



Administrative Sanction Implementation Towards Building Permit Management Contrary to Building Approval in Way Kanan

Aprima Damayana¹, Sri Sulastuti²,

¹Faculty of law, Lampung University, Indonesia

E-mail: Aprrdmynaa1204@gmail.com

²Faculty of law, Lampung University, Indonesia

E-mail: sri.sulastuti@fh.unila.ac.id

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Abstract

The discussed issues concern the government's oversight of building construction in the Way Kana, which has not yet been maximised. Therefore, there are constructed buildings that are not in accordance with the actual function written on the legalised construction permission, due to a lack of funds for the Investment and Integrated Service Agency in Way Kanan Region to oversee the buildings, which are responsible for this field. That explains why there are buildings with a contrary function to DPMPTSP's enacted permission in the Way Kanan Region. Legitimate permission for building construction is a Building Permit (IMB), regulated by the 28th Law of 2002 on construction buildings, which was recently modified by the 22nd Government Regulations, instead of the Law of 2022 on Job Creation, which changed IMB to Building Approval (PBG). The issue in this research is how oversight and supervision of permissions for buildings are carried out in Way Kanan Region, and how the administrative sanctions would be applied. This article uses juridical normative and juridical empirical approaches to the problem. The sources and types of data in this research include primary and secondary data. Data was analysed with a descriptive qualitative method. According to the research results, supervision of Buildings in the Way Kanan Region is at an acceptable level but not at a maximised level yet, resulting in some people still violating the currently active regulation. However, fortunately, the administrative sanction application against the crosser is already in accordance with the currently active regulations in Way Kanan Region, namely Way Kanan's 16th Regional Regulation of 2018 on Building Permit Retribution. A factor resulting from a lack of supervision due to funding constraints, as many areas in the Way Kanan Region remain remote.

A. Introduction

Building Permits are permits granted to fulfil administrative requirements for the construction of a building. Building users are required to comply with building regulations, including carrying out construction in accordance with the technical plan approved by the district/city government, as stated in the Building Permit (PBG), and using the building in accordance with the Building Permit (PBG). Therefore, building use must comply with the PBG approval.

According to data from the Way Kanan Regency Public Works and Public Housing Agency (DPMPTSP), 1,096 buildings were registered with PBG in 2020, while in 2021 the number increased to 1,078.¹

In addition, in Way Kanan Regency, there are still buildings that have PBG, but in reality they do not correspond to their use as registered in the deeds or permits approved by the government, one of which occurred on Jl. Lintas Sumatera, Kampung Tiuh Balak, Baradatu District, which was initially permitted as a residence but was, in reality, used as a warehouse for selling agricultural products.²

The registered PBG application that meets the technical and administrative criteria is a building intended for residential use. However, in practice, the building does not comply with the initial permit because it is used as a storage location for agricultural products. Based on the explanation above, the research questions are:

- a. How is building permit supervision carried out in Way Kanan Regency?
- b. How are administrative sanctions applied to buildings that do not meet the requirements for PBG in Way Kanan Regency?

The research method used in this journal article is an empirical juridical approach, utilising primary and secondary data collection methods and processed through qualitative analysis.

B. Discussion

A. Supervision of Building Constructions That Do Not Comply with Building Permits in Way Kanan Regency.

¹ Wawancara dengan Arie Antoni Thamrin S.STP., S.IP., Tanggal 31 Januari 2022 , di Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu , Pukul 09.30 1`

² Wawancara dengan Joniada Kusuma , Tanggal 22 Januari 2022, di Kediaman Joniada Kusuma , Pukul 14.00

Fundamentally, every structure must obtain a Building Permit. This is a legal requirement that the responsible party must follow, requiring them to request a permit from the local government.

Supervision of Building Permits is carried out by the Way Kanan Regency Investment and One-Stop Integrated Services Agency in accordance with Way Kanan Regency Regional Regulation Number 16 of 2018 concerning Building Construction Permit Fees. The existing Regional Regulation has not been updated. Currently, the term IMB has been replaced by PBG.

Supervision of Building Permits (PBG) must follow the supervision procedures implemented by the Supervision and Monitoring Section in the Licensing Division of the Way Kanan Regency DPMPTSP. Supervision must be carried out every three months, involving an official in the Supervision and Monitoring Section and assisted by the Public Order Agency (SatPolPP). However, in reality, supervision of building permits in Way Kanan Regency is carried out by the Research and Development Section, as the Supervision and Monitoring Section does not yet have an official.

Supervision is conducted through field observations for two reasons:

1. Due to complaints from residents; or
2. During scheduled field inspections and supervision.

However, this is highly ineffective given the 15 sub-districts in Way Kanan Regency and the limited human resources at the DPMPTSP office. Furthermore, there is no government-provided SPD (Special Task Force) to conduct field supervision.

B. . Implementation of Administrative Sanctions for Building Permits Not in Accordance with the Designation in the PBG Permit.

a. Issuing a Written Warning Letter.

When conducting field inspections, the Way Kanan Regency DPMPTSP finds shophouses without complete permits. The first step is to issue a first warning letter (SP) to the building owner. Upon receipt of this warning letter, the owner is asked to obtain the necessary permits immediately. The relevant government agency, in this case, the Way Kanan Regency DPMPTSP, provides the building owner with the opportunity to process the

permits in accordance with the applicable Regional Regulations of Way Kanan Regency. If they do not, the building owner will receive a second and third warning letter, which will ultimately lead to the building being sealed.

Until now, the local government of Way Kanan Regency has imposed administrative sanctions in accordance with the regulations stated in the Regional Regulation for the use of buildings that are not in line with the initial permit, in 2018, by issuing the first to third written warnings that were not heeded by the parties who were required to change their building permits, then the permit was revoked by the DPMPTSP of Way Kanan Regency.³

b. Sanctions

The sanctions imposed by the Way Kanan Regency DPMPTSP on building owners who do not comply with their designated permits are almost in line with applicable regulations, namely:

Regional Regulation Number 5 of 2016 concerning Buildings, Article 181, namely:

Administrative Sanctions at the Utilization Stage

1. Building owners or users who violate the provisions of Article 9 paragraph (3), Article 18 paragraph (1), Article 126 paragraphs (1) through (3), Article 127 paragraph (2), Article 130 paragraph (3), and Article 135 paragraph (8) shall be subject to a written warning;
2. Building owners or users who fail to comply with three (3) consecutive written warnings within a period of 7 (seven) calendar days each and fail to correct the violations referred to in paragraph (1) shall be subject to sanctions in the form of a temporary suspension of building utilization activities and suspension of the Certificate of Functional Worthiness.
3. Building owners or users who have been subject to the sanctions referred to in paragraph (2) for 30 calendar days and still fail to correct the violations referred to in paragraph (1) shall be subject to sanctions in the form of permanent suspension of building utilization and revocation of the Certificate of Functional Eligibility.
4. Building owners or users who delay renewing the Certificate of Functional Eligibility within the validity period of the Certificate of Functional Eligibility will be subject to an administrative sanction of 1% of the total value of the building in question.

Based on interviews and field studies, the author found that the administrative sanctions applied are not entirely in accordance with existing Regional Regulations or regulations.

³ Wawancara Kepala Bidang Penanaman Modal dan Pengawasan, Risep Fantri Roza, S.E., M.Si.

As a result, some people still violate building-use regulations that do not comply with the PBG, and this lack of deterrence persists.

C. Inhibiting Factors in Building Approval Supervision in Way Kanan Regency

1. Failure to Issue Fund Expenditure Letters (SPD)

One inhibiting factor in building permit supervision in Way Kanan Regency is the limited budget for field surveys, due to Way Kanan Regency's vast area and poor road access. As a result, relevant agencies are less effective in carrying out their duties, especially in hard-to-reach and remote areas.

2. Community Participation

Some communities have not yet participated in their own local regulations due to a lack of outreach and information. However, if someone registers their building according to its function, it will automatically help increase Way Kanan Regency's Original Regional Revenue, which is helpful for Way Kanan Regency's levies.

C. Conclusion

1. As part of the development and legal order in Way Kanan Regency, supervision has been carried out on a scheduled basis and in accordance with applicable procedures. However, some buildings still do not comply with their functions as stipulated in the Building Construction Permit (PBG). However, the DPMPTSP currently faces challenges in supervision related to budgetary issues due to the COVID-19 pandemic. Furthermore, due to the geographical conditions in Way Kanan Regency, where not all roads are accessible, the DPMPTSP has not been able to conduct supervision optimally.
2. Administrative sanctions for buildings that do not comply with permits approved by the competent government have been implemented during direct supervision, with warning letters and instructions regarding further procedures, in accordance with Regional Regulation Number 5 of 2016 concerning Building Construction Permit Fees. Residents who have received these administrative sanctions are encouraged to improve their buildings in accordance with the PBG procedures immediately.

Suggestion

The establishment of a Regional Regulation Regarding Building Approvals is necessary to ensure legal certainty and order regarding building construction in Way Kanan Regency.

1. To ensure that building supervision can be carried out correctly and in accordance with procedures, the parties tasked with carrying out supervision, in this case, the Investment and One-Stop Integrated Services Agency through the Cooperation and Development Section, must be equipped with adequate facilities and infrastructure. This is expected to ensure that building supervision in Way Kanan Regency can be carried out effectively and efficiently.
2. The Way Kanan Regency Government must conduct supervision and overcome existing obstacles to supervision to ensure that residents with Building Permits (PBG) that are not in accordance with their intended use comply with existing regulations. Furthermore, the Way Kanan Regency Government must regularly conduct outreach to the community to ensure they understand the importance of obtaining a Building Permit.

Reference

Hasil Wawancara dengan Arie Antoni Thamrin S.STP., S.IP., Tanggal 31 Januari 2022, di Kantor Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Kabupaten Way Kanan, Pukul 09.30

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Hasil Wawancara Kepala Bidang Penanaman Modal dan Pengawasan, Risep Fantri

Roza, S.E., M.Si. 21 Maret 2022 di Kantor Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Kabupaten Way Kanan Pukul 10.00

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