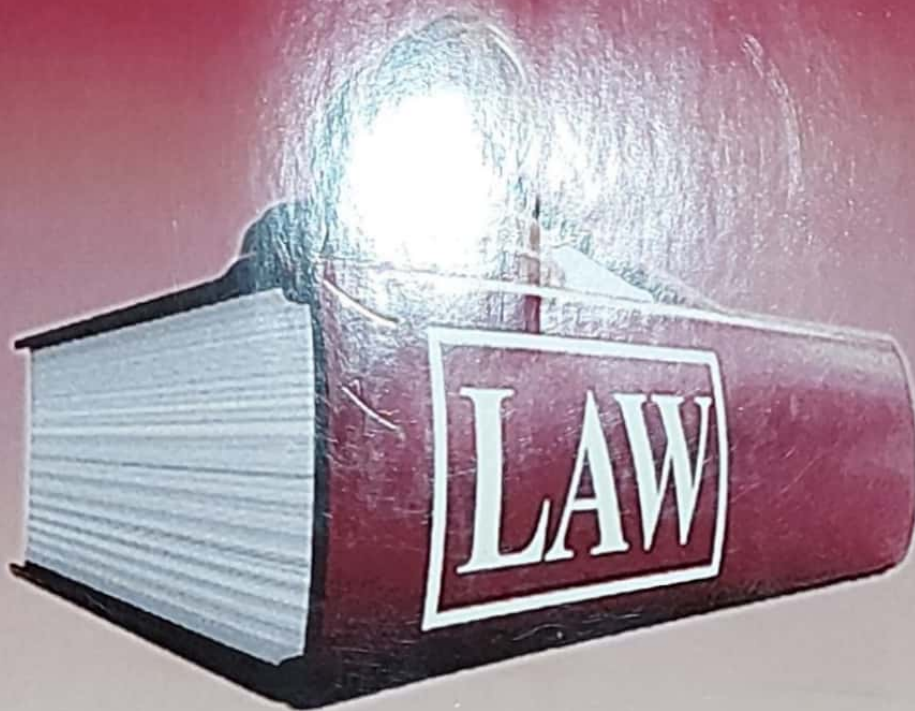


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## FOREWORD

This book contains selected essays as a result of collaboration between the Faculty of Law Universitas Sriwijaya (FH UNSRI) and the Faculty of Law Universiti Kebangsaan Malaysia (FUU UKM), in a form of various legal themes written by various authors, including students. These essays are also arranged based on several main themes to make them easier to read and understand.

In addition, these also discuss legal policy practices, such as automatic exchange of financial accounts in the context of tax law enforcement, investment development and growth and regional autonomy. In private law, this book discusses material law related to the division of tangible objects with intangible objects as well as movable and immovable objects respectively regulated in Article 503, 504 of the Civil Code. In public law, it discusses the perspective of juvenile criminal law and human rights. Crimes against children must be prevented by the state. There must be an effort to ensure legal certainty to protect children's rights. Furthermore, these selected essays also contain articles written by academics from the Faculty of Law at the National University of Malaysia who discuss current issues of the Malaysian legal system on maritime security. The geographical conditions of the States in Southeast Asia, especially in the Malacca Strait, are very vulnerable due to the threat of piracy, terrorism, conflict, and environmental disasters.

By the publication of these selected essays, it can hopefully lead readers to gain new insights, as well as contribute ideas to the development and knowledge of law. As a conclusion, it is hoped that these selected essays will fulfill the expectations and desired goals.

Palembang, July 2022

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# The Omnibus Law System Approaching on Building Permit

Rudi Hartono, Tahmudin, Gianda Tifanny, and Gazali Ahmad<sup>1</sup>

## 1. Introduction

The government's good will (political will) in terms of licensing, to cut the obstacles through the Omnibus Law concept especially regarding building permit that want to cut all the obstacles in investment and licensing in order to have clear standard and economically profitable if done efficiently and effectively. Building permit licensing to build business place is required to meet certain requirements in advance which very burdensome. There are more than 10 complete document requirements for the issuance of building permit, from submission of advice planning or City Plan Information (KRK) up to the Building Construction Team (TABG) approval of which require significant economic costs.

The purpose and objective of this paper were to find simple form and new formulas are created in the fulfillment of standard requirements for the issuance of Building Permit (IMB) so it does not burdening investors or applicants and can economically reduce costs in terms of manufacturing and in the management of building permit. This writing also aims to measure the investment value from the point of view of economic construction and business place licensing not only focusing on profits (commercial) but also prioritizing the community welfare. The community in this case does not only become an object of construction but also as a subject construction, which can play an active role in pioneering construction for other non-governmental organizations in the community.<sup>2</sup>

The legal science theory is integrated and combined with scientific social theory to form a correct method in answering the gap problem between empirical fact which is commercial investment of economic

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<sup>1</sup> This article has been presented in the limited forum Cooperation between Faculty of Law, Sriwijaya University and Faculty of Law, National University of Malaysia on 24 February 2020.

<sup>2</sup> Hasni, 2010. Law on Spatial Planning and Land Stewardship. PT. Raja Grafindo Persada, Jakarta.



aspects and normative theory which has a noble purpose for the welfare of the Indonesian people in general. Broadly speaking and in general theory, the main problems often arise in investment, licensing, social welfare and up to the dispute resolution both in litigation and non-litigation.<sup>3</sup>

The problem in fulfilling the requirements for issuance of building permit is due to non-compliance between written provision and its practice and process, both at the time of fulfilling these requirements and at the time of the implementation. The start of a basic idea of construction as long as it happens often only has commercial priority without thinking the community welfare, therefore there should be harmonization between investment and community welfare. There is need on systematic planning on investment, licensing, construction and community welfare and on dispute resolution if it occurs and difficult to avoid. Based on explanation above, the research questions are as follows: How to make an effective and efficient Omnibus law? Why Licensing must be Simple, Practical and Good economically? And How to have every construction of business place have an economic impact on community welfare?

## **2. The Omnibus Law System in Indonesia**

A good governance structure always has element domain namely; State, Private and Community. The government has a duty and authority to provide services to the community in this matter applicants who want to invest according to good governance provisions which is the implementation of bureaucracy process in public services must always follow the values and principles namely: the principle of effectiveness, fairness, participation, accountability and transparency.

In terms of investment to encourage a more conducive climate not just a matter of security, but the simplification of the licensing system was needed by making fast, easy and inexpensive steps, for example by cutting all regulations and SOPs inhibiting investment. The government

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<sup>3</sup> Hasni, 2010. Law on Spatial Planning and Land Stewardship, PT. Raja Grafindo Persada, Jakarta.

has obligations (political will) for a vision of investment with consideration of fairness to investors who invest their capital, to get comfort, a sense of security, and can enjoy the results of their investment.<sup>4</sup>

Licensing is an agreement from the authorities based on the legislation or regulations and for certain circumstances deviate from prohibition of statutory restrictions which are motivated to use permits to direct/control certain activities, prevent danger and protect certain objects, divide objects, and directing select people and their activities. Licensing must be simple, practical and good.

But what has happened so far is that there is no standard in licensing that has been regulated by operational provisions and different implementation of standard procedures (SOP) instructions in each city and districts in Indonesia according to the characteristics of the area which is usually contained in a Regional Regulation (Perda) or Mayor / Regent Regulations. Licensing especially for issuing building permit (IMB) must meet the requirements specified by local governments which have very burdensome requirements with approximately 11 items must be met for building permit issuance request for business building include: advice planning (City Information Plan), neighbors approval (RT, Lurah, Camat), structural design drawings and structural counts, environment impact assessment, traffic impact assessment, PBK recommendations, making site-plan location/drainage, making flood peels and feasibility assessment by TABG.<sup>5</sup>

In the writer's opinion these requirements can be made as simple as possible and should be separated between planning, implementation of construction with operational period for example, each stage should be separated / mapped to be simpler and important on the following steps ;

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<sup>4</sup> Sembiring, S., 2018. Investment Law, CV. Nuansa Aulia, Bandung.

<sup>5</sup> Fuady, M., 2013. The Big Theories ( Grand Theory) in Law, PT. Fajar Inter Pratama Mandiri, 2013.

1. Advice Planning or KRK, building design drawings, PBK recommendations, structure drawings and certified structure counts can be put together on planning stage.
2. Approval of neighbors, *lurah*, and *camat* and site-plan location, site-plan drainage and flood peels and the environment impact assessment preparation can be put together in socialization stage.
3. The traffic impact assessment is useful at the building's operational implementation stage.

From the description of the stages above can concluded that the fulfillment of the building permit requirements can be simplified and if need to be abolished. Commitment and contribution to society is at the preparation of Environmental Impact Assessment Documents, because not only the community has a stake in the implementation of the construction but also also in providing employment at the later operational stage. Whereas at normative technical level requirements, the competent supervision must be followed according to the provisions in Legislation No. 28 of 2002 concerning building.

Associated directly with the spirit of both investment, licensing, and at the implementation stage especially in the construction of business building should be always oriented to the welfare of society, this is where the government, investors and the community to realize the need of common vision. There is a link between the construction of business building with the goal of community welfare (social), the relationship between construction in the process with the results of these constructions have a value of justice and for community welfare in the form of involving the local community as workers (local workers) in the construction as well as in post-construction and recruit them as workers or employees.

### **3. Conclusion**

From the description of the discussion above it can be concluded that several requirements must be fulfilled before the issuance of Building Permit (IMB) that must be completed in the form of administrative documents stipulated in each Regional Regulation, in its

fulfillment often experiencing obstacles and be the burden of the applicant / investor due to cost problems and relatively long time. The challenge of this paper was to cut down or nullify the unimportant requirements from all aspects either legal aspects and technical aspects. These obstacles are very disturbing at the planning stage, because it also influences the implementation phase and operational phase. Therefore this writing will answer and find solutions (novelty) in building permit issuance that has never been examined in other writing about building permit in Indonesia, among others.

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