



FLOOD IN HOUSING PROJECTS IN MALAYSIA: A PLANNING LAW PERSPECTIVE

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- Flood
- **Flood disasters**
- Housing Development
- **Losses & grievances**

Introduction



Discussion – Planning Issues in Flood Occurrences



- Federal and states' constitutional **jurisdiction separation**.
- Federal policies are **not binding** the states.
- **Section 108 NLC: superiority** of the State Authority & Land Authority
- **No mandatory provisions under the Town and Country Planning Act 1976** (Act 172) that require the Local Planning Authority & the State Planning Committee to follow the advice of the technical agencies.

Discussion – Planning Issues in Flood Occurrences

Section 5D, 16th Schedule
– land digital data:
comprehensive data of lands including measures against flood occurrences
– **ineffective because of non-coordination** between federal and state governments.

➤ **Development Plans are not binding** – Syarikat Bekerjasama-sama Serbaguna & Chong Co Sdn Bhd.



Discussion – Planning Issues in Flood Occurrences



- **One Stop Centre (OSC)** at the Local Planning Authority) relies on the advice and comments of the technical agencies BUT the **advice is NOT binding**.
- Manual Saliran Mesra Alam (Urban Stormwater Management Manual for Malaysia) (**MSMA**)
- Rainwater harvesting, detention pond, erosion & sediment control, culvert and maintenance.
- Environmental Impact Assessment Report (**EIA**)

- Defect Liability Period up to 2 years only. After that, the developer is not liable
- **Insufficient big data, data analytics** – Jabatan Mineral & Geo Sains (JMGS), Jabatan Parit & Saliran (JPS), Jabatan Kerjaraya (JKR), JAS etc
- Information of rock, sediment, soil fitness, soil suitability, other geologic information for **EVERY DISTRICT** in Malaysia

Discussion – Planning Issues in Flood Occurrences



Discussion – Planning Issues in Flood Occurrences

- ➔ River basin management & coastal zone, water resources management & hydrology, special projects, flood management, eco-friendly drainage for **EVERY DISTRICT** in Malaysia
- ➔ Road, building, infrastructure, highway, hill slope for **EVERY DISTRICT** in Malaysia



Discussion – Planning Issues in Flood Occurrences



- Pollution soil, water, environment, atmosphere, noise, discharge of wastes for **EVERY DISTRICT** in Malaysia
- **No statutory requirement** imposing on the Local Authority, Local Planning Authority, technical agencies a duty to provide comprehensive **big data & data analytics** to avoid flood disasters – preventive & curative measures.
- Eg section 6 of Geological Survey Act 1974 (Act 129) – **JMGS unable to carry out geological survey** on any designated areas unless the Minister requires & with concurrence of the State Authority

- **Section 108 NLC** – State Authority **can overrule** the Planning Authority including the Local Planning Authority decisions and policies.
- Flexibility in the Planning Conditions
- But rigidity, stringent & additional conditions may lead to **additional development costs**. This may lead to higher prices for house sales.
- **Need to balance.**
- Incomplete development plan
- Incomplete **Development Proposal Plan, EIA reports**
- Must be vetted and reviewed by the technical agencies. **BUT if the technical agencies do not vet nor in shortage of expertise & human resource?**
- **Local Planning Authority can be liable in law** and at equity for breach of statutory duty, negligent & breach of statutory duty.

Discussion – Planning Issues in Flood Occurrences



THANK YOU!

