



**BUILDING LICENSING AS A FORM OF PUBLIC
SERVICE AS IMPLEMENTATION OF AUTONOMY
BASED ON THE PRINCIPLE OF GOOD
GOVERNANCE**

Kamaluddin¹, Anis Mashdurohatun²

Article History: Received: 24.02.2023

Revised: 10.04.2023

Accepted: 26.05.2023

Abstract

Before make a building, it should be needed the permits, which is called the Building Permit. Licensing is a form of public service by the local government. Granting Permission Building Permit in the era of regional autonomy implemented through one-stop service to be more effective and efficient.

Keywords: Licensing; Building and Public Services.

^{1,2}Faculty of Law, Universitas Sultan Agung Semarang, Indonesia
Email Corresponding: anism@unissula.ac.id

DOI: 10.31838/ecb/2023.12.s3.402

1. INTRODUCTION

A building can not be separated from human life, especially as a shelter from the weather, security and comfort, where privacy or storage of goods as well as a place to work. The building is also commonly referred to houses and buildings, like as all the facilities, infrastructure in human life and civilization. The building also a variety of shapes, sizes and functions, and have adjusted throughout history caused by several factors, such as building materials, weather conditions, price, soil conditions, and aesthetic reasons. A building can be said to be eligible for occupancy when the building has eligible reliability. Buildings are stated to have reliability when the building is able to accommodate every occupant activity based on the function of the building, in accordance with Act. No. 28 of 2002 on Building include safety, convenience, comfort, health and special requirements.

For the construction of the building, can not be separated from what is called the licensing. Licensing is one form of implementation of the regulatory function and is owned by the government control of the activities undertaken by the community. Licensing may take the form of registration, recommendation, certification, the determination of quotas and permits to do business that should normally be held or acquired a business organization or individual before that question can perform an activity or action. The granting of licenses by the authorities is to allow people who apply for or applicant permission to perform certain actions that actually is prohibited for any reason in the public interest, so that it is important make supervision to the government. The action being applied is basically prohibited, then by granting the measures were excluded, and can be carried out in accordance with the provisions or with certain ways.

In the permit application, the license applicant must contain all the requirements put forward by the government to obtain permission. Refusing to allow occurs when the criteria set by the government are not met by the applicant. Forms of licensing in the field of building one of which is a Building Permit (IMB). Building permit is a license granted to regulate, supervise and control to every all activeities build, repair and overhaul. Giving IMB is not permitted if the conditions are not fulfilled by the applicant, so that prohibited erect a building, unless there is written permission from the authorities. The obligation for the community, for those who want to erect a building must obtain prior permission from the government or regulatory authority, so as to prevent the establishment of a building that may cause harm, loss, and disturbance to the surrounding buildings or the people around them.

Building permit granting a form of public services by local governments as decentralization. Based on the Decree of the Minister of State for Administrative performance is vandalism No. 63 / Kep / M.PAN / 7/2003 on General Guidelines for the Implementation of Public Service I point C Annex paragraph 3 states: "Public service is defined as all service activities carried out by government agencies as addressing the needs of people, communities, government agencies and legal entities as well as the implementation of the provisions of the legislation ". Lijan Poltak Sinambela gives the sense of public service as any activity undertaken by the government against a number of human beings who have every activities of benefit in a collection or entity, and offers a satisfaction even though the results are not tied to a physical product. According to Kurniawan that public service is the provision of pe-service the purpose of the person or people who have an interest in the organization in accordance with the

basic rules and procedures have been established.

Provision of services to the public is a major liability for the government. The government's role in the process of service delivery, is to act as a catalyst that accelerates the process in accordance with what it should be. By portraying serve as a catalyst surely will become the foundation of government organizations in providing the best service to the community. Public services in the development of their obligations arising as a process of implementation of all government activities, either individually or in groups. It is important to emphasize the status of public servant from the government bureaucracy, whose task is to provide the best service to the people, not for themselves or their group. If the rules are convinced of the underlying legislation working system / service government bureaucracy was oriented to the interests of the people and social justice, as well as run a non-discriminatory, transparent, objective and firm, then gradually people will follow this pattern.

2. RESEARCH METHODS

This research using normative juridical approach, the research focused on reviewing the application of the rules or norms in the positive law. The nature of how it is empirically descriptive analysis, which revealed the legislation relating to the legal theory which is the object of research relating to the object of research. The data source of this research focused on secondary data obtained through library research.

3. RESULTS AND DISCUSSION

Building as a place of human beings do all their activities, has a very strategic role in the formation of character, the embodiment of productivity, and human identity. Therefore, the implementation of the building needs to be regulated and

supervised for the continuation and improvement of the lives and livelihood, as well as to achieve buildings that are functional, reliable, as well as balanced, harmonious and in tune with their surroundings. Building is a physical manifestation for utilization of space. Therefore, in the setting of the building still refer to the appropriate spatial planning regulations the legislation in force. To ensure certainty and the rule of law in the administration building, each building should meet the requirements of the administrative and technical buildings, and should held by orderly manner.

Act No. 28 of 2002 on Building regulates the function of the building, the building requirements of the building, the organization of the building, including the rights and obligations of owners and users of buildings at each stage of the implementation of the building, the provision of the role of society and guidance by the government, and sanctions, Overall intent and purpose of such arrangements is based on the principle of expediency, safety, balance, and harmony of the building with its surroundings. Embodiments of the building can not be separated from the role of construction service providers based on the legislation in the field of construction services such as planner, executor, supervisor or construction management and development services, including providers of building services technical reviewers. Therefore, the setting of this building must go hand in hand with setting construction services by legislation.

With the enactment of this Act, make building construction and utilization, which was conducted in the territory of the Republic of Indonesia by the government, private, community, and by foreign parties shall comply with all provisions contained in the Act of Building. In facing and dealing with the advancement of technology, even information as well as architecture and engineering, the need for application balanced by considering the

social values of local culture and characteristics of the architecture and the environment that have been there, especially the values of contextual, traditional, specific, and historic.

Every building should not interfere with all the ecosystem balance and the environment around the building. Every building should meet the requirements of the administrative and technical requirements in accordance with the function of the building. The administrative requirements include the requirement of building, ownership status of the building, and building permits. The technical requirements of the building include building code requirements and reliability requirements of the building. The use of space above and / or below the ground and / or water to the building should have permission to use according to applicable regulations. Administrative requirements and technical support for building custom, semi-permanent buildings, building an emergency, For each activity a building, especially the society must take care of and obtain Building Permit in accordance with applicable regulations. It is intended that such development can proceed smoothly and does not happen things are not desirable in the future, while at the time of use of the building, must first obtain a Building Use Permit (IPB).

Asep Warlan Yusuf said that the government's consent as a juridical instrument of preventive, as a legal means to control the administration of regulation. Sjachran Basah gave the notion of consent as a legal act of the state administration sided clicking contract produce regulations in accordance with the requirements and procedures as established by statutory provisions in force. Utrecht provide the meaning of permit (*vergunning*) as follows: When the regulator does not generally prohibit an act, but they also allowed him to perfunctory held specified for each concrete case, the act of state

administration for allowing such actions to be a license (*vergunning*).

Licensing is one form of execution of the function of the regulation and control are owned by the government against the activities undertaken by the community. Permission can take the form of registration, recommendation, certification, the determination of quotas and permits to do business that should normally be held or acquired a business organization or individual before that question can perform in an activity or action. By giving permission, the authorities allow people who begs to perform certain actions were actually banned in order to consider public interest that requires supervision. In the era of regional autonomy, consent is intended as a thing that can make a positive contribution to the economic activities especially in the service revenue (PAD) and pushing the pace of investment. A permission given by the government has the intention to create a safe and orderly conditions so that every activity as intended. On the other hand, the purpose of licensing for the government often associated with PAD, since income is important in realizing the framework of regional autonomy. Without adequate income, it is impossible that regional autonomy could be realized.

The primary issue in the permit, that an action is prohibited unless permitted in order that the provisions in question do with certain ways. Refusing to allow occurs when the criteria set by the authorities are not met. For example, on this subject is banned from establishing a building, unless there is a written consent and the competent authorities with the provisions comply with the requirements. As mentioned that one of the licenses issued by local governments are licensing in the field of building, the building permit. Building permit is a permit granted by the district / city to the new owner of the building to build, modify, extend, reduce and / or maintain the building in

accordance with the requirements of the administrative and technical requirements applicable.

Sunarto also confirmed that construction permits is a permission granted by the local government to the entity or person to erect a building that is intended for the design of construction and building in accordance with the Basic Value Building (NDB), Value Building (NLB), and Altitude building (KB) established in accordance with the terms of salvation to those who occupy these buildings, others, and the environment. Everyone who owns a building is required to have building permits. Building permits is the initial letter of proof from the local government that the building owner can erect the building in accordance with predetermined functions and is based on technical plans of buildings that have been approved by local government.

To avoid lawsuits others after the building stands, for it before building there must be clarity over the status of all the land in question. This can be seen from the existence of land papers such as certificates, letters of plots, fatwa, Minutes of Committee A, and the land is not occupied by other people. Ambiguity of land ownership would be detrimental to both the landowner and / or owner of the building; City environment requires juggling well, beautiful, safe, orderly, and comfortable. To achieve this goal the arrangement of buildings with expected not give a negative impact to the environment. Implementation establish urban building should be adapted to the City Spatial Plan. Therefore, before obtaining a building permit must be obtained Specification community of the city planning in advance;

Giving Building permit is also intended to avoid physical danger for the use of the building. For this purpose any construction of buildings require careful development plans and standards/technical normalization predefined building such as

architecture, construction, and installation including installation of fire (fire prevention and control systems); The monitoring of standards / technical normalization of the building through the Building Permit is expected to prevent the harm that may be caused primarily by the construction for the environment, labor, local communities, for prospective users of the building. Thus, building can be done in accordance with the planning. In the publishing services building permit, indeed to do with the pattern of one-stop service, the service pattern granting of permission to be integrated in one place / location by several agencies Provincial Government involved in the process of issuing building permit, for example, the Department of City Planning regarding the issuance of city planning, advise planningnya; BPN Regional Office regarding his land certificate; P2B on the IMB; Architecture Team, Weighing Team, and so on. Likewise, should stop in one location so as to provide convenience to the Building Permit applicants. Other issues, licensing is also related to the supervision of the building that is being established in the regions.

In relation to public services, generally in the ministry of building permit, people should take the time and cost is not small. Given that to have this service, they often have to do several government agencies are often scattered location. Coupled with the database each agency generally stand-alone (not online with each other), it takes a long time to complete the licensing process. In addition, the lack of transparency in the mechanism and the cost required to process a permit. In this regard, in order to improve the performance of public services, local governments need to develop a one-stop service through the delivery of organizational restructuring and revitalization of licensing services. Licensing related with building permit for building a large scale as well as a business

location, offices, or shopping center, would be supported by a recommendation issued by the relevant agencies, especially the recommendation of the Department who handle the city (like in Jakarta handled by Spatial Agency) in the form of Decision on City's Plan and Building Layout Plan, the recommendations of the Regional Office of BPN Provincial Traffic Management recommendations of the Department of Transportation, Permit mentioning of Tramtib and Well. As in the framework of investment buildings to be constructed plus the necessity of the EIA recommendation of the Regional Environment Management Agency.

With the various procedures are lengthy and hogging such as the need for a variety of recommendation before getting a building permit, particularly for buildings to be used for the location of the business, its local governments must create an integrated service unit, along with the means, as well as a good system and mechanism in order to create a service that is fast, cheap, easy, and simple. On the one hand many people are not yet aware of the benefits and uses of IMB, which in terms of safety, comfort, environmental, and regularity of the buildings in a city. On the other hand, the authorities have not realized that the job as a waiter is in order to realize good governance and accountability of the organization where their works.

For example, in some areas (such as the Jakarta) there has been a rapid development of the physical building, which is filled with many buildings, so it is obvious from the physical aspect of land will affect the soil structure itself to various forms of the building foundation. All multiplication apparatus care workers only know that IMB service delivery is in order to increase revenue. For this reason the government issued a policy which requires that region can provide the stimulus incentives, a convenience for investors, in order to encourage the flow of

investment to boost economic growth and prevent the economic crisis shortly deeper. With the birth of the central government policy, both on the local authority, and the provision of small area devices structure but rich functionality impact change organizational structures / devices in the area of local government, as well as to encourage in order to create one-stop service. In regard to the concept of one-stop service, to be able to create a system of urban development processes effective and efficient, mechanisms, procedures, and forms a new license, at least by an authorized agency (one stop system). This concept is so that there is an institution that is actually responsible for issuing permits and have the authority in granting permits control of the implementation of the physical development of the city.

4. CONCLUSION

The reasons of building requires licensing, namely: (i) in order to avoid accusation of others after the building stands, (ii) urban environment requires juggling properly and regularly, beautiful, safe, orderly, and comfortable, (iii) the granting of building permit intended to avoid physical danger for the use of the building, as well as (iv) shortly prevent hazards that may arise especially when the construction on the environment, labor, local communities, as well as for potential users of the building; Services of building permits for the local government in the era of regional autonomy implemented the concept of one-stop service, which is to be able to create a system of processes of urban development of effective and efficient, mechanisms, procedures, and forms a new permit granted by the competent agency (one stop system).

5. BIBLIOGRAPHY

1. Adrian Sutedi, 2015, *Licensing Regulation in the Public Services Sector*, First Edition, Third Printing, Sinar Grafika, Jakarta

2. Didier S. Damanhuri, 2006, *Corruption, Reforms and Economic Future of Indonesia*, Issuing of Economics Faculty, University of Indonesia, Jakarta
3. Fandi Tjiptono, 1996, *Management Services*, Andi, Yogyakarta
4. Jhonny Ibrahim, 2011, *Theory and Methodology of Normative Legal Research*, Bayumedia, Malang
5. Juniarso Ridwan and Achmad Sodik Sudrajat, 2014, *The Act of State Administration and Policy, Public Services*, Fourth Publition, Nuansa Cendikia, Bandung
6. Lijan Poltak Sinambela, 2008, *The Public Service Reform, Theory, Policy, and Implementation*, Fourth Publition, Bumi Aksara, Jakarta
7. Marihot Pahala Siahaan, 2008, *The Act. of Building in Indonesia*, Raja Grafindo Persada, Jakarta, p. 22.
8. S.P. Siagian, 1996, *Pathology Bureaucracy*, Bumi Aksara, Jakarta.
9. Sunarto, 2005, *Taxes and Levies*, Amus and Citra Pustaka, Yogyakarta
10. Utang Rosidin, 2010, *Autonomy and Decentralization*, First Publition, Pustaka Setia, Bandung
11. Handayani, I.G.K.R., Martanto, R., Karjoko, L., Kadir Jaelani, A., Mukhlisin, "Application of advance data protection system as an efforts to improve Indonesia digital economy", *International Journal of Advanced Science and Technology*, Volume 29, Number 4, (2020) pp. 1774-1778.
12. Jaelani, A.K., Handayani, I.G.A.K.R., Karjoko, L., "The Political Law Of The Constitutional Court In Canceling The Concept Of The Four Pillars As An Pancasila As The State Foundation", *Talent Development and Excellence*, Volume 12, Number 2 (2020), pp. 1314-1321.
13. Jaelani, A.K., Handayani, I.G.A.K.R., Karjoko, L., "Development of Halal Tourism Destinations in the Era of Regional Autonomy in West Nusa Tenggara Province", *International Journal of Innovation, Creativity and Change*, Volume 12, Number 12, (2020), pp. 765-774.
14. Handayani, I.G.A.K.R. Karjoko, L., Prasetio, Sudarwanto, A.S., "Dilemma In The Implementation Of Business Judgment Rule In Commercial Transactions Of State-Owned Enterprises" *Talent Development and Excellence*, Volume 12, Number 2 (2020), pp. 1541-1549
15. Karjoko, L., Winarno, D.W., Rosidah, Z.N., Handayani, I.G.A.K.R., "Spatial Planning Dysfunction In East Kalimantan To Support Green Economy", *International Journal of Innovation, Creativity and Change*, Volume 11, Number 8, (2020), pp. 259-269.