



## Legal Certainty of Establishment of Buildings in a City Based on Law Number 28 of 2002 Concerning Buildings

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### ABSTRACT

Regional planning is closely related to the use of places in a region, so important regional planning is expected to help the surrounding region in developing its territory. Regarding licensing, when construction or development is carried out, licensing is of course one of the things that accompanies the activity. In this work, the author uses the Building Construction Permit (PBG) form, especially in the scope of business permits in the city of Surabaya as the research object. Building Construction Approval (PBG) is the latest innovation from the previous form of permit, namely Building Construction Permit (IMB). Using normative legal research methods, the author analyzes the form of legal certainty applied to the issuance of Building Construction Permits (PBG) in the City of Surabaya to conclude in the form of the results of this legal certainty, namely a form of protection and law coercion.

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## **INTRODUCTION**

One of the things that follows the scope of regional planning is the existence of activity permits. Business Permit, before it was officially changed to Building Construction Permit (PBG), was previously called Building Construction Permit (IMB), this substance makes the legality of the building a responsibility. In addition, obtaining permits increases the selling value of buildings thanks to the transparency of building identity information. In practice, traders comply with applicable regulations according to how they are implemented, while buildings without business permits are the same as buildings whose origin and activities cannot be taken into account.

In granting activity permits, the central government considers several things, namely the suitability of the information, the correctness of identity, and other matters deemed appropriate based on spatial planning laws and regulations. Licensing is also one of the guiding factors for a particular activity, the permit must of course contain certain conditions that are adapted to the existing circumstances.

The result is the suitability of activities carried out responsibly. Licensing is also a form of legal certainty because the reference and consideration in the form of permits are the legal provisions and regulations in force at that time. Apart from that, when undesirable things happen, stakeholders can immediately make several efforts, one of which is legal protection which can be resolved immediately.

Then the implementation of licensing is also one of the government's efforts to realize community welfare by providing important protection for facilities provided by the state. In this research, the author chose the city of Surabaya as one of the research projects regarding legal certainty in applications for Building Construction Permits (PGB) on business permits. The city of Surabaya, which is another important city in Indonesia, is considered very strategic for developing and maintaining business establishments.

Therefore, the accuracy of implementing a Building Construction Permit (PPA) must be by applicable regulations to minimize losses that occur during implementation and non-optimal construction implementation. Fulfilling the requirements for a building construction permit as a business permit application is also a form requirement that has a direct impact on achieving Legal certainty in regional planning in Indonesia 2.

## **LITERATURE REVIEW**

Therefore, it is necessary to carefully consider several Building Construction Permit (PPA) requirements and fulfill them optimally. The instrument of legal certainty in this case directly reflects the use of a Building Construction Permit (PBG) as a form of permit.

The form of implementation, both administrative and technical, is also one of the objectives of legal certainty of permits. These administrative and technical equipment are also considered complete in the content of the concession, which leads to the fulfillment of concession obligations.

Apart from that, if the activity permit can be said to be maximum, then the related parties will also get a good impression, and by using the activity permit both the state and the community are directly or directly related to the scope of the activity permit. About this, building construction permits in particular will benefit in the form of assistance in obtaining permits so that the legality of the building is guaranteed. This legal certainty should be applied as widely as possible within the framework of regional planning and licensing.

This is because legal protection, which is synonymous with the application of legal certainty, must also be prioritized in determining legal certainty. Because if we talk about protection when carrying out these activities, we must pay attention to the welfare of the people closest to us and protect them give them either directly or indirectly if undesirable things happen, and so on.

## **METHODOLOGY**

This research uses normative research methods. By using a statutory approach and a conceptual approach. The sources and types of legal research materials are based on literature, namely primary, secondary and tertiary legal materials.

## **RESULT AND DISSCUSION**

In its implementation, the requirements according to Law Number 28 of 2002 of course apply to the construction of houses, to all contractors engaged in the construction sector, as well as to construction and utilization carried out in the territory of the Unitary State of the Republic of Indonesia. the government, private sector, society and foreign parties are obliged to comply with all provisions of this Law. Implementation or implementation of policies is an inseparable part of the organizational process of public organizations, which never stops socially.

Its existence is greatly influenced by the conditions of its social environment so the internal and external aspects of the organization greatly determine the process of implementing the Building Permit Policy (PBG). Apart from that, it must also meet the standards and requirements set by the authorized agency, such as documents and all necessary equipment. How to build a house, office, school, etc. We cannot just start development activities, even though we already own the land on which the development activities will be carried out. authorized officer.

This happens as long as the building is still standing and as long as its form or function has not changed. Another definition of IMB also provides an understanding of permits issued by the Surabaya city government to individuals or communities to construct a building so that the design, construction and implementation of the construction comply with applicable regional requirements. the plan is the same as the building boundary line (GSB).), according to the river boundary line (GSS), basic construction factors (KDB), according to building sub-factors (KLB), and safety requirements set for building occupants.

General building construction permit regulations are regulated in Construction Law Number 28 of 2002, the implementation of which is regulated in government implementing regulations Number 36 of 2002 Construction Law Number 28 of 2005. 14 PP no. to 36 of 2005 concerning Building Construction Permits, the rules are as follows:

- a. Buildings.
- b. Building construction permits are issued by the city government, except for regional buildings that receive special assignments, through an application for a government building construction permit.
- c. The district government is obliged to provide a district/city location certificate to each person who applies for a Building Construction Permit.
- d. The application of the state/municipal plan is the regulations that apply at the location concerned.

The purpose of a permit is and functions to supervise state actions in certain matters, the provisions of which contain instructions to be implemented by the relevant and authorized agencies. Apart from that, the purpose of this permit can be seen from two sides, namely:

- Applying for a permit as a source of income in any field automatically increases government income, because the applicant must pay a fee or tax first for each permit granted. The higher the tax revenue, the greater the ultimate goal of financing regional development.
- From the Community's point of view. From the Community's point of view, the purpose of granting activity permits is as follows.
- To protect legal certainty and applicable law.
- To guarantee certainty of rights obtained.
- Make it easier to get facilities. If the building to be built already has permission, it will be easier to get a room.

## **CONCLUSIONS AND RECOMMENDATIONS**

Construction Law No. 28 of 2002 has well-regulated the legal consequences if the construction requirements of a building are not followed or careless behavior occurs, but in such cases, local governments sometimes do not strictly implement Construction Law No. 28 of 2002., which relates to buildings and facilities.

Has a direct impact on the number of buildings that do not meet the requirements and/or are not suitable for use, remain standing or have not been demolished, the use of which can pose a danger to users, the community and the environment, therefore it is necessary to strictly adhere to building regulations. Surabaya City Regional Government Enforces Construction Law No. 28 of 2002 Firmly, Clearly and Fairly.

## **FURTHER RESEARCH**

This research still has limitations so further research needs to be done on this topic "Legal Certainty of Establishment of Buildings in a City Based on Law Number 28 of 2002 Concerning Buildings".

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**REFERENCES**

- Masriani, Yulies Tiena. "The Importance of Ownership of Land Certificates Through Registration as Proof of Rights." *USM Law Review Journal* 5, no. 2 (2022).
- Muliawan, Jarot Widya. *Granting Ownership Rights to Residential Houses*. Yogyakarta: Litera Books, 2015.
- Nasir, A. "Mixed Function Buildings Apartments and Shopping Malls in Yogyakarta." Indonesian Islamic University, 1997.
- Permadi, Iwan. "Transfer of Inherited Land Rights to Heirs of Different Religions in the Perspective of Positive Law and Islamic Law." *Ius Constituendum Journal* 8, no. 1 (2023).
- Riyanto, Benny. "Development of National Law in Era 4.0." *Rechtsvinding Journal* 9, no. 2 (2020).
- Santoso, Urip. *Land Rights, Management Rights, and Ownership Rights to Flat Units*. Jakarta: Kencana, 2017
- Teaching Team (2006). *Licensing Law*, Surabaya: Faculty of Law, Airlangga University.