
Social study of the annulment of municipal commissions' approvals by the Administrative Justice Court

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Abstract

Purpose: Article 5 Commission of Iran's Supreme Council for Urban Development and Architecture is a quasi-judicial authority that has a close connection with the rights of citizens. It has composed a part of the claims that most of the related lawsuits are of great importance with great amounts. There is a certain procedure for the authorities, such as the Dispute Resolution Council, which deals with claims under 20 million toman, but unfortunately, for there is no such a procedure for important cases of municipal commissions, including Article 5 Commission. **Methodology:** In the present article, the authors will review the annulment of the approvals of Article 5 Commission of Iran's Supreme Council for Urban Development and Architecture by the Administrative Justice Court, using an analytical-descriptive research methodology as a library study through note-making method. **Findings:** In the review of the annulled approvals, it can be found that failure to observe the proprietary and the acquired rights of individuals established by the Supreme Council and Article 5 Commission during the recent years may lead to the outcome of complaints by the owners and the annulment of approvals. **Conclusion:** The annulment of the Article 5 Commission's approvals by the Administrative Justice Court can be summarized in the following four major factors: 1. The approvals for delegating the authorities of the Article 5 Commission; 2. The approvals contrary to the urban development principles of the Article 5 Commission; 3. The approvals contrary to the Sharia of Islam; 4. The Gratuitous possession Approvals of the Article 5 Commission of Iran's Supreme Council for Urban Development and Architecture.

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1. Introduction

After the Supreme Council for Urban Development and Architecture, Article 5 Commission plays an important and constructive role and serves as an authority for preparing more detailed plans known as detailed master plans (Mirzai, 2013: 246); The establishment of such an institution dates back the law of urban renewal and development; Article 15 of this law required the municipality to prepare the urban renewal and development plan. Article 23 of the same law stipulates that the municipality is obliged to prepare the detailed maps; the municipality also founded a department for the preparation of detailed maps. According to the subsequent laws, this department was transformed into Article 5 Commission with an independent legal entity of the municipality.

The reason for the annulment of approvals and opinions of the commissions, such as Articles 100, Article 77, paragraph 20 of Article 55 of the Municipal Law, Article 7 of the Law on the Conservation and Development of Green Spaces and other authorities dealing with disputes in the municipalities need to be examined that is not possible in the present article.

The approvals of Article 5 Commission are firsthand and binding documents for municipalities. The municipality has only one vote in their approval, and the presence of its secretariat in municipalities and the election of its secretary by the mayor of Tehran should not be interpreted that the municipality is involved in ratifying and enforcing these laws, which are primarily formed in accordance with the city's needs. In fact, the approvals of Article 5 Commission are comparable to the decision of the Board of Directors for the CEO thereby the municipality as the CEO of the company must execute these decisions unconditionally. Wherever there is a need to change these decisions, it should be addressed through the approval of Article 5 Commission. As a result, the formation of an authority with an independent legal personality for preparing the detailed plans and replacing this authority with the department founded in the municipalities in Tehran was different from other cities of the country; however, the author seeks to answer the question of what are the most important reasons for the annulment of Article 5 Commission's decisions by the Administrative Justice Court?

2. literature Review

The concept of the municipality and its components: After the Constitutional Revolution, the first law passed for the municipalities was the Municipal Act approved in 1907. The law was implemented shortly due to the tensions took place in the country in 1910. Therefore, the government was forced to submit its plan to the parliament and get the permission for the dissolution of the municipal associations, as well as provincial associations; since the closure and dissolution of the municipal associations until 1930, when the Municipal Act was ratified, the Ministry of the Interior was responsible for the management of the municipal offices and services.

According to the 1930 Act, the Municipality Organization consisted of the municipal association and the municipality office. The Municipal Association comprised of 6 to 12 people elected by the following process: the voters elected Five times as many as necessary, and then the required number should be assigned to the Association for two years by the government cabinet upon the recommendation of the Ministry of Interior. The head of the Municipal Association was appointed directly by the Ministry of Interior. Although according to this law, the municipal association were legal entities, the Municipal Association (City Association) was a consultative body in the context of the matter; because the urban tolls, following the approval of the Municipal Association, were sent to the Ministry of the Interior to be adopted and communicated; the aforementioned law did not give much freedom to the municipalities, but created unprecedented changes in the development of the cities and made some reforms (Tabatabai, 2016: 115-114).

Everyone has heard the word “municipality,” but many people do not have a proper understanding of the organization, which is executing public plans according to its authority and responsibilities. It is not clear that municipality is the only organization that can benefit from these facilities when using regulations related to the implementation of plans, such as those related to the ownership of others’ properties, or affiliated companies and corporations can also benefit (Beheshtian, 2008: 67).

After the adoption of the bill dated 1955 and its subsequent amendments, the municipalities are governed by the aforementioned law. After the adoption of the law on the organization, duties, and elections of the City and Village Councils of Iran and the election of mayors approved in 1996 and its subsequent amendments, selection of mayor is one of the important duties of the City and Village Councils. According to paragraph 1 of Article 76 of the aforementioned law, the City Council shall elect and nominate the mayor for a term of four years. The council, in accordance with paragraph (b) of subsection (4) of the same law, shall be entitled to dismiss the mayor too. According to Article 1 of the Municipal Act, a municipality must be formed wherever the population reaches at least 5,000 people. The establishment of the municipality in these places is compulsory; nevertheless, the law allows the Ministry of Interior exceptionally allows the establishment of a municipality where the population has not reached the legal limit (subsections 1 and 2 of Article 1 of the Municipal Act approved on 1955).

In the definition of the municipality, it can be said that municipality is an organization founded by the inhabitants of a city using their natural and optional rights granted by the law, in order to establish and administer public facilities, to establish and enforce municipal regulations and to provide common requirements of the city. Then, this organization is authorized to distribute and collect the cost of services among inhabitants and users of the city through a reasonable and equitable way. If the citizens refused to pay their share or observe the urban orders, then they will be enforced to pay their share and respect for the urban regulations under the power provided by the law (Hashemi, 1992: 6).

Regarding the philosophy behind the formation of municipality, the most commonly used theory is based on its similarity to cooperatives; According to this theory, the municipality is a cooperative company or organization whose compulsory shareholders are generally the citizens; the shareholders select a group of people among themselves as the city council to whom the management of the city affairs are delegated. Since the city council has been selected based on people’s trust and they do not have necessarily the information to administer the city and understand its complications, they will elect a mayor with technical, practical, and ethical competence to administer the city and they own will supervise the affairs (Hadavand and Yazdani Zenuz, 2011: 18); However, this interpretation of the issue is not close to the reality, because the jurisdiction and authority of the municipality should be sought in public law rather than the rules governing a cooperative company. It is due to the fact that, in many cases, individuals, in spite of their will, are required to comply with the preferential rules and municipal privilege that comes from public power, not the volunteer participation of individual members. In principle, the municipality is an institution formed under the law with its specific duties and powers and has the privilege of public power.

The concept of commission: Commission (4) is a Latin word that means tenure, representativeness, and consultancy; however, commissions are usually foreseen in legislative and executive bodies to counsel on relevant issues, such as specialized parliamentary commissions or the Expediency Council commissions or the government cabinet committees (Hadavand and Yazdani Zenuz, 2011: 20).

Commission, as the Administrative Court, has been considered as an exceptional administrative authority (Shams, 2017: 1, 138); Accordingly, the commission is a judgmental authority whose jurisdiction is limited to the lawsuits against the government and affiliated institutions that are explicitly in its jurisdiction.

Since administrative affairs have different economic, cultural, social, political, industrial, scientific, and other dimensions, require various specializations for making decisions, and it is not possible to collect all

specialties either personally or organizationally, the formation of a commission is necessary to decide on issues with various dimensions or to decide on how to implement them (Hashemi, 2016: 2, 386).

In connection with the judiciary, it should be noted that the mission of the judiciary is serious and their duties are noticeable; support for individual and social rights requires the continuous effort of the national judiciary to identify the violators of human rights and public rights for prosecution and punishment of the perpetrators; the judiciary is administered by the courts, and all people have the right to access such courts. The study of the judiciary shows that no commission has been predicted and the focus of this organization is on the courts and branches; the public courts are those who have the right to address most of the claims irrespective of the nature of the claim or the characteristics of the parties (Hadavand and Yazdani Zenuz, 2011: 21).

Commission such as Article 5 Commission of the Supreme Council for Urban Development and Architecture or Dispute Resolution Boards, are the authorities established outside the judicial system upon specific laws, but their responsibilities are in relation to the various administrative and executive functions of the government or public institutions and their duties are to deal with disputes and complaints usually created in the implementation of laws such as the law of municipalities, labor law, etc., between government or public institutions and individuals; The members of the aforementioned authorities are appointed from the expert staff of the relevant organizations (Hadavand and Mr. Touq, 2015: 31).

3. Methodology

The present research is applied in terms of purpose and content analysis method. In the organization of research, the documentary and library methods have been used and the information analysis has been obtained qualitatively and based on the inference of the researcher on the sources and texts.

4. Finding

The reasons for the annulment of Article 5 Commission' approvals by the Administrative Justice Court: Article 5 Commission of the Supreme Council for Urban Development and Architecture prepare and approve urban planning and architecture policies and regulations, development plans from the national level to the local in order to coordinate urban plans for a better environment and find the appropriate methodology of construction in different parts of the country according to the climatic conditions and local livelihoods and requirements. On the other hand, in accordance with article 170 of the Constitution, natural or legal entities complain against the regulations and procedures of the government and the municipalities in the General Board of the Administrative Court and request the annulment of the matter; in this regard, the owners whose rights are not observed in accordance with the rules and regulations (i.e., not only the development plans have not been executed for various reasons but remain unsolved) can complain against the decisions of the Supreme Council in the General Board of the Administrative Court and request the annulment of the decisions of the Supreme Council and Article 5 Commission.

Now, with regard to the role, status, and function of the approvals of Article 5 Commission of the Supreme Council for Urban Development and Architecture in the physical development of the country through approving the development plans, what factors have caused the Administrative Justice Court to annul some approvals of the Commission and how the annulled approvals can be reduced and whether the revocation of the approvals of the Article 5 Commission is due to non-compliance with legal issues in the preparation and setting of the approvals? whether the Supreme Council's approvals have not complied with the proprietary rights of individuals? And most importantly, what are the causes and reasons for the annulment of the approval by the Administrative Justice Court? Hence, the analysis of annulled approvals

can be an important guide to provide the necessary framework for the preparation and development of plans, policies, and regulations so that proper access to public services and the problems in the cities might be improved through the compliance with all legal aspects.

The request for the annulment and revocation of Article 5 Commission's approvals has been evaluated further in various cities of the country, including 30 cases since 1980s; most of these requests have been raised by landowners and blocks that have public services in master plans, and there was a request for the abolition of the public services (such as educational - green space - communication networks - healthcare and others) and its conversion to residential, commercial, and administrative land-uses. In fact, most of the requests have been addressed because of the pursuit of landowners and the failure to implement the master plan by the relevant organization; such as the revocation of the directive No. 4579/114 dated 1990, approval No. 169 dated 1990 of Article 5 Commission of the Supreme Council (Kool Abadi and Afsharinia, 2016: 97).

Approvals of delegating the authorities of Article 5 Commission of the Supreme Council for Urban Development and Architecture: The question that arises is whether the Article 5 Commission can delegate its authorities to another entity; the desire to delegate powers has been observed at a period of time; However, according to the principle of the necessity of administration of the legislative power and the adoption of a criterion from this principle in relation to such referrals, the answer seems to be clear. But it is useful to review the administration of the Administrative Justice Court as supervisory authority over the executive.

The Commission of Article 5 or note of Article 5 has delegated powers or some of its powers to other authorities at some points with reasons and justifications; in fact, this commission, in some cases, has delegated its power of influencing the proprietary rights granted by the legislator, in whole or in part, to another authority.

A review of the decisions of the General Board of the Administrative Justice Court, we can see that the delegation of authority has been deemed illegal and declared void; in this regard, we can mention the following decisions: No. 345 - dated 2010 by the General Board of the Administrative Justice Court on "Revocation of the approval by the Commission of Note to Article 5 of Tehran on the delegation of its authority to a council in the municipal districts for making decision on the streets under 12 meters", and 460 dated 2004 by the General Board of the Administrative Justice Court on "the annulment of the approvals Nos. 90-100-120 and 130 of the Commission of Note to Article 5 of Tehran due to inconsistency with the rule of domination and the impossibility of delegating powers" (NEheshtian, 2008: 154).

Approvals contrary to the principles of urban development by Article 5 Commission of the Supreme Council for Urban Development and Architecture: The Commission's local decisions and the case-by-case changes to the detailed plans reflect the fact that these decisions, regardless of urban environment, have caused not only quality deterioration and disturbance in the urban landscape, but in some cases have challenged urban management because of disregarding the environmental and infrastructure issues.

The decision No. 223 of the General Board of the Administrative Justice Court dated 2006 declares that: "in accordance with the duties and powers of the Supreme Council for Urban Development and Architecture as specified in the statute of the Council and other laws related to the preparation and approval of master plans and determination of land uses in various urban areas, the duties and responsibilities of Article 5 Commission in the preparation and approval of detailed plans and the validity of land uses and properties in the urban areas based on the decisions of the above competent authorities, as well as the rights of individuals in the quality of using lands and municipal properties based on the relevant rules and regulations, the last part of the approval No. 12626/420 dated 1985 by the Deputy of Urban Development and Architecture of Tehran Municipality, which negate the validity of authorized land-uses and rights of individuals, is in conflict with the law and beyond the powers of the deputy; therefore, the

expression "Obviously, if the aforementioned sites are definitively transferred in a non-acquisition manner, no rights will be considered for new owners", will be deleted from the text of the above-mentioned directive.

Also, the decision No. 386-387 of the Administrative Justice Court, dated 1999, in view of the duties and responsibilities of Article 5 Commission on the establishment and approval of urban detailed plans and their changes as well as considering the definition of detailed plan as described in paragraph 3 of Article 1 of the Law on the renaming of the Ministry of Housing to the Ministry of Housing and Urban Development, the imposition of a special rule that oblige the owner of arid lands to transfer a part of his/her property to the municipality for free at the time of partition and in terms of the use of public utilities, as well as allocating 60% of the land to the government because of partition and conversion of uses, is contrary to the principle of domination and legitimate ownership of individuals and beyond the legal authority of the Commission (Mirzaei, 2013: 257-258).

Approvals contrary to the principles of the Islamic Sharia by Article 5 Commission of the Supreme Council for Urban Development and Architecture: The most important approvals that are contrary to the Islamic Sharia and the principles of Islamic-Iranian urban development over the last three decades constitute an important part of the laws and regulations of the Supreme Council for Urban Development and Article Five Commission to help the municipalities gain higher income, regardless of whether such approvals are contrary to each other and upstream laws. Also, due to the fact that there is no specific institution in the structure of the Supreme Council for Urban Development that conforms the council's approval with the holy Islamic sharia and reference rules, it was possible to make political and temporal decisions with non-expert aspects in the most important institution of scientific policy in the area of architect and urban development and incur destructive effects on the physical and social structure of the cities. One of the reasons why municipalities demand to obtain permission from the Supreme Council for Urban Development and Architecture for the sale of building density was the necessity of self-sufficiency of municipalities, which was approved in the budget law of 1983. Thereby, the government is required to submit a bill on the sustainable income of the municipalities to the Parliament within six months. After three decades, the bill has not yet become law (Hashem Zaghraljordi, 2016: 32).

The Supreme Council for Urban Development and Architecture and Article 5 Commission at a meeting in 1990 adopted the "Terms and Conditions for Increasing the Building Density and High-Rise Buildings", and thereby the sale of building density became seriously included in the urban affairs policy. This approval legitimated an anti-urban movement. In fact, this approval deprived individuals of their right to complain against the violation of their privacy by the neighboring blocks. The domination of high-rise buildings on each other and on the houses with yard, which was caused by the sale of building density, not only created a competition for the acquisition of wealth through the violation of visual privacy of other people but also led to social adverse consequences such as houses without yard and comfortless small houses.

Approvals of the Gratuitous Possession of Properties by Article 5 Commission of the Supreme Council for Urban Development and Architecture: One of the provisions for the coercive appropriation of lands, properties, and facilities of individuals in public and civil projects of the executive organizations, especially the municipality, is based on the principle of No-Harm. So it is necessary to observe the public interests, public order, social authenticity, and reciprocal payment of individuals' proprietary rights (Mohammadi, 2016: 43); However, some approvals of the Article 5 Commission of the Supreme Council for Urban Development and Architecture violate this provision and require individuals to proclaim their proprietary rights freely; The significance of this issue will be greater where request for coercive appropriation and pressure on individuals is made at the time of provision of services by the municipality, including the renewal request an application for construction permission, land-use change or partition; in this section, we intend to study the approvals that have limited the proprietary rights of individuals, but the General

Board of the Administrative Justice Court, in its numerous decisions, has undermined these various actions and pretexts and had void those decisions.

According to the legal bill on the purchase and possession of land and properties for the implementation of public civil and military plans, the government cannot confiscate the land, buildings, and facilities of natural or legal entities without compensation; among the reasons for the impossibility of gratuitous possession of land and property is "the principle of respect for the property of the people"; but unfortunately, in many cases, various approvals of incompetent authorities (Including city councils and municipalities and commissions under article 5 of the law of the Supreme Council for Urban Development and Architecture) have violated this principle, leading to the annulment of the approvals by the Administrative Justice Court (Mohammad, 2017: 297). Now, we want to review the approvals of Article 5 Commission intended to the coercive appropriation of properties for free.

The Commission under Article 5 of the Law on the establishment of the Supreme Council for Urban Development and Architecture in Tehran, at a meeting dated 2006, No. 422, approved that: "According to the rules and regulations of the new master plan of Tehran ..., the minimum width for all the alleys and dead-ends of Tehran, while complying with other criteria and regulations, shall be 6 meters; how these passages are widened will be determined by the Architecture Council of the District Municipality; obviously, the valuable historical area registered in the master plan of Tehran will be subject to the specific rules of those regions." (Decision No. 147 of the General Board of the Administrative Justice, dated 2013). This approval provides the ability to use individuals' proprietary rights for free.

Article 5 Commission of the Supreme Council for Urban Development and Architecture of Iran, in paragraph 3 of its agenda No. 357, contrary to Article 85 of the Constitution of the Islamic Republic of Iran, stipulates that: "The representation is based on the person and cannot be transferred to another, and the Parliament cannot delegate the power of legislation to another person or commission." Contrary to the principle of domination and Sharia standards and different rules approved by the Islamic Revolution Council, the Military Assembly, and municipalities, it is argued that: "for the lands of District 22 of Tehran, with an area of more than 1000 m², if the landowners were reluctant to transfer 70% of their lands to the municipality freely, the partition of lands and issuance of building permission is subject to the provision of premises and the provision of public service spaces by the landlords (according to the total per capita amounts approved in master plan 1991) based on the population density. "

In other words, this approval has required the gratuitous transfer of 70% of the whole property of people after the deduction of 1,000 square meters for each block or the provision of premises and the implementation of service, educational and public spaces for free by the owners in favor of the municipality of district 22 (Decision No. 488 dated 2013 by the General Board of the Administrative Justice Court with the subject of the annulment of paragraph 3 of the 357th Agenda of Article 5 Commission of the Supreme Council for Urban Development and Architecture of Iran).

A. Contradiction with the legal jurisdictions of the Supreme Council for Urban Development and Architecture: In any of the duties and powers of the Supreme Council for Urban Development and Architecture of Iran, as specified in Article 2 of the Law on establishment of the Supreme Council for Urban Development and Architecture approved in 1972, the legitimate expropriation of individuals or their obligation to transfer part of their land for free or pay the equivalent price for partition is not prescribed.

B. Contradiction with the principle of adherence and religious standards: In accordance with the provisions of the Civil Code, the sale and purchase of properties must be done in an arbitrary manner and in full freedom and willingness, otherwise it will be considered usurpation and there is no gratuitous acquisition in Islam and the current laws; that is why in the numerous decisions of the General Board of the Administrative Justice Court (Decrees 386 and 387 dated 2008), any action to split and partition the land that was subject to the gratuitous transfer of a part of the land has been declared contrary to the principle

of domination and legitimate ownership. In other words, the illegitimacy of gratuitous transfer is another reason that can be cited in the unjustified coercive possession.

According to Decision No. 91/30/47047 of 3/4/2014 of the Guardian Council: "If Article 5 Commission, owns the right to gratuitous transfer of part of property to the municipality, the said law is not in violation of Sharia; and the Administrative Justice Court is the authority of its conflict with the law"; since Article 5 Commission did not have a discretion in this regard, following the concept of the jurisprudents of the Guardian Council, the approval of paragraph 1 of the Agenda No. 35 / -1374 / 11 / 5 of Article 5 Commission in Islamshahr City that makes the change in the use of lands to residential uses in accordance with the proposed plan conditional to the transfer of 35% of the area of each block to the municipality as a share of the services was revoked by the Decision No. 454 dated 2013 of the General Board of the Administrative Justice Court with reference to paragraph 1 of Article 12 and 13 and 88 of the Code of Administrative Procedure and the Administrative Court of Justice, approved in 2013.

Therefore, imposition of rule that oblige the owners to transfer a part of their property to the municipality for the permission of the construction of the building is beyond the scope of the powers conferred on the Article 5 Commission of the Supreme Council for Urban Development and Architecture of Iran. However, the question and ambiguity here is that despite the stipulation of the legal contradiction of gratuitous acquisition of land with Islamic Sharia (No. 78.21.5620 dated 23/5/1378), how the amendment of Article 101 of the law of Municipality was approved by the Parliament in 201. It is while the approval stipulates that: "All land that created from the partition and separation of public roads and public buildings belong to the Municipality and the Municipality will pay no money to the landowners.

5. Discussion

The result of the approvals of the Supreme Council for Urban Development and Article Five Commission can be observed in numerous skyscrapers violating the privacy of neighboring blocks; lack of approving an appropriate distance to meet privacy; the failure to observe the principles of Iranian-Islamic architecture; the destruction of almost all historical textures by the construction of high-rise buildings. Hence, in accordance with Article 170 of the Constitution, natural or legal entities can complain against governmental and municipal regulations in the General Council of the Court and thereby request for the annulment of the subject. In this respect, the owners whose rights are not observed according to the rules and regulations (i.e., not only the development plans have not been executed for various reasons but remain unsolved) can complain against the decisions of the Supreme Council in the General Board of the Administrative Court and request the annulment of the decisions of the Supreme Council and Article 5 Commission.)

The evaluation of the decisions of the Administrative Justice Court showed that the most important problems with the annulment of the approvals are as follows: A. Non-implementation of development projects; B. Failure to provide public utilities - to the necessary and appropriate extent in terms of location and access level); C. Lack of facilitating the traffic network and connecting with appropriate service levels. Lack of provision of green space in the city. D. No positive impact on the improvement of the environmental level in the area and prosperity of the land-uses.

The review of the annulled approvals reveals that the non-compliance of proprietary rights of individuals and the rights acquired by individuals over the years in the decisions of the Supreme Council and Article 5 Commission led to the complaints by the owners and the revocation of the approvals. The absence of representatives of the economic (minister of economy) and services (ministries of education and health) sectors and the registration of documents through proprietary and legal views at the Supreme

Council for Urban Development and Architecture and Article 5 Commission have prevented from a comprehensive insight in the Article 5 of the Commission's approvals.

Lack of sustainable income in the public services sectors, such as lack of funds and credit for the implementation of educational, health, therapeutic and other public uses, cause dispossession of service land-uses in due time. Article 5 Commissions of the Supreme Council for Urban Development and Architecture did not pay any attention to the principle of respect for the public property in their acts and approvals to the extent that this little respect would be totally disappeared if such desirable and appropriate measures were not performed by the Administrative Justice Court and the respected jurists of the Guardian Council. However, the remaining remnant of the principle of domination is also declining gradually, because in the recent Guardian Council's comments it was announced that "if the coercive appropriation of individuals' lands is made by law, then this is not contrary to the Sharia." It is while there are many cases that are considered to be contrary to the Sharia, but they are converted into law with the insistence of the Islamic Parliament and the Expediency Council, as is the case with many provisions for late payment damages, including a Note to Article 15 of the Non-Usury Banking Act.

Such insight change and insistence on the need for mandatory and free possession of individuals when partitioning the lands and issuing the ownership deeds led to the adoption of an amendment to Article 101 of the Municipality Law in 2011. Now, this approval is somewhat a point of hope. But it is hoped that this success for the city councils and municipalities would not lead to other approvals to violate the proprietary rights of individuals, contrary to the principle of domination and respect, either by the city councils or the Islamic Parliament.

Finally, the reasons for the annulment of the approvals of the Article Five Commission by the Administrative Justice Court are summarized as 4 following factors: 1. Approvals on the delegation of the powers of Article 5 Commission; 2. Approvals are contrary to the principles of urban development; 3. Approvals are contrary to Islam. 4. Approvals on the free possession of individuals.

References

- Beheshtian S M. (2008). Study of the order of proprietary rights against public municipal projects, Tehran: Novin Andish Publications, Second Edition.
- Hadavand M, Yazdani Zenuz H. (2011). Legal system for addressing disputes on municipal taxes, Tehran: Jungle Publications, First edition.
- Hashemi F. (1992). Urban Law and Urban Development Law, Tehran: Center for Urban Development and Architectural Studies and Research, Ministry of Housing, Third Edition.
- Hashemi Zaghraljordi S M. (2016). Evaluation and critique of the approvals of the Supreme Council for Urban Development and Architecture on the Islamic identity of urban planning and architecture, Quarterly Journal of Islamic-Iranian Architectural Studies, No. 12.
- Hashemi S M. (2016). Basic Law of the Islamic Republic of Iran, Volume II, Tehran: Mizan Publications, 27th edition.
- Hosseini S E. (2008). Principles Governing Governmental Contracts, Tehran: Behnami Publications, Third Edition.
- Shams A. (2017). Civil Procedure: Advanced Course, Volume I, Tehran: Derak Publications, 37th edition.
- Kool Abadi F, Afsharinia A. (2016). Evaluation of annulled approvals of the Supreme Council for Urban Development and Architecture of Iran, Urban Identity Quarterly, No. 25.
- Mirzaei A. (2013). Municipal Commissions, Tehran: Behnami Publications, Second Edition.
- Mohammadi O. (2017). Municipal Commissions, Tehran: Jungle Publications, First Edition.
- Mohammadi O. (2016). Limitation of Proprietary Rights in Public and Construction Plans, Tehran: Jungle Publication, First Edition.
- Tabatabai Motameni M. (2016). Administrative Law, Fourth Edition, Tehran: SAMT Publication