

January 2014

Leks Newsletter



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## The Firm

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Leks&Co is a multi-services law firm, full of young, dynamic, and intelligent lawyers, operating at a definite quality management system, rendering preeminent and world-class legal services under a specified quality code and core values.

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## Our Uniqueness

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1. We are young, energetic, and creative lawyers, so that we can provide and deliver a fast and reliable legal service;
2. We emphasize the use of technology in delivering our service;
3. Leks&Co's quality management system is ISO 9001:2008 certified;
4. We emphasize our core values in providing and delivering our service;
5. Our office is strategically located at CBD area;
6. We have received numerous award from Global Law Expert, Corporate INTL and



Dear {FIRST\_NAME},

This is the Leks Newsletter of January 2014. On this issue, you will see legal update and our blogs update. We hope that our newsletter is useful for you.

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## Leks News

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**Leks&Co as Winner of the Corporate Intl 2014 Global Awards for “General Practice Law Firm of The Year in Indonesia”**

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**Leks&Co as Winner of Finance Monthly Global Award 2014 in the category of “Property & Real Estate Law Firm of The**

- Finance Monthly;
7. We provide services to store client's legal document in the online server, accessible by our client password protected;
  8. We provide useful legal update knowledge through Blogs, Twitter, Facebook, Slide Shares, and other resources;
  9. We provide pro bono service for churches and social organizations, and international organizations through Trust Law Connect, run by Thomson Reuters Foundation and also through Mitra Klinik, group of pro bono providers at Hukumonline, leading legal news and education site in Indonesia;
  10. We provide one (1) hour free consultation and free trial for retainer services within two (2) weeks;
  11. We provide premium service with a cost efficient approach;
  12. We are the International Partner of China-ASEAN Legal Cooperation Center;
  13. We are member of (i) Eurojuris International, a leading worldwide network of law firms and (ii) International Chambers of Commerce.

**International  
Certification**

Leks&Co is certified of

## Year in Indonesia”



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### Eddy Leks as Asialaw Leading Lawyer 2014 on Construction and Real Estate



### A Legal View Publication in Forbes Indonesia, January 2014 edition, titled “A Challenge for Real Estate Developers”

#### LEGAL VIEW

#### A Challenge for Real Estate Developers

BY EDDY LEKS



Eddy Leks is the managing partner of Leks & Co, a multi-services law firm based in Jakarta.

Starting from September 30, 2013, the Circular Letter of Bank of Indonesia No. 15/40/DKMP on Implementation of Risk Management for Banks Providing Loans or Financing for Property, Loans or Property-backed Consumer Financing, and Loans or Vehicle Financing (CL) when into force. This column will only discuss the aspect of property financing in the CL.

The intention of the promulgation of CL was to enhance prudential aspect of banks in facilitating loans for property. It becomes more important since even though the loan to value ratio (LTV) or financing to value ratio (FTV) has been applied since June 15, 2012, the growth of home ownership loan (KPR)/condomin-

ium ownership loan (KPRS) with building area more than 70 sqm has reached 26% and 63% respectively in July 2013.

To fulfill the requirements of LTV or FTV under the CL, the bank must request to the prospective debtor some additional documentation. If the prospective debtor is not willing to provide this information, then the bank must decline the loan application. Other new stipulations that created problems to real estate developers are the prohibition for the bank to provide loan for down payment and ruling a facility can only be provided if the property is physically existed and ready to be delivered.

However, there are some exceptions to this rule if the facility is the first facility to the debtor, and there is a cooperation agreement between bank and developer stipulating commitment by the developer to complete the property, a corporate guarantee by the developer, the gradual disbursement of facility according to the construction progress, and the devaluation of credit quality of the developer if it cannot complete the property construction within a specified delivery date.

To understand it better, BI provides some examples of the calculation of LTV or FTV. One sample says, in June 2013, A intends to purchase a condominium with a building area of 80 sqm

of Rp 1 billion. A has signed a conditional sale and purchase agreement with the developer and has paid the down payment. A applies for KPRS for Rp 700 million (70% x Rp 1 billion). The bank obtains information that A has already obtained KPR for Rp 500 million from other bank (therefore, the application is A's second facility), the property construction will be commenced in December 2013, and delivery date will be in July 2016. According to that information, the bank may not provide facility to A until the physical condominium is ready or the first facility has been fully paid.

Real Estate Indonesia stated that the CL may result in the termination of employees, hinder consumers' access to housing, and increase the housing backlog. One thing for sure, BI allows a consumer to obtain facilities from the bank, provided those facilities are subject to the requirement of LTV or FTV. This requirement may decrease the ability of consumer to purchase many properties at the same time. However, it may not necessarily impact on the increase of housing backlog since for the first time buyer, the LTV or FTV is not applicable for housing with an area from 22 to 70 sqm. Despite debates, CL is already operative. Accordingly, supporting BI's policy is essential to safeguard Indonesia's economy. ☺

Eddy Leks wrote a legal column titled “A Challenge for Real Estate Developers”. The column is published in Forbes

ISO 9001:2008 on Quality Management



International Network



Awards and Accolades



Indonesia, January edition, at page 20.

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## Article publication in GETTING THE DEAL THROUGH – Book of Real Estate 2014 at Indonesia section



Article publication in GETTING THE DEAL THROUGH – Book of Real Estate 2014 at Indonesia section, written by Eddy Leks on page 105 – 112

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## Leks Legal Update

### Summary Of District Regulation of DKI Jakarta Number 8 Year 2007 Concerning Public Order

#### Background

To bring into reality a living in Jakarta that is more orderly, peaceful, comfortable, clean and beautiful, a regulation relating public order is required to protect the citizens and infrastructure of the city including its





accessories. Performing public order and peacefulness of the people is an obligation authorized to the provincial district government that has to be carried out in accordance with the legislation. Local Regulation of DKI Jakarta Number 11 of 1988 concerning Public Order is no longer in conformance to the soul and spirit of the performance of the Local Government and the changes as well as development of the values of the people of Jakarta. Therefore, the Local Government has issued a new regulation that is Local Regulation of DKI Jakarta Number 8 of 2007 on Public Order (“Perda 8/2007”). This is what Perda 8/2007 contains of in general.

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## Leks Blog Update

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### Upgrade of Right of Land for a House

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In Article 20 of Law No. 5 of 1960 on Principle Provisions on Agrarian (“UUPA”):

*“right of ownership right is a hereditary right, the strongest, and fullest right that people can have on a land considering the provisions of article 6 “.*

The foregoing article is connected to article 6 of UUPA which states that all rights to land have a social function. Only Indonesian citizen can own the right of ownership.

Article 35 of UUPA mentions the right to build. The title of the right to build is the right to establish and construct buildings over land, not owned by the party involved to a maximum of 30 years. Indonesian citizen or Indonesian legal entity can hold right to build. Article 41 paragraph (1) of UUPA states that a title of right of use over land is the right to use and/or harvest the land directly controlled by the state or land owned by others which gives authority of and obligations specified in the decision of the competent



authority of administration by giving or in agreement with the land owner, that is not a lease agreement or cultivation agreement. Of the three definitions above, it can be concluded which right of land has the strongest basis for the ownership of land or buildings.

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## **The Placement and Protection of Indonesian Overseas Workers**

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### **Worker**

The definition of a worker is regulated under Article 1 paragraph(2) of Law Number 13 Year 2003 on Employment ( **“Employment Law”**):



*“Worker is any person who is able to do the job in order to produce goods and/or provide services to meet their own needs or those of the community”.*

Based on the definition above, several elements are known, namely :

1. A worker is any person able to do the job.
2. A worker is any person able to produce goods and/or provide services.
3. A worker produces goods and/or services to meet their own needs or those of the community.

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