

# Implementation of Permission Use of Space as an Instrument of Controlling the Space Utilization of High Control Zone of East Java

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Abstract: Increased investment in East Java have boosted the intensification of utilization of space, to control the high rate of space intensification of utilization by local government officials. Specifically, they put control to it by using space Permit Spatial usage permit which further abbreviated as IPR is the permission required in the use of space activities in accordance with the provisions of the legislation. IPR which become the authority of East Java province is a Region of Space Utilization Permits of High Control Zone of a Regional Scale. During IPR process in the beginning of 2010, both the process of issuing of the permit and post publication of IPR, there are several obstacles that occur, among other administrative barriers or technical constraints that cause IPR cannot published even revoked the validity period. This research was a form of socio-legal research legal analyze of IPR implementation. Based on the results of the analysis existence of synchronization rules in this National Spatial Plan, provinces and district / city, as well as the importance of monitoring and evaluation of the institutional role of the IPR has been published in order to keep the consistency with the physical condition of the field.

## 1. INTRODUCTION

Based on Indonesia regulation Number 23/2014 about local governance, public works Affairs and Spatial Planning is included in one of the Concurrent Affairs. The Sub-Division of Spatial Planning is divided into the Affairs of the Central Government, the province and district or city. It provides changes to the Division of the authority conducting spatial and sectoral policy implementation against implicates in the area.

Since the enactment of the Law of the Republic of Indonesia Number about Spatial Planning, districts and cities in East Java simultaneously carryout the mandate to draw up the Urban Land Use Plan.

However, it has not been executed directly in term of areal development. Development should be in accordance with what had been planned on Urban Land Use Plan, but many investors still do development in regions that do not fit the allocation included in the province of East Java. As an example the case of the construction of the warehouse which is located in the village of Driyorejo Sub-district Cangkir of Gresik district. The location of the development happens to be (the furthest) 35m from Brantas River bank. That case has been currently the administrative sanctions Act has been made by the Government of Gresik District.

Based on that, to control the high rate of intensification of utilization of space of the Government of

East Java implement control efforts through the use of space Permits the utilization of space. Permit use of space which further abbreviated as IPR is the permission required in the use of space activities in accordance with the provisions of the legislation. The increasing of IPR application have an impact on control activities of the use of space is crucial, given the province of East Java have been Region Regulation Number 5/2012 About Spatial Land Use Plan of East Java province as well as the Governor's Regulation Number 80 / 2014 About utilization of space on High Control Zone of Regional-scale Area in East Java province.

During the IPR process on the early of 2010, issuing permit and posting publication has encountered several problems. It is either practically about administrative barrier or technical constraint resulting late publication of IPR or even revoked validity period.

Table 1. The number of IPR and the IPR Application has been published by Technical service unit Integrated Licensing Services capital investment and Licensing of Integrated Office of East Java Province

No.	Year	Application for permission of use of space	The publish permissions
1	2010	26	26

No.	Year	Application for permission of use of space	The publish permissions
2	2011	38	38
3	2012	32	32
4	2013	48	39
5	2014	83	72
6	2015	63	58
7	2016	36	27
8	2017	37	26

Based on the table above, there is a gap between the number of application for permission of use of space and permits issued. The gap started in 2013 in which IPR publication conducted by UPT P2T. It is assisted by the team assisting the publication process through coordination meetings in advance. Thus there is some IPR application that was denied at the time coordination meeting about Assisting Team members due to not having alignment with Spatial Plan. Meetings in the IPR recommendations Team Assisting because of the constrained alignment with the Spatial Plan.

Reflecting to that, there must be a synchronization of Spatial Land Use Plan, between national committee and cities/districts. It also somehow demands consistency of sector policy, ranging from the central government and local government.

## 2 REVIEW OF LITERATURE

### 2.1 Previous Research

Shelly (2017) in her writings titled Controlling utilization of space in the South Lampung District explains about the mechanisms Permit utilization of the space scale of the district. IPR that has district impact got approval from the head of the district, after obtaining input/recommendations from the team of regional Spatial Coordination Board districts. Further granting of permit utilization of space done according to the procedures or mechanisms is in accordance with the provisions of the legislation. The permission procedure is the first step to control the use of space. Other than that, licensing performance on an area is crucial factor to either attract or discourage investment. Conducting an effective permission will facilitate the control and the guidance of violation spatial plan. When the

permission mechanism is not organized properly, it will be the space utilization of irregularities occurred legally.

Yulinda Adharani, R. Adi Nurzaman (2017) in their writings titled Permit Function in Spatial Use Control in North Bandung Area found a Framework Of Sustainable Development. From the results of this research, it was concluded that most apartment and hotel in the area of the North Bandung, have permit but they do not have Government's recommendation. It should be a concern to the giver of the permission as stated on the applicable Regional Regulation of West Java Province number 2 /2016 about Guidelines for controlling the area of the North Bandung. It is explained that Government recommendation is needed as permission. This becomes input for policy makers in the spatial planning and environmental law since they need to be cautious in issuing permit that deals with sustainable development. The big step which should be taken by the local authorities in make it happen is to build awareness of the whole government staff, especially stakeholders/decision makers. It is wise to consider long term consequence of granting permission to the environment, especially when the proposed consent breaking the Spatial Plan of the region.

### 2.2 Spatial Plan

Spatial Plan in gneral is a combination between the natural formed and artificial creations land use, either planned or unplanned. According to Hermanis-lamet, that nature's creations are treated by space, resources and as a locus of objects and activities in advance of this earth (hermanislamet,1989)

According to D.A. Tisnaadmidjaja, space is defined as "a physical manifestation of the geographical and geometrical dimensions which is a container for human beings in carrying out activities of his life in a decent quality of life." Spatial Plan is the form of the structure of space and land use space. The structure of the space is the order of settlement centers and network infrastructure systems and facilities that serve as supporting socio-economic activities of the community that are hierarchical functional relationship.

The goal is to create spatial plans is matching between the various activities in the territories in order to created a harmonious relationship and harmonious, so will accelerate the process to achieve the prosperity and provided the environmental sustainability life (Tarigan, 2004).

Based on law of the Republic of Indonesia Number 26/2007, the efforts of the achievement of the goals through the implementation of spatial planning which include: spatial planning, spatial Utilization and control of utilization of space.

### **2.3 Control of Utilization of Space**

Control of the use of space is the final stage of the implementation of the spatial planning, consists of four (4) instruments of regulation; zoning, licensing, incentives and disincentives, as well as sanctions.

Zoning regulations are drafted as guidelines for controlling utilization of space. Zoning regulations are drawn up on the basis of detailed spatial plan for each zone the utilization of space.

Permissions are set by the Government and local governments according to their respective authority in accordance with the provisions of the legislation. Permit use of space that is not in accordance with the Spatial land use plan is canceled by the Government and local governments according to their respective authority in accordance with the provisions of the legislation.

The space utilization permits issued and/or obtained not through the correct procedure is annulled by law. It is obtained through the correct procedure but later proved to be incompatible with the spatial plan of the region is cancelled by the Government and local authorities in accordance with those powers.

Against losses incurred due to the cancellation of permits as requested above can be a viable replacement to the instances of the giver of the consent. Permits that are no longer appropriate due to change of spatial plan area can be canceled by the Government and local governments. Technically, it is by providing decent damages as well as any government officials who authorized the publishing permission use of space. Thus, it is prohibited to publish permission that is not in accordance with the spatial plan.

In the implementation of the use of space in order to make use of space in accordance with the plan of spatial locality can be given incentives and/or disincentives by the Government and local authorities. The incentives referred to above, which is a device or an effort to give the reward against the implementation of the activities in line with the spatial plans, such as tax relief, the granting of compensation, cross-subsidies, in return, rental space, and additional stock.

While the disincentive is the device for preventing, limiting or reducing growth, activities not

in line with the spatial plans such as restrictions on the provision of infrastructure, the imposition of a penalty, and compensation.

The imposition of sanctions is disciplining action committed against the use of space that is not in accordance with the spatial plans and zoning regulations.

### **2.4 Permit Use of Space**

Permit Use of Space is one of the instruments for controlling use of space which aims to make use of space run in accordance with the functions of the space specified in the spatial plan which has been agreed by the Government and the society. The operational use of space policy is related to the determination of the location, the quality of the space and layout of the buildings in accordance with the legislation, customary law and custom. It technically was held by the Governor on the provincial level and the mayor of districts/cities.

### **2.5 Utilization of Space on High Control Zone of Regional Scale Areas of East Java**

According to governor regulation of East Java Province the number 80/2014 About utilization of space on High Control Zone of Regional-scale Area in East Java province, High Control Zone is an area that requires special surveillance and limited its utility to maintain power support, preventing the negative impact, and ensure a sustainable development process.

### **2.6 The Guidance, Monitoring and Evaluation**

In carrying out the process of issuing of Space Use Permit in order to be right on target is required the existence of a guidance, monitoring and evaluation. The Guidance of spatial planing is an attempt to improve the use of space-related control of the use of space on the tight control of the area.

Monitoring activities are conducted to monitor the implementation of the use of space activities to conform with the obligations of the holder of the permit required in IPR document. Related to monitoring activities, the holder of the IPR are required to report data permissions required prior to carrying out physical activities to service administrator permissions.

Evaluation activities conducted to assess the implementation of the activities of the appropriate allocation of the planned time and conditions of minimal activities must be carried out in accordance with a proposal for a provisional permit.

### 3 RESEARCH METHODS

Research methods used in this study was a research method socio-legal which used normative approach of the law and using field approach that is reviewing the legal issues by conducting research the field. Data collection was carried out by means of field studies and library studies. The data obtained from the library of the College Library in the field of related, included on the agencies or research institutions, and State institutions related to research material. Collection of information was done using the method of interview with speaker which is stakeholder related Permission Use Of Space As An Instrument Of Controlling The Space Utilization Of High Control Zone Of East Java.

The interviews carried out with the use of directional guidance interviews have been compiled as his coaching. The truth of this research is supported also by the author who is one of the assisting team members provide recommendation for IPR publication .

### 4 RESULT AND DISCUSSION

Permit use of space is closely associated with the growth of investment in East Java. It is because many of his investors who infuse capital in the sectors of industry and warehousing through land use. East Java province is the first rank.

In terms of ease of doing business (Ease of Doing Business), according to Asia Competitive Institute (ACI) – research conducted in April – September 2017 Survey involving businessmen 925.

The ease of investment in East Java Province, encouraging the government to increase economic growth but with due attention to the availability of space in accordance with its allocation. It should be based on East Java Province spatial planning mission ,to realize the ease for the development of regional investment and enhancement of regional cooperation.

Availability of investment space has been arranged in Regional Regulation of East Java Province number 5/2012 about Spatial Planning of

East Java Province Year 2011-2031 It is mentioned in clause 3 (point e) that namely the function of Spatial Planning of East Java Province one of them as a guideline of location determination and space functions for investment. In addition, the ease of regional investment is also a spatial planning mission in East Java

Licensing is one of the spatial control guidance that has been arranged in RTRW planning documents of East Java Province. The licensing regulated in the RTRW of East Java Province is intended for licensing related to space utilization permit. According to the provisions of legislation, it must be owned prior to the implementation of space utilization. As for the utilization of space the license is issued prior to the spatial plan determination and can be proven that the permit obtained in accordance with the correct procedure, given the appropriate replacement to the permit holder

In Government Regulation number 26/2008 regarding RTRWN mentioned that the permit of space utilization is given by authorized officer in accordance with its authority. The granting of space utilization permit is done according to the procedure related to the provisions of the provisions of the legislation. In addition, the granted of space utilization permit with major and significant impacts are coordinated by the Minister

Space utilization permits is granted to the applicant taking into consideration the compatibility with the Spatial Plan, compatibility with the Zoning Regulation, compatibility with other technical field regulations, and the feasibility of the design and location of the land

#### 4.1 Institutional License of Space Utilization for Area of Strict Control with Regional Scale of East Java Province

The publication of IPR is through several stages of the process and licensing procedures. Each licensing process and procedure has been regulated and has been set as operating procedures in the Office of UPT P2T Investment Service and PSTSP of East Java Province. In the process of issuing IPR, UPT P2T of the Capital Investment Office and PSTSP East Java Province assisted by the Assistance Team. In the process of publishing IPR, UPT P2T of the Capital Investment Office and PSTSP East Java Province is assisted by the Assistance Team.

The Assistance Team is a team assigned to provide recommendations and / or technical considerations to the Governor on the application of

space utilization in the Strict Control Area. The recommendation is generally refer to the criteria which support environmental carrying capacity, prevent negative impacts, and ensure sustainable development based on Spatial Plan and technical provisions.

Based on Governor Regulation No. 80 of 2014 on Spatial Use in Regional Strict Control Area Scale in East Java Province, it describes the stages of IPR process and procedure submission. Starting from the applicant to apply, through the administrative process, followed by coordination meeting with the Assistance Team which ended with the publication of IPR.

#### **4.1.1 Constraints in the Implementation of Space Use Permit**

Since the year 2010., the implementation of IPR that took place in East Java Province still has some obstacles. The obstacles in the implementation of IPR include administrative constraints to technical constraints.

Based on the description of the licensing section UPT P2T East Java province, constraints of the administrative aspects often occur at the initial stage of submission before entering the discussion phase by the Assistance Team. In fulfillment of administrative requirements some applicants still have to return several times to UPT P2T to meet the administrative requirements. The frequently missed administrative requirements are Maps accompanied by geographical coordinates and location photographs (hardcopy and softcopy) and IPR presentation materials (hardcopy and softcopy) for indirect permission types.

While the constraints of a technical point that is related to a lack of understanding of society the importance of spatial plans, making space is often considered less important in investment activities. In addition space is still hindering investment. Many people still find use of space on the tight control area has woken up but don't yet have the IPR. Lack of understanding spatial related is related to the importance of related mechanism of incomprehension Permits the utilization of space.

Space Utilization Permit is a principle permit that is often overlooked because it is considered not too influential on the type of activity proposed permission. Party of the district/city Licensing Office is also still less understand related terms of Governor Regulation No. 80 of 2014 on Spatial Use in Regional Strict Control Area Scale in East Java Province. It remains happen despite a few times of socialization. This is because participants are present

in different socialization of local regency leader's regulation with officers who process the permission.

Besides, the problem of overlapping authority becomes a different problem. It is related to the existence of several districts and cities requiring IPR. So the licensing officers in the Regency / City do not lead to take care of IPR at the level of East Java Province. This is what makes the number of buildings that enter the criteria of strict regional control area of East Java province does not have IPR.

Another constraint is that at the time of issuance of IPR, the license holder is given 2 (two) years period of monitoring and evaluation. Within that period, the permit holder is expected to be able to complete the activities in accordance with the time allocation in the proposal for the permit application. In fact, many permit holders have not been able to complete their activities. Thus, they are given extra time, in accordance with the provisions in Governor Regulation No. 80 of 2014. Some permit holders do not provide activity step reports and do not apply for extension, then IPR has been either revoked or not renewed.

Based on the interviews with the Head of Control and Evaluation Section, Department of Housing, Settlement and Cipta Karya of East Java Province, as a member of the Assistance Team and Working Group on the control of space utilization, the constraints the constraints experienced by IPR holders are to meet the 2 year period, in land tenure and licensing fulfillment.

## **5 CONCLUSION**

The License of Space of Strict Control in East Java Province is one of the controlling instruments, and is the implementation of Regional Regulation of East Java Province number 5/2012 on Spatial Planning of East Java Province as well as Governor Regulation Number 80/2014 on Area Space Utilization Control Strict Scale Regional of East Java Province.

Institution in the process of publishing IPR East Java Province comes from the unit of regional governmental staff unit who are in charge of spatial arrangement and other technical service related to the applicant activity.. Considering UPT P2T, the Investment Service and PTSP East Java Province only administrative, it is necessary to enter the technical spatial so that the IPR issued does not violate the applicable Regional Spatial Plan

In the implementation of IPR in East Java province there are some obstacles, namely from the aspect of administration to technical constraints. The

obstacles are related to the lack of understanding about the importance of spatial and overlapping authority.

## SUGGESTIONS

As an effort to minimize any obstacles in the implementation of IPR, there needs to be periodical guidance from the government of East Java Province to government officials who handle licensing issues in the Regency / City and investors related to the importance of spatial planning.

Besides, the control team is necessary to monitor and evaluate periodically to know the condition in of the permit holders difficulties in meeting the requirements of the licensing process and mastery.

Aside from that, they are needed for special attention to control of the team to carry out monitoring and evaluation activities on buildings around the High Control Zone that area which do not have IPR yet. It is required the existence of a strict penalty on parties that have been building around the area of the High control zone but do not have IPR yet.

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