

29 January 2018

Leks Newsletter

The Firm

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

Our Uniqueness

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. We emphasize our core values in providing and delivering our service;
4. Our office is strategically located at CBD area;
5. We have received numerous award from ALB Indonesia Law Award, Global Law Expert, Corporate INTL and Finance Monthly;
6. We provide useful legal update knowledge through Blogs, Twitter,



Dear {FIRST_NAME},

This is the Leks Newsletter of January 2018. On this issue, you will see legal update and our blogs update. We hope that our newsletter is useful for you.

Leks News Update

Eddy Leks' Opinion Published in The Jakarta Post



The Jakarta post, a daily newspaper, published an opinion of Eddy Leks, a lawyer at Leks&Co, an Indonesian law firm, on 25 April 2017. His opinion titled “Is Canceling HGB Land Certificate Possible?” speaks about the latest

Facebook, Slide Shares, and other resources;

7. We provide one (1) hour free consultation and free trial for retainer services within two (2) weeks.

Practice Areas

Construction & Real Estate

Construction Law -
Foreclosure -
Homeowners Association -
Land Use and Zoning -
Landlord and Tenant Law -
Property Law - Property Management -
Property Commercial Dispute Resolution -
Property Shares or Asset Acquisition -
Legal Due Diligence on Property Company or its Assets -
Lease Agreement

Corporate and Mergers Acquisition

Agency and Distributorship -
Business Formation -
Business Law -
Commercial Law -
Contracts -
Corporate Governance -
Corporate Law -
Franchising -
Joint Venture -
Mergers and Acquisition -
Shareholders Rights -
Retail -
Investment Law

news on Jakarta governor's plan to cancel the Right to Build (Hak Guna Bangunan) certificate that has been issued to several developers in connection with the reclamation project.

[Click here to read more](#)

Eddy Leks' Legal Column Published by Property&Bank Magazine

HUKUM
PROPERTY

Eddy Leks, SH., MH., MCIAB
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PENGEMBANGAN KAWASAN BERORIENTASI TRANSIT (Bagian I)

Penulis senang sekali ketika mengetahui bahwa Kementerian Agraria dan Tata Ruang menerbitkan suatu peraturan, yang diundangkan pada tanggal 10 Oktober 2017, yang mengatur tentang kawasan berorientasi transit (Transit Oriented Development – TOD). Aturan ini adalah babak baru di dalam pelaksanaan TOD di Indonesia. Dalam beberapa tahun ke depan, diharapkan kompleks-kompleks properti akan dikembangkan dengan mindset yang berbeda dari sebelumnya. Seperti yang telah terjadi di negara-negara maju, strategis tidaknya suatu lokasi properti akan ditentukan dengan jaraknya dari stasiun kereta bawah tanah terdekat. Semakin dekat, maka lokasinya akan semakin baik. Di negara yang sudah sangat maju, jika bicara infrastruktur pada ibukota atau kota besar, hampir tidak ada lokasi yang terlalu jauh dari stasiun terdekat.

Strategi pengembangan kawasan TOD dibagi atas kawasan yang sudah terbangun dan kawasan yang belum terbangun. Terhadap kawasan yang sudah terbangun, pengembangan kawasan TOD dapat dilakukan dengan pembangunan kembali tanah atau ruang yang sudah terbangun (redevelopment site) dan pembangunan pada tanah kosong di antara tanah terbangun (infill development site). Redevelopment Site dilakukan melalui perencanaan kawasan melalui tahapan perencanaan kawasan TOD, perubahan struktur dan penambahan fungsi baru selaras dengan pengembangan kawasan TOD serta penataan lingkungan yang dilengkapi fasilitas transit atau fasilitas kawasan TOD. Sedangkan, infill development site dilakukan melalui pengembangan pada tanah kosong/terbangkai di antara tanah terbangun pada radius pengembangan kawasan TOD, melalui tahap: pengembangan persil-persil tanah kosong di antara tanah terbangun dengan kegiatan dan intensitas pemanfaatan ruang yang selaras dengan kawasan TOD; dan penyesuaian kegiatan atau intensitas pemanfaatan ruang pada tanah terbangun sesuai kriteria teknis kawasan TOD.

Pada kawasan yang belum terbangun, pengembangan dilakukan dengan pembukaan daerah-daerah baru yang luas dan umumnya terletak di daerah perbatasan pinggir kota (periphery), melalui tahap: mengembangkan sistem transit/transportasi massal primer/utama yang ditunjang dengan sistem sekunder dan feeder; dan mengembangkan kawasan di sekitar simpul transit dengan menerapkan perangkat-perangkat penunjang perwujudan ruang.

Permen TOD dimaksudkan sebagai acuan bagi pemerintah, pemerintah daerah provinsi, kabupaten/kota dalam penentuan dan penetapan lokasi TOD serta pengembangan kawasan TOD. Permen TOD memberikan panduan dalam menentukan dan menetapkan lokasi kawasan TOD pada penyusunan RTRW, merumuskan ketentuan pemanfaatan ruang dan ketentuan teknis dalam penerapan teknis pengaturan zonasi kawasan TOD, dan merancang tata bangunan dan lingkungan.

(bersambung).

edisi 145 - 2017 | Property&Bank | www.property&bank.com

CEO of Leks&Co, Eddy Leks, writes a law article titled “Pengembangan Kawasan Berorientasi Transit, Bagian I” (Transit-Oriented Area Development, Part I) as published in property section of Property&Bank Magazine.

[Click here to read more](#)

Commercial Dispute Resolution

ADR (Alternative Dispute Resolution) - Business Litigation - Civil Litigation - Commercial Litigation - Corporate Litigation - Financial Litigation - Mediation - Arbitration

Employment and Labor

Employee Benefits - Employee Rights - Human Resources Law - Labor Relating - Outsourcing - Workers Compensation

Government

Administrative Law - Government Contracts - Local and Municipal Law - Administrative Dispute Resolution

Bankruptcy Claim - Creditor Meeting - Administration of Assets - Liquidation

Environmental

Environmental Law

Criminal

Criminal Defense - Criminal Investigation

Intellectual Property

Eddy Leks' Legal View Published by Forbes Indonesia

COLUMN LEGAL VIEW • EDDY LEKS

EDDY LEKS IS THE MANAGING PARTNER OF LEKS & CO, A MULTI-SERVICE LAW FIRM BASED IN JAKARTA.

TIME TO IMPLEMENT THE CONDOMINIUM LAW



THE CONDOMINIUM law was promulgated in late 2013, but it has yet to be fully implemented. Lawmakers have already laid down the basis for the construction of affordable condominiums (legally "public condominiums") intended for the low-income community. The

intent was noble—but left wanting in reality.

A new instrument was formed specifically under this law. In addition to the normal evidentiary ownership for condominiums—a certificate of right of ownership on the unit (Sertifikat Hak Milik Atas Satuan Rumah Susun—SHMSRS), there is another evidentiary ownership that was formed, the ownership certificate on the building (Sertifikat Kepemilikan Bangunan Gedung—SKBG).

The SHMSRS consists of joint land, joint equipment, and joint facility of the condominium, but the SKBG consists of joint equipment and joint facility of condominiums, without joint land. In other words, the SKBG holder does not own the land where the condominium is built. They only have—jointly with the other SKBG holders—the facilities and equipment of the building, such as parking spaces, fitness centers, the roof and so on.

Many central and local governments have under-utilized real estate assets, which are ideal for SKBG. Under the condominium law, those assets can be used for affordable condominiums, with a lease (normally 60 years), and the government doesn't have to sell its land. The lease tariff can keep the sale price affordable.

This provision gives flexibility to the real estate owners. Since SKBG is evidentiary ownership not covering land title, it should mean a lower sale price. The SKBG's sale price will include leased costs, building costs and profit for the developer. The central or local government can sign such agreements with a SOE, local government-owned enterprise, or private entities. Their counterparts will be called as real estate developers. Since SKBG is legally protected, they can pre-sell this SKBG after fulfilling



inter alia 20% construction of the condominium. The SKBG is a legitimate instrument to be marketed and sold to the low-income community.

Similar to the SHMSRS title, the SKBG will consist of the copy of the book of the building (in contrast to a book of the land), land lease agreement, layout of the condominium, and title of division (partekam) on the joint rights of equipment and facility. This SKBG title is issued at the regency or city level responsible for the building.

The intent is noble, but so far just a dream, since the government is yet to promulgate implementing SKBG regulation. One important feature needed for the SKBG is the formation of an implementing agent, who can help speed up the construction of affordable condominiums, and ensure they are only owned and occupied by low-income community. Without this, the SKBG cannot be implemented.

Jakarta land is getting pricy, even for the middle-class. Based Central Bureau Statistics figures, the largest housing backlog in Indonesia is in Jakarta. Moving people or forcing them to live outside Jakarta is not feasible, especially without transportation options. The law provides the solution—and the government must immediately implement it.

Eddy M. Leks, CEO of Leks&Co writes an article titled "Time to Implement The Condominium Law" as published at Legal View section in Forbes Indonesia magazine.

[Click here to read more](#)

Leks Blog Update

Determination and Stipulation of Location of Transit Oriented Development Area

Under the Regulation of Minister of Agrarian and Spatial Planning/Head of National Land Agency No. 16 of 2017 on

**International
Network**



**Awards and
Accolades**



Development
Guideline of Transit
Oriented Area
("Minister
Regulation



16/2017"), there are
three stages for
determining and stipulating the transit oriented
development area ("TOD Area")

[Click here to read more](#)

**Format And Writing Guideline of Supreme
Court's Decision/Stipulation**

Background

By the end of 2017,
the Supreme Court of
Indonesia issued the
Supreme Court
Regulation No. 9 of
2017 on Format And
Writing Guideline of
Supreme Court's



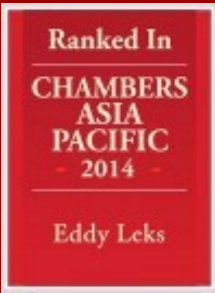
Decision/Stipulation ("Supreme Court Regulation 9/2017")
which came into force on 29 December 2017. Supreme
Court Regulation 9/2017 annulled the Supreme Court
Decree No. 155/KMA/SK/XII/2012 on the Application of
Indonesian Supreme Court's Decision Template.

[Click here to read more](#)

**Prohibition of Employment Termination Due To
Marital Bond And Blood Relationship Between
Employees in the Same Company**

Background

On 5 June 2017, several employees of PLN filed a
constitutional review towards Article 153 (1) (f) of Law
No. 13 of 2003 on Manpower ("Manpower Law"), as



follows: “Employer is prohibited to conduct termination of employment due to the employee concerned possess blood relationship and or marital bond with another employee in the same company, unless governed under employment agreement, company regulation or joint employment agreement.”



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