

Analysis of Building Permit Procedure in Dairy Regency

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Abstract

The aim of this study is analyzing the building permit procedure based on the number of stages and legal requirements, as a major component in spatial plan and future growth of Dairy Regency. The analytical method used in this study is descriptive analysis. The results showed that lack of control in the building permit, which is still incompatible with Dairy regency's spatial plan. There were still buildings that committed violations and non-compliance in the procedures for issuing building permits that were not in accordance with the General Plan of Spatial Planning for Sidikalang Urban Areas 2006-2015.

Keywords: Spatial Planning, Building Permit (IMB), Policy / Regulation

Introduction

Dairi Regency Government has issued Regional Regulation (Perda) No. 7 of 2011 concerning Regional Retribution and Regional Regulation (Perda) No. 7 of 2014 concerning Regional Spatial Planning (RTRW) of Dairi Regency in 2013-2032 and Regional Regulation No. 13 of 2014 concerning Building. In the RTRW of Dairi Regency 2013-2032 stipulated that Sidikalang is part of the Sidikalang Urban Area which is designated as Regional Activity Center (PKW). In the regional regulation, Dairi Regency states that every person or entity that will build a new building, change buildings, expand buildings, reduce buildings, and maintain

buildings must first have an IMB and every building construction must be in accordance with the function and classification of buildings allocation in the spatial plan. The regulation is the policy of the Regional Government to control the physical development of the city. But in its implementation, there are building developments that violate regulations, especially in the process of building permits and land use.

The aims of permit buildings in accordance with the Regulation of the Minister of Public Works No. 24 / PRT / M / 2007 concerning Technical Guidelines for Building Permits is to regulate development by the public, private and government buildings by controlling through licensing procedures, location feasibility, designation and use of buildings. The role of the community in controlling spatial planning must be increased so that each party, both government and community / entrepreneurs can play an active role in the implementation of spatial plans.

Statement of the Problem

What is analyzing the building permit procedure based on the number of stages and legal requirements in accordance with spatial plan and future growth of dairy regency?

Objectives of the Study

Analyzing the building permit procedure based on the number of stages and legal requirements in accordance with spatial plan and future growth of dairy regency.

Research Methodology

This study uses quantitative deductive research methods, with quantitative and qualitative data analysis. Quantitative data analysis to determine the suitability of the implementation of the issuance of building permits (IMB) and qualitative data analysis to determine the regulations / policies that affect the process of implementing IMB issuance and the impact of the IMB implementation related to the Dairy Regency Spatial Plan.

Primary data sources are obtained through observations of violations and non-compliance in building permits against the General Plan for Spatial Planning for the Sidikalang Urban Area in 2006-2015. Secondary data sources were obtained from agencies such as, Bappeda and the Office of Cipta Karya and Spatial Planning of Dairy Regency, the Investment Services and One-Stop Integrated Licensing Services (DPMPTSP) and data sourced from other agencies related to this research.

Primary data collection by interview was conducted using an interview guide that developed during the interview. Secondary data were obtained from written documents relating to the research topic. Furthermore, the analysis of IMB issuance in Dairy Regency related to spatial control is carried out by quantitative descriptive analysis, whether the data from the IMB issued in the period 2014-2016 has been in accordance with the General Plan for Spatial Planning of the Sidikalang Urban Area 2006-2015.

Literature Review

Building permit (IMB) is a permit given by the Regional Government to the owner of a building to build a new building, change a building, expand a building, reduce buildings, and / or maintain a building in accordance with administrative and technical requirements.

Sustainable development means development that is able to meet the needs of the present without neglecting the ability of future generations to meet their needs, where development that requires unlimited resources is faced with the availability of limited resources, can lead to resource use conflicts such as land use conflicts so land use must be controlled (Budiharjo, 1993).

Spatial planning will run effectively and efficiently if it has been preceded by a valid and quality spatial planning. Conversely spatial plans that are not well prepared will open up opportunities for effective and efficient deviation of space functions and in the end it will be difficult to achieve orderly space as defined in the spatial plan (Ibrahim, 1998: 27).

Regulatory basis used by local governments in making spatial utilization policies, in the form of issuance of building permits (IMB) which aims to control physical development. Based on Dairy Regional Regulation No. 13 of 2014 concerning Building Buildings stipulates in article 112 that "Any person or body that will build a new building, change buildings, expand buildings, and maintain buildings must first have a building permit (IMB)". Definition of building permit (IMB) is a permit granted by the Regional Government to building owners to build new buildings, change buildings, expand buildings, and maintain buildings in accordance with administrative

requirements and applicable technical requirements

Existing Condition of Issuance of Building Permit in Dairi Regency

In order to achieve the realization of an ideal and orderly development of space, an instrument is needed that can be used as a benchmark or guideline that can guarantee the rights and obligations, then the legal instruments that are stipulated as laws and regulations that govern the implementation and simultaneously in the framework of supervision, control the planned development program can be carried out in accordance with applicable regulations, which in turn will not result in a conflict of interest.

Article 43 of the Regional Regulation Number 23 of 2006 concerning the General Plan for the Spatial Planning of the Sidikalang Urban Area in 2006-2015 is explained that rplan for the use of space in the area as referred to in Article 32 paragraph (3) with the direction of the Building Border Line (GSB) on the left-right border of the road as follows:

- a. Arterial road with border line 10 (ten) meters
- b. Collector road with border line 9 (nine) meters
- c. Local road with 6 (six) meters border

Based on the article above the building permit issued by the Dairi Regency government shows a discrepancy, as shown in the following table.

Table 1. Building Permit (IMB) issued by Dairi Regency Government which is not in accordance with regulation of Building Border Line (GSB) and Building Functions

Year	Issued Permit	Nonconformity			
		GSB	%	Function	%
2014	70	20	28,57	8	7,14
2015	72	25	34,72	19	26,39
2016	72	13	18,06	9	12,50

Source: City Planning Office of Dairi Regency 2014-2016

The average building that violates GSB is at 5 meters and the function of buildings that change such as residential functions become business functions and business functions into residential functions. As an instrument, permits to function as the spearhead of legal instruments as directors, engineers and designers for a just and prosperous society are manifested (Ridwan, 2003).

The City Planning Office as the regional apparatus based on Presidential Decree No. 34 of 2003 concerning National policies in the Land sector has the obligation as a licensor. The IMB provided by the Cipta Karya and Spatial Planning Office must also pay attention to and base

on the Regional Regulation Number 23 of 2006 concerning the General Plan for the Spatial Planning of the Sidikalang Urban Area in 2006-2015, so that there is a match between the permits provided with the Sidikalang Urban Spatial Plan General as one of the functions of the permission to control space utilization.

However, there are still forms of violations in this permit. Licensing management is essentially a control mechanism and a means to defend public interests, often only as a network of formality. IMB can be used as a kind of control mechanism that must refer to or become an existing Spatial Plan instrument. However, it often happens in the field of IMB is often given

by not referring to existing plans (Nurmadi, 1999). In this case the group of people who are able / have access to

decision makers try to utilize space according to their interests and instead violate the Spatial Plan.

Discussion

Table 2. Conformity of Building Permit (IMB) with General Spatial Planning for Sidikalang Urban Areas in 2006-2015.

Tahun	Izin yang diterbitkan	Conform		Non Conform	
		Jlh	%	Jlh	%
2014	42	14	33,33	28	66,67
2015	42	17	40,48	25	59,52
2016	42	20	47,62	22	52,38
Total	126	20	40,48	75	59,52

Source: Dairi Regency One-Stop Licensing and Investment Services (DPMPTSP) 2014-2016

Table 2. shows that out of the 126 permits issued by the Dairi Regency government, 75 licenses were not in accordance with the General Plan for the Spatial Planning of the Sidikalang Urban Area in 2006-2015.

Approval of building technical plans in the form of building permits by the Regional Government based on the principles of administrative and technical feasibility, principles of excellent service, and good governance. Changes to the building's technical plans that occur at the implementation stage must be carried out by and / or with the approval of the building's technical planner, and submitted in advance to the authorized agency for approval. For special buildings, the building function is set by the Government after coordinating with the Regional Government.

Building Permit (IMB) is very closely related to land and every Indonesian citizen has the right to use the land both for buildings and for residence as stated in the Basic Agrarian Law Number 5 of 1960, Article 6 "All land rights have social functions" and in Article 33 paragraph (3) of the 1945 Constitution, "Agrarian Law includes Land Law, Aquatic Law, Mining

Law (natural wealth)" in addition to the law that applies on earth, water and space including customary law as long as not contrary to national and state interests.

Local governments have an interest in building permits. Building permits are applied so that there are no incidents in spatial planning in an area, and are a form of control of the use of territorial space. Various impacts in the management of an area must be carried out in a good, integrated and holistic manner to prevent these various impacts through consideration of various aspects of the licensing procedure.

As a basis for building that can be built according to the function set, as well as a place for human activities based on human values and justice, including aspects of decency and appropriateness. Every building must meet building requirements, technical reliability requirements to ensure the safety of building owners and users, as well as the community and the surrounding environment and meet administrative requirements. In addition, every building should not disturb the balance of the ecosystem and environment around the building. As a basis for building that can be built according to the

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Each building must meet administrative requirements and technical requirements in accordance with the function of the building. Administrative details of buildings include requirements for the status of land rights, ownership status of buildings and building permits.

The technical requirements of buildings such as above and / or underground use of space and / or water for buildings must have usage permits in accordance with applicable regulations.

Allotment requirements and intensity of buildings are the requirements of location, density, altitude and free distance of the building which is determined for the location concerned. Other requirements are buildings that are built above and / or under water or pre-facilities and public facilities may not interfere with the balance of the environment, the protection

function of the area, and or the pre-function of public facilities and facilities.

In the Minister of Home Affairs Regulation Number 20 of 2008 concerning Organization Guidelines and Work Procedures of Integrated Licensing Service Units in the Regions. Based on these regulations the building permit is a document issued by the local government based on regional regulations or other regulations which are proof of legality, stating the legality or permissibility of a person or body to build a building.

Licensing is one of the implementation of regulatory functions and is the government's control over community activities. Licensing can be in the form of registration, certificate recommendation, quota determination and permits that must be owned by a company organization or someone before being able to carry out an activity.

Arrangements in the provision of building permits in order to guarantee the physical growth of Dairi Regency in order to support overall economic growth, do not create damage to the physical arrangement of Dairi regency. However, some building permits that have been issued by the Dairi District Government do not conform and violate Law No. 38 of 2004 and PP No. 34 of 2006 concerning Roads.



Figure 1. The residential function changes to a business function

Figure 1. shows the building in the building permit as a residential function turned into a business function.



Figure 2. Buildings that violate the road border line

Figure 2. shows that there has been a violation of Law No. 38 of 2004 and PP No. 34 of 2006 concerning Roads and Regional Regulation Number 23 of 2006 concerning the General Plan for the Spatial Planning of the Sidikalang Urban Area in 2006-2015. Buildings that violate the border should be 9 m but the reality is only 3 m.

Control and utilization of spatial planning in Dairi Regency refers to Law Number 26 of 2007 concerning Spatial Planning which is then further devoted to Regional Regulation Number 23 of 2006 concerning the General Plan for the Spatial Planning of Sidikalang Urban Areas in 2006-2015 and Regional Regulation Number 7 of 2014 concerning Plans Dairi Regency Spatial Planning 2014-2034. People who want to utilize a land or space in Dairi Regency must refer to Regional

Regulation Number 23 of 2006 and Regional Regulation Number 7 of 2014, where they must adjust the map of the Dairi Regency Spatial Plan (RTRW) that has been established by the Development Planning Agency Region (BAPPEDA). Next they should submit a development plan or space utilization at the Dairi Regency Public Works Agency (DPU) to have Advice Planning (AP), but firstly they should have building permit (IMB) from Dairi Regency Investment and One-Stop Licensing Service (DPMPPTSP) before utilizing or developing Dairi Regency. Thus is a procedure that must be taken if there are legal subjects who want to do development or use a land.

If there are applicants who do not comply with Regional Regulation Number 23 of 2006 concerning the General Plan of Spatial Planning for the Urban Area of

Sidikalang 2006-2015 and Regional Regulation Number 7 of 2014 concerning the Dairi Regency Spatial Plan for 2014-2034, and they want to use the land not in accordance with the Dairi Regency Spatial Plan, the Dairi Regency DPMPPP and Dairi Regency DPU are obliged to refuse the application. However, if there are still spatial violations, criminal sanctions can be threatened against the parties involved.

However, criminal sanctions do not seem to apply in Dairi Regency because there are still many buildings in Dairi Regency whose location is not in accordance with the Dairi Regency Spatial Plan (2014-2034) but has a building permit. This will have a negative impact in terms of economic, social, especially in terms of the environment. However, there are exceptions through the BKPRD mechanism (Regional Spatial Planning Coordinating Board). BKPRD is regulated in the Minister of Home Affairs Regulation Number 50 of 2009 concerning Guidelines for Regional Spatial Planning Coordination. According to the Minister of Home Affairs Regulation No. 50 of 2009, it is explained that the Regional Spatial Planning Coordinating Board is an ad-hoc body that supports the implementation of Law Number 26 of 2007 concerning Spatial Planning in Provinces and Regencies / Cities and has the function of assisting the implementation of the Governor's and Regent's duties / Mayor in coordinating spatial planning. BKPRD is a coordination team in the field of spatial planning in order to ensure the achievement of effective spatial planning coordination objectives and increase the role of the Government in facilitating the Provincial Government in coordinating spatial planning especially for controlling spatial utilization. Membership composition of the Provincial BKPRD,

consisting of: a. Person in charge: Governor and Deputy Governor; b. Chairperson: Provincial Regional Secretary; c. Secretary: Head of Provincial Regional Development Planning Agency (Bappeda); d. Members: SKPD (Regional Government Work Unit) related to spatial planning that is related to the needs and abilities of the region.

In the case of IMB issuance that violates spatial planning, according to article 4 paragraph (1) of Permendagri Number 50 of 2009, one of the tasks of BKPRD is to coordinate the handling and resolution of problems in the use of space both in the province and in regency / city, and provide guidance and suggestions for solutions. So, in this case the BKPRD can be used as a consideration and exception for buildings whose designation is not in accordance with the existing Spatial Plan. So that the building permit was issued this was not in accordance with the existing Spatial Plan. The BKPRD mechanism as above can be implemented if there is a submission and application from the owner of the land or building. The implementation of the BKPRD meeting consisting of a team originating from the relevant SKPD, Academics, Regional Representative Council (DPRD) of Dairi Regency and others, does not mean that the submission and application must be granted.

The issuance of IMB that is not in accordance with the RTRW turns out not only to come from the application for BKPRD, but also by bribe because of insufficient conditions. Investors and entrepreneurs will do various ways to smooth the licensing because the location is in an area that is not supposed to build the building or in other words the location violates the spatial layout. Not only accepting, sometimes even the person who has the status as a civil servant instead asks

the investor or businessman with the excuse of expediting and accelerating the licensing process proposed. By rule, giving fees for any reason that is not justified, and is a violation. Law Number 26 of 2007 concerning Spatial Planning.

In the building permit service can be done with a one-stop service pattern, integrated licensing services by several Dairi District Government agencies involved in the process of issuing building permits, the Public Works Agency regarding controlling information on city plans, advice planning; National Land Agency (BPN) Regional Office concerning the land certificate; the Investment Services and One-Stop Integrated Licensing Services (PMPPTSP) Office regarding building permit; Architecture Team, Consideration Team, and so on. Likewise, the counters must be put together in one location so as to facilitate applicants.

The government as the main actor in controlling space utilization has various control instruments. In accordance with the Spatial Planning Law No.26 / 2007, these instruments are zoning regulations, licensing, providing incentives and disincentives, and imposing sanctions. The government as the main actor in controlling space utilization has various control instruments. In accordance with the Spatial Planning Law No.26 / 2007, these instruments are zoning regulations, licensing, providing incentives and disincentives, and imposing sanctions.

In the utilization of space, each applicant must:

- a. Obeying the spatial plan that has been set
- b. Utilize space in accordance with the use of space from the competent authority;

- c. Comply with the provisions stipulated in the requirements for space utilization; and
- d. Granting access to the area which by law and regulations is stated as public property.

Anyone who violates the provisions as stated above, is subject to administrative sanctions as follows:

- a. Written warning;
- b. Temporary suspension of activities;
- c. Temporary suspension of public services;
- d. Location closure;
- e. License revocation;
- f. License cancellation;
- g. Demolition of buildings
- h. Recovery of function space; and / or
- i. Administrative fine.

Conclusion

Building permits related to spatial control in Dairi Regency have not been maximized because there are still buildings that have committed violations or are not in accordance with the General Plan for Spatial Planning of the Sidikalang Urban Area in 2006-2015.

Suggestion

Dairi Regency Government needs to conduct supervision in the licensing development process that is issued, by way of law enforcement against building permit issuance that is not in accordance with Regional Regulation Number 23 of 2006 such as administrative sanctions, civil sanctions, and criminal sanctions.

Reference

- [1] Budiharjo,E, 1997, Tata Ruang Perkotaan, Alumni,Bandung.
- [2] Peraturan Daerah Kabupaten Dairi No.13 Tahun 2014 tentang Bangunan Gedung.



- [3] Peraturan Daerah No.23 Tahun 2006 tentang Rencana Umum Tata Ruang Kawasan Perkotaan Sidikalang Tahun 2006-2015
- [4] Undang-undang No. 22 Tahun 1999 tentang Otonomi Daerah
- [5] Undang-Undang No. 28 Tahun 2002 tentang Bangunan Gedung
- [6] Undang-Undang No. 26 Tahun 2007 tentang Penataan Ruang
- [7] Undang-undang No.1 Tahun 2011 tentang Perumahan dan Kawasan Permukiman
- [8] Undang-undang Nomor 23 Tahun 2014 tentang Pemerintah Daerah