party: Department of Property Relations of the Krasnodar Territory

(TIN <***>, OGRN <***>),

third parties:

1. Administration of the municipal formation Temryuk district,
2. Ministry of Fuel and Energy Complex and Housing -municipal services of the Krasnodar Territory,
3. Department of Investment and Development of Small and Medium Enterprises of the Krasnodar Territory,
4. LLC "Wind Generating Company",
5. State Unitary Enterprise KK "Kubanvodkompleks",
6. PJSC "Rostelecom",
7. Administration of the Zaporozhye rural settlement of the Temryuk region ,
8. State Atomic Energy Corporation "Rosatom",

on declaring illegal the refusal of 07/02/2020 No. 52-33-12-21403/20 to lease without bidding a land plot with cadastral number 23:30:0103007:103,

ob obligation to lease without bidding a land plot with cadastral number 23:30:0103007:103,

with participation in the meeting:

from the applicant: Full name 1 - by online power of attorney,

from the interested party: Full name 2 - by power of attorney,

from third parties: did not appear, notified ,

INSTALLED:

Elavan Power LLC (hereinafter referred to as the applicant, the company) appealed to the Arbitration Court of the Krasnodar Territory with a statement to the Department of Property Relations of the Krasnodar Territory (hereinafter referred to as the interested party, the department), in which it asked:

- to recognize as illegal the refusal of 07/02/2020 No. 52- 33-12-21403/20 in providing a land plot with cadastral number 23:30:0103007:103 to the company for rent without holding a tender;

- oblige the department to eliminate the violation of the rights and legitimate interests of the company by providing a land plot with cadastral number 23:30:0103007:103 for rent without bidding for a period of 49 years, preparing, signing and sending to the company a draft lease agreement within a month from the moment the court decision enters into legal force;

The requirements are motivated by the fact that the applicant, in accordance with the agreement of intent in the implementation of an investment project in the Krasnodar Territory dated 02/15/2018 as amended by the additional agreement dated 09/03/2018 (hereinafter referred to as the Agreement), the Action Plan for the implementation of an investment project for the construction of a local facility meaning "Construction of a wind power plant with a capacity of up to 90 MW in the area of the village of Beregovoy, Temryuk district (Beregovoy WPP)" (hereinafter referred to as the Action Plan) began to implement an investment project for the construction of a linear facility of local importance "Construction of a wind power plant with a capacity of up to 90 MW in the area of the village of Beregovoy, Temryuk district (Coastal wind farm)" (hereinafter referred to as the Object). As part of the implementation of this project, guided by paragraphs. 4 p. 2 tbsp. [39.6](#) , Art. [39.14](#) , [39.17](#) of the Land Code of the Russian Federation, by order of the Ministry of Economic Development of Russia dated January 12, 2015 No. 1 "On approval of the list of documents confirming the applicant's right to purchase a land plot without bidding" (hereinafter referred to as Order of the Ministry of Economic Development dated January 12, 2015 No. 1), the company filed an application for provision of a land plot with cadastral number 23:30:0103007:103 (hereinafter referred to as the disputed land plot) for rent without bidding for a period of 49 years, which the applicant was denied.

At the court hearing, the applicant's representative insisted on the requirements.

The representative of the interested party objected to the requirements.

The administration of the municipal formation Temryuk District and the Department of Investment and Development of Small and Medium Enterprises of the Krasnodar Territory sent petitions to consider the case in the absence of their representatives.

The requests were granted.



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The court hearing on December 28, 2021 was adjourned until January 12, 2022 at 4:30 p.m. to study the case materials.

After the break, the meeting continued.

Representatives of the parties insisted on their demands and objections.

The department previously submitted a review in which it indicated that the documents received by the department did not contain information about the existence of the company's authority to construct the facility; the boundaries of the disputed land plot are crossed by a water supply system being designed, which is an object of federal, regional or local significance, as well as a communication line and an existing water supply system; the land plot cannot be transferred to the applicant for the construction of an object of local importance until it is transferred to municipal ownership; the category of land "agricultural land" of the land plot does not correspond to the purpose for which it is requested. In additions to the review, the interested party indicates the possibility of providing a land plot on the basis of a public easement, as well as the location of a local highway being designed within the boundaries of the land plot and the impossibility of providing a land plot for the construction of an object due to the fact that the land plot is classified as a special valuable lands.

The Ministry of Fuel and Energy Complex and Housing and Communal Services of the Krasnodar Territory (hereinafter referred to as the Ministry of Fuel and Energy Complex and Housing and Communal Services) sent a review in which it indicated that the Ministry, the administration of the municipal formation Temryuk District and ELAWAN ENERGY SL concluded an Agreement for the implementation of an investment project for the construction of the Facility. ELAWAN ENERGY SL, in order to implement the project, established Elavan Power LLC, with which an additional agreement was concluded to the agreement, stipulating that the functions for the actual implementation of the project are assigned to the company. The scheme for the distribution of electrical power at the Beregovaya Wind Farm has been agreed upon with PJSC FGC UES and the branch of JSC SO UES, the United Dispatch Office of the Power System of the South. Technical specifications were issued for technological connection to the electrical networks of PJSC FGC UES. An agreement on interaction with PJSC FGC UES was signed, which specifies monetary obligations for the company related to the implementation of this agreement. In addition, the investment project is included in the Scheme and Program for the Development of the Unified Energy System of Russia and in the Scheme and Program for the Development of the Electric Power Industry of the Krasnodar Territory (SIPR for 2021-2025). The Ministry also indicated that the issue of transferring the land plot to the applicant for rent does not fall within



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its competence.

The Department of Investment and Development of Small and Medium Enterprises of the Krasnodar Territory (hereinafter referred to as the Investment Department) submitted a review in which it indicated that the issue of transferring the disputed land plot to the applicant for rent does not fall within its competence.

The administration of the Temryuk district municipality (hereinafter referred to as the administration) also submitted a review in which it supported the department's arguments regarding the intersection of the boundaries of the land plot with such objects as the projected water supply system, the connecting communication line and the existing water supply system.

State Unitary Enterprise KK Kubanvodkompleks submitted a review in which it indicated that the main water supply system V-30, crossing the boundaries of the disputed land plot, is used to supply drinking water to the village. Beregovaya, no other arguments or explanations on the merits of the case were presented.

PJSC Rostelecom, the administration of the Zaporozhye rural settlement of the Temryuk region and the State Corporation Rosatom did not provide reviews.

Since the amount of evidence available in the case materials is sufficient to consider the case on its merits, the court considers it possible to consider the case.

According to Part 1 of Art. [198](#) of the Arbitration Procedural Code of the Russian Federation (hereinafter referred to as the Arbitration Procedure Code of the Russian Federation), citizens, organizations and other persons have the right to apply to the arbitration court with an application to invalidate non-normative legal acts, illegal decisions and actions (inaction) of bodies exercising public powers, officials, if they believe that the contested non-normative legal act, decision and action (inaction) do not comply with the law or other regulatory legal act and violate their rights and legitimate interests in the field of business and other economic activities, illegally impose any obligations on them, create other obstacles to the implementation of business and other economic activities.

An application may be submitted to an arbitration court within three months from the day when a citizen or organization became aware of a violation of their rights and legitimate interests, unless otherwise provided by federal law. The deadline for filing an application missed for a good reason may be restored by the court (Part 4 of Article [198 of the Arbitration Procedure Code of the Russian](#)

[Federation](#)).

The contested refusal was received by the applicant on 07/07/2020, the application was sent to the court on 10/06/2020, as evidenced by the marks of the Russian Post on the documents available in the case file. Consequently, the three-month period for appealing the refusal has not been missed.

In accordance with Art. [71 of the Arbitration Procedure Code of the Russian Federation](#), the arbitration court evaluates the relevance, admissibility, reliability of each evidence separately, as well as the sufficiency and interrelation of the evidence in their totality.

Having directly examined the evidence in the case, heard the explanations of the persons participating in the case, and assessed the evidence and arguments they provided in support of their claims and objections, the court found the following.

The court found that an Agreement was concluded between the Ministry of Fuel and Energy Complex and Housing and Communal Services, the administration of the Temryuk region, ELAWAN ENERGY SL, CJSC Wind Generating Company and the applicant, according to which the parties expressed their intention to implement an investment project for the construction of the facility.

The agreement contains provisions that ELAWAN ENERGY SL and the company will take steps to acquire rights to the land plot necessary for the construction of the Facility, indicating the location of the facility: Krasnodar Territory, Temryuk District, Beregovoy village (Mount Gorelaya area) (clauses 2, 3.3 .2 of the Agreement), and construction of the Facility was carried out (clauses 1.1, 2 of the Agreement).

Clause 1 of the additional agreement dated 09/03/2018 to the agreement states that the reason for making changes to the Agreement is that ELAWAN ENERGY SL registered the legal entity Elavan Power LLC for the implementation of an investment project for the construction of the Facility.

According to information on the types of economic activities according to the All-Russian Classifier, reflected in the extract from the Unified State Register of Legal Entities dated 10/02/2020 No. YuE99620-229246293, the applicant's activities include, among other things, the construction of power plants (42.22.3); production of electricity obtained from renewable energy sources, including those generated by solar, wind, geothermal power plants, including activities to ensure their operability (35.11.4); construction of utility facilities to provide electricity and telecommunications (42.22).



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The parties to the Agreement also signed an Action Plan, which provides for the stages of project implementation, including those preceding the provision of the land plot necessary for the construction of the Facility. The case materials contain evidence confirming the implementation by the parties to the Agreement of the measures provided for in clauses 1.1, 2.1, 3.1-3.4, 4.1 of this Plan, in particular, letter dated 05/16/2018 No. 333-2763/18-01-06, additional agreement dated 09/03. 2018 to the Agreement, copied from the Scheme and program for the development of the electric power industry of the Krasnodar Territory for the period 2020-2024, approved by order of the head of the administration of the Krasnodar Territory dated April 30, 2019 No. 101-r, letter ref. No. 180524-01 dated May 24, 2018, ref. No. 202-03.2-17871/18-20.06.18 dated 06/20/2018, agreement dated 08/31/2018 No. 5147 with ZAO NIPI Inzh Geo, resolution of the administration of the municipal formation Temryuk district No. 1843 dated 12/28/2018, resolution of the administration of the municipal formation Temryuk district No. 1503 dated 08/26/2019, technical conditions for technological connection to the electrical networks of PJSC FGC UES dated 10/21/2019.

The administration issued a resolution dated 06/08/2018 No. 679 on the preparation of documentation for territory planning (territory planning project and territory surveying project) for the construction of a linear facility of local importance under the title “Construction of a wind power plant with a capacity of up to 90 MW in the area of the village of Beregovoy, Temryuk district (Beregovoy WPP)” (hereinafter referred to as the territory planning documentation), which indicates that the approximate area of the designed territory for the placement of the Facility is 34 hectares, the placement of the Object is planned on a land plot with cadastral number 23:30:0103007: 90.

By Decree of the Administration of the Temryuk District Municipal Formation No. 1843 dated December 28, 2018 (taking into account changes made by the Decree of the Administration of the Temryuk District No. 1503 dated August 26, 2019) the documentation was approved according to the planning of the territory, according to which the land plot necessary for the construction and operation of the Facility will be formed by dividing the original land plot with cadastral number 23:30:0103007:90. The area of the planned location of the Facility is 369,032 sq.m.

The development of documentation for the planning of the territory by the applicant was carried out, which is confirmed by agreement dated 08/31/2018 No. 5147, drawings, which are annex to the resolution of the administration of the municipal formation of Temryuk district No. 1843 dated 12/28/2018.

As follows from paragraph 6 of Protocol No. 2 dated 12/02/2019 of the



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extended meeting of the interdepartmental headquarters (working group) for operational assistance to investors in the Krasnodar Territory under the commission to improve the investment climate in the Krasnodar Territory, chaired by the Deputy Governor of the Krasnodar Territory V.A. Shvets. and with the participation of the head of the department, Full Name 3 (hereinafter referred to as Minutes No. 2 of 12/02/2019), an order was recorded for the department to form, in accordance with the territory planning documentation, from a land plot with cadastral number 23:30:0103007:90 a land plot with an area of 369,032 sq.m. ., necessary for the construction of the facility, and register it with the cadastral register with registration of ownership in the Krasnodar Territory and determination of the category of the land plot in accordance with the territory planning documentation.

As follows from the extract from the Unified State Register No. 99/2020/34944393 dated September 21, 2020, a land plot with cadastral number 23:30:0103007:103 with an area of 369032+/-1063 sq.m. was formed from a land plot with cadastral number 23:30:0103007:90, registered in the cadastral register on December 30, 2019 with registration of property rights in the Krasnodar Territory.

The company ensured that cadastral work was carried out in order to form the specified land plot, as follows from the agreement dated December 13, 2019 No. 191213-01, letter dated December 23, 2019 ref. No. 01.1062-n/19 and the above extract from the Unified State Register of Real Estate.

The court also found that the applicant is listed in the Scheme and Program for the Development of the Unified Energy System of Russia for 2019 - 2025, approved by Order of the Ministry of Energy of Russia dated February 28, 2019 No. 174, as well as in the Scheme and Program for the Development of the Electric Power Industry of the Krasnodar Territory for the period 2020-2024, approved by the order of the head of the administration of the Krasnodar region dated April 30, 2019 No. 101-r, as the person planning the construction of the Facility.

The Administration of the Krasnodar Territory, represented by the Investment Department, corresponded with the applicant regarding the provision of a land plot for the construction of the Facility, which is confirmed by letters dated May 16, 2018 ref. No. 333-2763/18-01-06, 07/19/2018 ref. No. 333-4181/18-01-06.

According to paragraphs. 2 tbsp. 1, part 1 art. 18, pp. 2 part 1, pp. 1 hour 3 tbsp. 19 of the Civil Code of the Russian Federation and the territorial planning scheme of the municipal formation Temryuksky district, approved by the Decision of the XLII session of the Council of the municipal formation of the



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Temryuk district of the IV convocation dated March 30, 2007 No. 616 (taking into account the changes made by the Decision of the LVII session of the Council of the municipal formation of the Temryuk district of the V convocation dated November 22, 2013 year No. 598, Decision of the X session of the Council of the municipal formation of the Temryuk district of the VI convocation dated March 25, 2016 No. 100) the controversial Object is an object of local significance.

The applicant contacted the department with a statement ref. No. 200602-02 dated 06/02/2020 on the provision of a land plot with cadastral number 23:30:0103007:103 for rent without bidding on the basis of paragraphs. 4 p. 2 tbsp. [39.6 of the Land Code](#) of the Russian Federation for a period of 49 years for the construction of the Facility.

The department, by letter dated 07/02/2020 No. 52-33-12-21403/20, refused to provide the applicant with a land plot with cadastral number 23:30:0103007:103 for rent without bidding.

Considering the department's refusal to lease the disputed land plot without bidding illegal, the applicant appealed to the arbitration court.

When considering this case, the court was guided by the following.

In accordance with Part 1 of Article [4](#) of the Arbitration Procedural Code of the Russian Federation (hereinafter referred to as the Arbitration Procedure Code of the Russian Federation), an interested person has the right to apply to an arbitration court for the protection of his violated or disputed rights and legitimate interests in the manner established by this Code.

The protection of civil rights is carried out by the methods enshrined in Article [12](#) of the Civil Code of the Russian Federation (hereinafter referred to as the Civil Code of the Russian Federation), as well as by other methods provided for by law. The method of defense must correspond to the content of the violated right and the nature of the violation. A necessary condition for the use of one or another method of protecting civil rights is to ensure the restoration of the violated right (clause 1 of Article [1 of the Civil Code of the Russian Federation](#)).

Organizations have the right to apply to an arbitration court to declare illegal decisions and actions (inaction) of bodies exercising public powers if they believe that the contested decision and action (inaction) do not comply with the law or other regulatory legal act and violate their rights and legitimate interests in sphere of entrepreneurial and other economic activities, illegally impose any duties on them, create other obstacles to the implementation of entrepreneurial and other economic activities (Part 1 of Article [198 of the Arbitration Procedure](#)



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[Code of the Russian Federation](#)).

When considering cases of challenging non-normative legal acts, decisions and actions (inaction) of bodies exercising public powers, officials, the arbitration court in a court session checks the disputed act or its individual provisions, disputed decisions and actions (inaction) and establishes their compliance with the law or other normative legal act, establishes the authority of the body or person who adopted the contested act, decision or performed the contested actions (inaction), and also establishes whether the contested act, decision and actions (inaction) violate the rights and legitimate interests of the applicant in the field of business and other economic activities (part 4 of article [200 of the Arbitration Procedure Code of the Russian Federation](#)).

According to Part 2 of Article [201 of the Arbitration Procedure Code of the Russian Federation](#) , the arbitration court, having established that the contested non-normative legal act, the decision and actions (inaction) of bodies exercising public powers, officials do not comply with the law or other regulatory legal act and violate the rights and legitimate interests of the applicant in the field of business and other economic activities, makes a decision to recognize a non-normative legal act as invalid, decisions and actions (inaction) as illegal.

By virtue of paragraph 6 of the Resolution of the Plenums of the Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation dated 07/01/1996 No. 6/8 “On some issues related to the application of part one of the Civil Code of the Russian Federation” to satisfy the requirements for invalidating non-normative legal acts and illegal decisions and actions (inaction) of government bodies must have two conditions: non-compliance with the law or other regulatory legal act, as well as a violation of the rights and legitimate interests of the applicant.

Thus, for an arbitration court to recognize a non-normative legal act, decision, action (inaction) as illegal, two legally significant circumstances must exist simultaneously: their inconsistency with the law or other regulatory legal acts and a violation of the rights and legitimate interests of the applicant in the field of business and other economic activities.

At the same time, the absence of at least one of these conditions is grounds for refusal to satisfy the stated requirements (Part 3 of Article [201 of the Arbitration Procedure Code of the Russian Federation](#)).

The obligation to prove the compliance of the contested non-normative legal act with the law or other normative legal act, the legality of the adoption of the contested decision, the commission of the contested actions (inaction), whether the body or person has the appropriate authority to adopt the contested act,

decision, commission of the contested actions (inaction), as well as the circumstances which served as the basis for the adoption of a contested act, decision, commission of contested actions (inactions), is assigned to the body or person who adopted the act, decision or committed the actions (inactions) (Article [65](#) and Part 5 of Article [200 of the Arbitration Procedure Code of the Russian Federation](#)).

The department motivates the refusal by the fact that the documents and information submitted to it lacked information about the applicant's authority to construct the facility.

In accordance with paragraphs. 4 p. 2 tbsp. [39.6 of the Land Code](#) of the Russian Federation (hereinafter referred to as the Land Code of the Russian Federation), the land plot required for the location of local facilities can be leased without bidding.

In accordance with paragraph 2 of Art. [39.17 of](#) the Land Code of the Russian Federation, the documents provided for in subparagraphs 1 and 4 - 6 of clause 2 of Art. [39.15](#) Land Code of the Russian Federation.

According to paragraphs. 1 item 2 art. [39.15 of](#) the Land Code of the Russian Federation, documents are attached to the application confirming the applicant's right to acquire a land plot without holding a tender and provided for in the list established by the federal executive body authorized by the Government of the Russian Federation, with the exception of documents that must be submitted to the authorized body in the order of interdepartmental information interaction.

Order of the Ministry of Economic Development of Russia dated January 12, 2015 No. 1, which was in force at the time of filing an application for the provision of a land plot with cadastral number 23:30:0103007:103 and its consideration, established a list of documents confirming the applicant's right to purchase a land plot without holding a tender.

In accordance with clause 25 of the List for the provision of a land plot for rent without bidding on the basis of clauses. 4 p. 2 tbsp. [39.6](#) of the Land Code of the Russian Federation for the placement of objects of local significance, documents confirming the applicant's right to purchase a land plot without holding a tender are:

- an extract from the territorial planning document or an extract from the documentation on the planning of the territory, confirming the classification of the object as an object of local significance;



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- an extract from the Unified State Register of Real Estate about the property (about the requested land plot);

- an extract from the Unified State Register of Legal Entities about the legal entity that is the applicant.

As follows from the documents presented in the case file and is not refuted by the persons participating in the case, the applicant presented:

- a copy of the territory planning documentation certified by the administration, confirming the classification of the Object as a linear object of local importance;

- copies of resolutions certified by the administration of the Temryuk district administration No. 1843 dated December 28, 2018, No. 1503 dated August 26, 2019;

- copies of letters from the Investment Department dated May 16, 2018 No. 333-2763/18-01-06, July 19, 2018 No. 333-4181/18-01-06;

- extract from the Unified State Register of Real Estate dated May 14, 2020 in relation to a land plot with cadastral number 23:30:0103007:103;

- extract from the Unified State Register of Legal Entities about the applicant.

Thus, the applicant provided documents that, in accordance with the direct instructions in the law, confirm the applicant's right to acquire a land plot without holding a tender for the purpose of constructing a facility of local importance.

According to the letter of the Ministry of Economic Development of Russia dated July 2, 2015 No. D23i-3071, on the grounds provided for in subparagraph 4 of paragraph 2 of Article [39.6](#) of the Land Code of the Russian Federation, it is allowed to provide land plots for the placement of facilities intended to provide electricity, heat, gas and water supply, drainage, communications, oil pipelines, including those not related to federal, regional or local facilities. The determination of legal entities authorized to place such objects is carried out without restrictions, with the exception of cases of placement of such objects in accordance with state programs of the Russian Federation, state programs of the constituent entities of the Russian Federation, targeted investment programs, as well as when placing objects that fall under the provisions of the Federal Law dated August 17, 1995 No. 147-FZ "On Natural Monopolies".

Evidence that the disputed object is subject to placement in accordance with state programs of the Russian Federation, state programs of the constituent



entities of the Russian Federation, targeted investment programs, and also that the object falls under the provisions of Federal Law of August 17, 1995 No. 147-FZ "On natural monopolies", was not presented to the court.

From the above provisions of the law, approved by order of the Ministry of Economic Development of Russia dated January 12, 2015 No. 1 of the List, it follows that the provision of any documents and information confirming the authority of a person to construct a local facility in order to consider an application for the provision of a land plot on the basis of paragraphs. 4 p. 2 tbsp. [39.6](#) of the Land Code of the Russian Federation - not required; the right of a person to be provided with a land plot in this case is confirmed by the documents provided for in clause 25 of the List.

A similar position was expressed in the decisions of the Arbitration Court of the Volga-Vyatka District dated June 16, 2017 in case No. A79-6248/2016, the Twelfth Arbitration Court of Appeal dated October 9, 2017 in case No. A12-9498/2017, the Twelfth Arbitration Court of Appeal dated August 24, 2017. case No. A12-8794/2017.

The court rejects the department's arguments that the applicant should have provided an agreement, a certificate from the authorized body regarding the classification of the object as an object of regional or local significance, indicated in the letter of the Ministry of Economic Development of the Russian Federation dated July 2, 2015 No. D23i-3071, as not based on the norms of the current legislation.

Contrary to the department's arguments, from the provisions of Art. 26 of the Civil Code of the Russian Federation does not require the mandatory inclusion of a person planning to carry out the construction of a local facility at his own expense in the program approved by the local administration of the municipal district.

In accordance with Part 1 of Art. 26 of the Civil Code of the Russian Federation, the implementation of territorial planning documents is carried out, inter alia, by preparing and approving documentation on territory planning in accordance with territorial planning documents.

The court found that the administration approved the documentation on the planning of the territory for the construction of the facility, which is also a regulatory legal act of the administration.

In addition, the applicant is indicated as the contractor for the design and construction of the wind farm in the territory planning documentation (page 80



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of volume 5.1.2 of the territory planning documentation, section “Materials for justification of the territory planning project”).

The court also takes into account that it was the company that carried out the activities to implement the project provided for in the agreement and the Action Plan. In addition, the authorized government body of the Krasnodar Territory sent clarifications to the company on the issue of providing a land plot, including the measures that need to be taken in order to eliminate the risk of refusal to provide a land plot on the basis of paragraphs. 17th century [39.16](#) of the Land Code of the Russian Federation, in particular, on the need to include the applicant in the Scheme and program for the development of the electric power industry of the Krasnodar Territory, as well as in the Agreement (letters dated May 16, 2018 No. 333-2763/18-01-06, 07.19.2018 ref. No. 333-4181 /18-01-06). These measures were implemented by the parties to the agreement.

Taking into account the above, the court comes to the conclusion that the department’s refusal to provide the applicant with a land plot was unlawful due to the department’s lack of documents and information confirming the company’s authority to construct the facility.

The department also pointed out that it does not have the authority to provide a land plot for rent to the applicant, since this plot is requested for the purposes of constructing an object of local importance, and therefore, in the opinion of the department, the disputed land plot can be provided to the applicant only after its transfer to municipal ownership .

As established by the court, the disputed land plot is owned by the Krasnodar Territory. In accordance with Art. [209 Civil Code of the Russian Federation](#) , paragraphs. 3.10.2 clause 3.10 of the Regulations on the Department of Property Relations of the Krasnodar Territory, approved by Resolution of the Head of the Administration of the Krasnodar Territory dated April 23, 2007 No. 345, it is the department that exercises the authority to dispose of such a land plot.

The current legislation of the Russian Federation does not prohibit the provision of lease of a land plot owned by a constituent entity of the Russian Federation for the location of an object of local importance.

This conclusion also follows from paragraph 18 of the Review of Judicial Practice of the Supreme Court of the Russian Federation No. 1 dated March 28, 2018, thus, the argument that the property department lacks authority to dispose of a land plot by providing it for the construction of a local facility must be rejected.

The court took into account that the administration sent a letter dated January 10, 2020 to the Head of Administration (Governor) of the Krasnodar Territory with a request to transfer the disputed land plot into the ownership of the Temryuk District municipality, however, the decision to transfer the land plot into municipal ownership has not yet been made.

The company cannot bear the risk of the consequences of commission or non-commission by authorized bodies of relevant actions regarding the transfer of a disputed land plot from state to municipal ownership, since the current legislation does not provide for legal mechanisms that allow the company to oblige these bodies to take actions to transfer the land plot to municipal ownership.

Also, the arguments of the department and the administration about the illegality of providing the applicant with the disputed land plot due to the crossing of its borders by an existing water supply and communication line are not confirmed.

As established by the court, the land plot is crossed by the main water pipeline V-30, which is under the economic control of the State Unitary Enterprise KK Kubanvodkompleks, and a communication cable, the copyright holder of which is PJSC Rostelecom.

According to subparagraphs 4, 5 of Art. [39.16](#) of the Land Code of the Russian Federation, the authorized body makes a decision to refuse to provide a land plot if there is a building, structure, or unfinished construction project located on the land plot, owned by citizens, legal entities or in state or municipal ownership, with the exception of cases where on the land plot there are structures (including structures whose construction has not been completed), the placement of which is permitted on the basis of an easement, public easement or in accordance with Art. [39.36](#) Land Code of the Russian Federation.

According to paragraph 1 of Art. [39.23](#) of the Land Code of the Russian Federation, an agreement on the establishment of an easement in relation to a land plot located in state or municipal ownership is concluded in the case of the placement of linear objects, communication structures, special information signs and protective structures that do not interfere with the permitted use of the land plot.

According to paragraph 1 of Art. [39.37](#) Land Code of the Russian Federation, a public easement is established for the use of land plots and (or) lands, including for the purpose of placing water supply networks, sewerage networks, communication lines and structures, if these objects are necessary for



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organizing electricity, gas, heat, and water supply population and water disposal, connection (technological connection) to engineering and technical support networks.

In accordance with Art. [39.36](#) of the Land Code of the Russian Federation, as well as the List of types of objects, the placement of which can be carried out on lands or land plots in state or municipal ownership, without the provision of land plots and the establishment of easements (approved by Decree of the Government of the Russian Federation of December 3, 2014 No. 1300), water pipeline and communication cables refer to objects, the placement of which can be carried out on lands or land plots that are in state or municipal ownership, without the provision of land plots and the establishment of easements, public easements.

Thus, the water pipeline and communication cable crossing the boundaries of the disputed land plot fall under the exceptions provided for in subparagraphs 4, 5 of Art. [39.16](#) of the Land Code of the Russian Federation, and do not interfere with the provision of land for rent.

A similar position is set out in the Ruling of the Supreme Court of the Russian Federation dated May 29, 2017 No. 306-KG17-5531 in case No. A57-7345/2016, the decisions of the Fifteenth Arbitration Court of Appeal dated October 18, 2017 in case No. A32-41426/2016, the Arbitration Court of Volga Vyatka District dated 02/08/2019 in case No. A43-13855/2018, Arbitration Court of the Far Eastern District dated 12/21/2018 in case No. A04-2519/2018, Arbitration Court of the Volga District dated 02/28/2017 in case No. A57-7345/2016 Arbitration Court Ural District dated October 11, 2018 in case No. A07-38652/2017, Eighteenth Arbitration Court of Appeal dated May 27, 2020 in case No. A76-33316/2019.

The court also took into account the information specified in the planning documentation that, as part of the adjustment of this documentation, intersections of the facility with the existing water pipeline were excluded, the territory planning documentation also took into account the security zones of drinking water supply facilities and security zones of communication networks, which indicates the absence of obstacles to the operation of the water pipeline and communication cable in connection with the placement of the object on the land plot.

The court notes that the State Unitary Enterprise KK Kubanvodkompleks did not indicate in its response that the provision of a land plot to the applicant or the construction of a facility could lead to a violation or restriction of his rights. In addition, the case materials included a letter from PJSC Rostelecom, ref. No. 220622-03 dated June 22, 2021, according to which PJSC Rostelecom does



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not see a violation of its rights in connection with the provision of a land plot and the construction of a facility, taking into account that during the construction of the facility the applicant will receive and comply with technical conditions.

The department's argument about the existence of grounds for refusing to provide the society with a disputed land plot in accordance with paragraph 17 of Art. [39.16](#) of the Land Code of the Russian Federation due to the fact that the land plot is crossed by a water pipeline being designed, which is an object of federal, regional or local significance.

As follows from paragraphs. 2 tbsp. 1 of the Civil Code of the Russian Federation, territorial planning is planning for the development of territories, including for establishing functional zones, determining the planned location of objects of federal significance, objects of regional significance, objects of local significance.

Article 9 of the Civil Code of the Russian Federation states that territorial planning documents are divided into documents of territorial planning of the Russian Federation; territorial planning documents of the constituent entities of the Russian Federation; documents of territorial planning of municipalities.

Part 1 of Article 10 of the Civil Code of the Russian Federation stipulates that the territorial planning documents of the Russian Federation are the territorial planning schemes of the Russian Federation, including in the field of federal transport (railway, air, sea, inland waterway, pipeline transport).

The provisions on territorial planning contained in the territorial planning schemes of the Russian Federation indicate information about the types, purpose and names of federal facilities planned for placement, their main characteristics, their location (the names of the municipal district, settlement, urban district, settlement are indicated), as well as characteristics of zones with special conditions for the use of territories in the event that the establishment of such zones is required in connection with the placement of these objects (Part 5 of Article 10 of the Civil Code of the Russian Federation).

In accordance with Part 1 of Art. 14 of the Civil Code of the Russian Federation, territorial planning documents for a constituent entity of the Russian Federation are territorial planning schemes for a constituent entity of the Russian Federation.

The provisions on territorial planning contained in the territorial planning schemes of a constituent entity of the Russian Federation indicate information about the types, purpose and names of objects of regional importance planned for placement, their main characteristics, their location (the names of the



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municipal district, settlement, urban district, settlement are indicated) , as well as characteristics of zones with special conditions for the use of territories in the event that the establishment of such zones is required in connection with the placement of these objects (Part 4 of Article 14 of the Civil Code of the Russian Federation).

According to Part 1 of Art. 18 of the Civil Code of the Russian Federation, the documents for territorial planning of municipalities are:

- 1) territorial planning schemes for municipal districts;
- 2) master plans of settlements;
- 3) master plans of urban districts.

In accordance with paragraphs. 2 part 1, pp. 1 hour 3 tbsp. 19 of the Civil Code of the Russian Federation, objects of local significance of the municipal district are subject to display on the map of the planned location of objects of local significance of the municipal district, which is part of the territorial planning scheme of the municipal district.

According to paragraphs. 2 part 3, pp. 1 hour 5 tbsp. 23 of the Civil Code of the Russian Federation, objects of local significance of the settlement are subject to display on the map of the planned location of objects of local significance of the settlement, which is part of the master plan of the settlement.

Thus, information about objects of federal significance must be displayed in the regulations on territorial planning contained in the territorial planning scheme of the Russian Federation; information about objects of regional significance is reflected in the regulations on territorial planning contained in the territorial planning scheme of a constituent entity of the Russian Federation, objects of local significance of the municipal district are reflected on the map of the planned location of objects of local significance of the municipal district, which is part of the territorial planning scheme of the municipal district, and objects of local significance settlements are subject to display on the map of the planned location of local facilities of the settlement, which is part of the master plan of the settlement.

The department has not provided evidence of the inclusion of information about the water pipeline being designed to cross the disputed land plot in the relevant territorial planning documents as an object of federal, regional or local significance.

On the STP-1 map, which, according to the Regulations on Territorial Planning,



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is a map of the planned location of objects of local importance, which is part of the territorial planning scheme of the municipal formation Temryuk district as amended, approved by the Decision of the X session of the Council of the municipal formation Temryuk district of the VI convocation dated March 25, 2016 No. 100, there is no projected water supply.

In turn, the map of the planned location of objects of federal, regional, local and other significance in settlements Art. Zaporozhskaya, Garkusha village, Ilyich village, Chushka village, Batareika village, Beregovoy village, Priazovsky village, Krasnoarmeysky village as part of the master plan of the Zaporozhye rural settlement of the Temryuk district of the Krasnodar Territory, as amended by the decision of the LIV session of the Municipal Council Temryuk district of the VI convocation dated November 20, 2018 No. 542, also does not contain information about the water supply system being designed.

There is also no evidence that the water pipeline projected on the territorial planning diagrams of the Russian Federation or the territorial planning of a constituent entity of the Russian Federation is displayed as an object of federal or regional significance.

In accordance with paragraphs. 5 hours 3 tbsp. 41 of the Civil Code of the Russian Federation, the development of documentation on territory planning is mandatory for the construction of linear objects. Water supply, by virtue of clause 10.1 of Art. 1 of the Civil Code of the Russian Federation, falls under the definition of a linear object.

The court took into account that the territory planning documentation developed for the purpose of implementing the facility construction project indicated that within the boundaries of the zones of the planned location of the facility there were no intersections with capital construction projects, the construction of which was planned in accordance with the previously approved territory planning documentation.

In addition, at the court hearing on 10/04/2021, specialist FULL NAME4 explained that there is no documentation on the planning of the territory or other confirmation that the construction of a water conduit (water pipeline), which is an object of regional importance, is planned on the disputed land plot.

The Department also refers to the fact that the General Plan of the Zaporozhye rural settlement of the Temryuk region (map of the planned location of objects of federal, regional and local significance) is displayed within the boundaries of the disputed land plot of a local highway (“projected highway beyond the estimated period”), as a circumstance preventing the provision of a land plot to the applicant.

The court rejects this argument, since the mere display of local facilities, including highways, on the master plan maps is not a circumstance preventing the provision of a land plot. Such a mapping is of a general, planned nature and, in the absence of evidence confirming the implementation of territorial planning documents regarding the construction (location) of objects of local importance, cannot serve as an obstacle to the provision of a land plot for the construction of an object in respect of which the territory planning documentation has been approved.

This position corresponds to judicial practice (determination of the Constitutional Court of the Russian Federation dated 02/25/2016 No. 242-О, paragraph 27 of the Review of Judicial Practice of the Supreme Court of the Russian Federation No. 1 (2017), determination of the Judicial Collegium for Economic Disputes of the Supreme Court of the Russian Federation dated 04/21/2021 No. 308-ES20-22095 in case No. A32-39267/2019.

The case materials also included a letter from the Department of Architecture and Urban Planning of the Krasnodar Territory ref. No. 71-03-01-6408/21 dated 07/06/2021, according to which the presence at the General plan for the Zaporozhye rural settlement of the object “the designed highway beyond the estimated period” does not interfere with the implementation of the project for the construction of the object, which is also confirmed by the specialist FULL NAME4 as part of providing the court with explanations and answers to questions.

The Department, in support of the refusal to provide the applicant with a land plot, also refers to the fact that the purpose for which the applicant is requesting the land plot does not correspond to the category of land of the disputed land plot.

The court found that the disputed land plot belongs to the category of land - agricultural land.

On September 1, 2018, the Federal Law of August 3, 2018 No. 341-FZ “On amendments to the Land Code of the Russian Federation and certain legislative acts of the Russian Federation in terms of simplifying the placement of linear objects” came into force, Article 11 of which stipulates that the provision of land plots in order to locate linear objects of federal, regional and local significance, it is carried out in accordance with approved territorial planning documents and (or) territory planning documentation, regardless of whether such land plots belong to a particular category of land, except in cases where, in accordance with the Federal Law It is not permitted to place such linear objects within the boundaries of certain lands, zones, or on a certain



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territory. At the same time, simultaneously with the registration of the rights of the person to whom the land plot is allocated, information is entered into the Unified State Register of Real Estate about the belonging of such land plot to the category of industrial, energy, transport, communications, radio broadcasting, television, computer science, lands for space activities, lands defense, security or lands for other special purposes, with the exception of cases where such land is classified as land in populated areas. A decision to transfer a land plot from one category of land to another category or to assign a land plot to a certain category of land is not required.

In addition, according to paragraph 14 of Art. [39.16](#) of the Land Code of the Russian Federation, the authorized body makes a decision to refuse to provide a land plot located in state or municipal ownership, without holding a tender, if the permitted use of the land plot does not correspond to the purposes of use of such a land plot specified in the application for the provision of a land plot, with the exception of cases of placement of a linear facility in accordance with the approved territory planning project.

The evidence presented in the case materials confirms that the object is a linear object of local importance, the placement of which is provided for by the territory planning project, which is part of the territory planning documentation as amended, approved by administrative decree No. 1503 of 08/26/2019.

Taking into account the above, the classification of a land plot as agricultural land cannot serve as a basis for refusing to provide the disputed land plot to the applicant for the construction of an object.

In addition, the case file contains Minutes No. 3 dated December 23, 2019, of the meeting of the interdepartmental headquarters (working group) for operational assistance to investors in the Krasnodar Territory under the commission to improve the investment climate in the Krasnodar Territory with the participation of the first deputy head of the department, FULL NAME5, according to paragraph 3 of which the department it was instructed to send information to the investment department about the need (or lack of need) to change the category of the newly created land plot with an area of 369,032 sq.m. from agricultural lands to lands of industry, energy, transport, communications, radio broadcasting, television, computer science, lands for space activities, defense lands, security lands or lands for other special purposes.

The case file also contains a letter from the department ref. No. 52-1272/20-33-12 dated 01/16/2020, which states that for the purpose of constructing an object that is a linear object of local importance, a land plot with cadastral number 23:30:0103007:103 was formed, belonging to the category of



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agricultural land appointments. In this case, the department refers to Article [11](#) of Federal Law No. 341-FZ dated August 3, 2018, according to which the provision of land plots for the purpose of placing linear objects of local importance is carried out in accordance with approved territorial planning documents and (or) territory planning documentation, regardless of the ownership of such land plots to one or another category of land.

In additions to the review, the interested person, referring to Article [39.37](#) , paragraph 1.1. Article [39.20](#) of the Land Code of the Russian Federation indicates that the applicant was not deprived of the opportunity to apply to the department with an application to establish an easement for the construction of the facility.

The court rejects this argument based on the following.

Article [39.20](#) of the Land Code of the Russian Federation regulates relations related to the provision of ownership or lease of a land plot in state or municipal ownership to citizens and legal entities that own buildings and structures located on such plots. This provision of the law does not regulate relations related to the provision of a land plot for rent on the basis of paragraphs. 4 p. 2 tbsp. [39.6](#) of the Land Code of the Russian Federation, as well as relations regarding the provision of a land plot on the basis of an easement. This rule is not subject to application to the legal relations considered within the framework of this dispute.

By virtue of Art. [274 Civil Code of the Russian Federation](#), an easement may be established for the construction, reconstruction and (or) operation of linear facilities that do not interfere with the use of the land plot in accordance with the permitted use.

In accordance with Art. [23](#) of the Land Code of the Russian Federation, an easement is established in accordance with civil legislation, and in relation to a land plot located in state or municipal ownership, taking into account the features provided for in Chapter V.3 of this Code.

According to Art. [39.23](#) of the Land Code of the Russian Federation, an agreement to establish an easement in relation to a land plot located in state or municipal ownership is concluded in cases established by civil legislation, this Code, other federal laws, in particular, in the case of the placement of linear objects, communication structures, special information signs and protective structures that do not interfere with the permitted use of the land.

Thus, the legislation provides for the possibility of establishing an easement in relation to a land plot that is in state or municipal ownership for the placement



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of linear objects, provided that such placement will not interfere with the permitted use of the land plot.

Currently, the disputed land plot is classified as agricultural land.

In accordance with paragraph 1 of Art. [78](#) of the Land Code of the Russian Federation, agricultural lands can be used for agricultural production, the creation of reclamation protective forest plantations, research, educational and other purposes related to agricultural production, as well as for aquaculture (fish farming).

As follows from the Regulations on the placement of a capital construction facility, which is part of the territory planning documentation, the area of the designed territory for the placement of the main generating and auxiliary facilities, as well as the organization of the necessary wind farm infrastructure, is 369,032 sq.m. (page 26).

Thus, the entire disputed land plot will be used for the location and operation of the Facility.

The explanatory note included in the territory planning documentation (p. 28) reflects that the land plot being formed, located outside the boundaries of settlements, should be classified as land - "land of industry, energy, transport, communications, radio broadcasting, television, computer science, lands for space activities, defense, security lands and lands for other special purposes" in accordance with paragraph 1 of Art. [eleven](#) Federal Law No. 341-FZ dated 03.08.2018, with the type of permitted use - "Energy" (6.7) in accordance with the classifier of types of permitted use of land plots, approved by Order of the Ministry of Economic Development of the Russian Federation dated 01.09.2014 No. 540.

Consequently, the placement the object does not imply the possibility of maintaining the current permitted use of the disputed land plot, provided for in Article [78](#) of the Land Code of the Russian Federation, which excludes the possibility of providing this plot on the basis of a public easement.

Thus, the department's argument about the possibility of providing the public with a land plot on the basis of an easement does not comply with current legislation.

The Department the argument was stated that the disputed land plot belongs to especially valuable lands, namely, vineyards, which excludes the possibility of constructing an object on the disputed site.



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This argument must be rejected due to the lack of evidence that the disputed land plot is classified as especially valuable agricultural land.

By virtue of clause 4 of Art. [79 Land Code](#) of the Russian Federation, Art. 18 of the Law of the Krasnodar Territory dated November 5, 2002 No. 532-KZ "On the fundamentals of regulating land relations in the Krasnodar Territory", especially valuable agricultural land is subject to inclusion in the list of lands, the use of which for other purposes is not allowed. There is no evidence that the Land Plot is included in the above list.

Taking into account the above, giving the disputed land plot the status of especially valuable agricultural land is unacceptable, which is also confirmed by judicial practice (Resolution of the Arbitration Court of the Moscow District dated 03/02/2020 in case No. A41-38804/19, resolution of the Federal Arbitration Court of the Central District dated 04/14/2011 on case No. A54-12220/2009 and dated 09/14/2010 in case No. A54-1215/2009, decision of the Fifteenth Arbitration Court of Appeal dated 04/25/2019 in case No. A53-40040/2018).

In addition, according to the legal position of the Supreme Court of the Russian Federation, set out in the ruling dated December 12, 2014 No. 14-KG14-30, the absence in the Unified State Register of Information about a land plot as agricultural land excludes its classification as these lands. At the same time, the information from the Unified State Register of Real Estate, both in relation to the land plot with cadastral number 23:30:0103007:103, and the land plot with cadastral number 23:30:0103007:90, from which the disputed land plot was formed, does not indicate that the data the plots are agricultural land.

In accordance with paragraph 1 of Art. [79](#) Land Code of the Russian Federation, vineyards are one of the types of agricultural land, which are lands directly occupied by perennial plantings - vineyards. That is, the main criterion for classifying a land plot as a vineyard is its actual use for the specified purposes.

The court takes into account the report of a specialist presented by the applicant - scientific agronomist FULL NAME6, who conducted a study of the disputed land plot, as a result of which the following conclusions were made:

- signs of actual and systematic planting of industrial perennial plantings, including vineyards, orchards and other perennial crops on no land plot identified;
- the soil composition of the land plot is dominated by deep-solonetzic, medium-solonetzic soils and solonetz soils; also in winter, these lands are temporarily swamped, which makes the land plot completely unsuitable for growing

perennial fruit plants and vineyards, which have a deep root system and are extremely susceptible to excess salts and moisture;

- growing on a plot of land even annual and biennial crops with a shallow root system (for example, wheat, barley, rapeseed) has low economic profitability due to their very low productivity and the unsuitability of the soil for industrial sowing;

- the land plot cannot be classified as particularly valuable productive agricultural land on the territory of the Temryuk region, the use of which is not permitted for other purposes in accordance with the Land Code of the Russian Federation and the Law of the Krasnodar Territory of November 5, 2002 No. 532-KZ "On the fundamentals of regulation of land relations in Krasnodar edge."

In turn, the department did not provide evidence confirming the fact of use of the land plot for the purpose of growing vineyards or facts indicating the existence of grounds provided by law for classifying the land plot as particularly valuable agricultural land.

Under such circumstances, the department's refusal to provide the disputed land plot to the society cannot be considered legal and justified, and therefore, the applicant's demands to recognize the contested refusal as illegal must be satisfied.

According to Part 2 of Article [201 of the Arbitration Procedure Code of the Russian Federation](#), the arbitration court, having established that the contested non-normative legal act, the decision and actions (inaction) of bodies exercising public powers, officials do not comply with the law or other regulatory legal act and violate the rights and legitimate interests of the applicant in the field of business and other economic activities, makes a decision to recognize a non-normative legal act as invalid, decisions and actions (inaction) as illegal.

By virtue of the provisions of Part 5 of Article [201 of the Arbitration Procedure Code of the Russian Federation](#) the operative part of the decision in a case on challenging the actions (inaction) of bodies exercising public powers, officials, on refusal to take actions, in making decisions must contain: the name of the body or person who committed the contested actions (inaction) and refused to take the actions, decision making; information about actions (inactions), decisions; the name of the law or other normative legal act against which the contested actions (inactions) or decisions were verified; an indication of the recognition of the contested actions (inaction) as illegal and the obligation of the relevant bodies exercising public powers, officials to perform certain actions, make decisions or otherwise eliminate the violations of the rights and legitimate

interests of the applicant within the period established by the court or to refuse to satisfy the applicant's request in full or in part.

Accordingly, the provisions of paragraph 3 of part 5 of Article [201 of the Arbitration Procedure Code of the Russian Federation](#) regarding the obligation of the relevant bodies exercising public powers and officials to perform certain actions, make decisions or otherwise eliminate violations of the rights and legitimate interests of the applicant within the period established by the court or to refuse to satisfy the claim the applicant in whole or in part, are applied in cases indicating that the contested actions (inactions) are considered illegal.

Consequently, an indication of the method of protecting the right in the event of a non-normative act, decision, or actions (inaction) of the relevant body being declared illegal is a mandatory requirement for the operative part of the decision, without which it cannot be considered complete.

If the actions (inaction) of an executive body of state power or a local government body are declared illegal, the court obliges the relevant body to prepare a draft agreement and send it to the tenant within a certain period of time.

The current norms of land legislation (Articles [39.6](#) , [39.8](#) of the Land Code of the Russian Federation) imperatively establish that when a land plot is provided, the lease period ranging from three to forty-nine years is set at the choice of the tenant.

Based on the above, the court considers it necessary to oblige the department to prepare a draft lease agreement for the disputed land plot for a period of 49 years and send it to the applicant.

Court costs according to Art. [110 of the Arbitration Procedure Code of the Russian Federation](#) applies to the interested party.

Guided by Articles [110](#) , [156](#) , [167 - 170](#) , [176](#) , [197 - 201](#) of the Arbitration Procedure Code of the Russian Federation,

DECIDED :

To recognize as illegal the refusal of the Department of Property Relations of the Krasnodar Territory (OGRN <***>) dated 07/02/2020 No. 52-33-12-21403/20 to lease a land plot to Elavan Power LLC (TIN <***>) with cadastral number 23:30:0103007:103 as not complying with the Land Code of the Russian Federation.



To oblige the Department of Property Relations of the Krasnodar Territory, within one month from the date of entry into legal force of the court decision, to prepare and send to Elavan Power LLC a signed draft land lease agreement with cadastral number 23:30:0103007:103 for a period of 49 years.

To recover from the Department of Property Relations of the Krasnodar Territory in favor of Elavan Power LLC 3,000 rubles for reimbursement of expenses for paying the state duty.

The decision can be appealed within a month after its adoption in the order of appeal proceedings and in the order of cassation proceedings within a period not exceeding two months from the date the decision entered into legal force, through the Arbitration Court of the Krasnodar Territory that made the decision in the first instance.

A decision of a first instance arbitration court that has entered into legal force may be appealed in cassation if it was the subject of consideration in an appellate arbitration court or if the appellate arbitration court refused to restore the missed deadline for filing an appeal.

Judge R.Yu. Savin

Court:

AS of the Krasnodar Territory ([more details](#))

Plaintiffs:

Elavan Power LLC ([more details](#))

Other persons:

Administration of the Temryuk District Municipal District ([more details](#))

Department of Property Relations KK ([more details](#))

Department of Investment and Development of Small and Medium Enterprises KK ([more details](#))



State Unitary Enterprise of the Krasnodar Territory "Kubanvodokompleks"

[\(more details\)](#)

Ministry of Fuel and Energy Complex and Housing and Communal Services KK

[\(more details\)](#)

LLC "Wind Generating Company" [\(more details\)](#)

PJSC "Rostelecom" [\(more details\)](#)

Книга отзывов

Judicial practice on:

[Easement](#)

Judicial practice on the application of Art. 274 Civil Code of the Russian Federation



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“Judicial and regulatory acts of the Russian Federation”

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About the project

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