



The takeover of public facilities and housing social facilities by the regional government is reviewed from the criminal code and regional regulations of the city of South Tangerang

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Abstract

This study examines the takeover of public facilities and housing social facilities by local governments in South Tangerang City, focusing on the perspective of the applicable Civil Code (KUHP) and Regional Regulations (Perda). Public facilities and social facilities are an integral part of housing development that aims to meet the needs of the community. This study aims to analyze the process of procurement, handover, and management of these facilities, as well as the challenges faced in their implementation. In the context of the Criminal Code, this study discusses the obligation of housing developers to provide public and social facilities as part of their legal responsibilities. Furthermore, South Tangerang City Regional Regulation No. 6 of 2023 is a reference in understanding the regulations that govern the implementation of housing and settlements. This research uses a qualitative method with a case study approach, involving interviews with local governments, developers, and the community to obtain a comprehensive perspective. The results of the study show that despite clear regulations, implementation in the field still faces various obstacles, including licensing problems, the quality of facilities handed over, and community participation in management. This study concludes the need for synergy between local governments and developers to ensure that public and social facilities can be managed properly for the benefit of the community.

Keywords: Local regulations, public facilities, social facilities, expropriation

Introduction

The development of an area has the main goal of improving the welfare of the community. In this development process, the indicators of success are often measured through the procurement of regional facilities and utilities that can support every community activity. This facility is designed so that people can carry out their daily activities more effectively and efficiently. (Ade Arif Firmansyah, 2018) ^[1] Therefore, the procurement of adequate facilities is one of the priorities in the regional development strategy. (Ahmadi Miru & Sutarman Yodo, 2005) ^[2]

Social facilities are an important part of regional development, because they function as a support for the survival of the community. Social facilities include a variety of basic needs that must be available in a particular area. The existence of this facility not only provides comfort, but also ensures that people have access to essential needs in daily life. Thus, social facilities are a fundamental element that cannot be ignored in the development process.

The types of social facilities built include educational, health, worship, regional regulations, and services. Each of these facilities plays a strategic role in supporting community activities, both economically, socially, and culturally. Educational facilities, for example, function to improve the quality of human resources, while health facilities ensure that the public has access to adequate health services. Worship facilities, on the other hand, support the spiritual aspect and build harmony among citizens. (Ahmadi Miru & Sutarman Yodo, 2005) ^[2]

The construction of social facilities also has an important role in maintaining the unity and unity of the nation. With adequate facilities, interaction and communication between community groups can be better facilitated. These facilities not only connect individuals within a given region, but also connect between regions and even between cities. Thus, social facilities become an effective tool to strengthen social

integration and minimize potential conflicts in society. (Dani Purwanto, Ujang Bahar, Endeh Suhartini, 2020) ^[5]

In its implementation, the construction of social facilities can be carried out by the government and the community based on their needs and perceptions. This process often involves an assessment of the needs of the community based on scientific analysis and practical experience. Through this approach, the facilities built are expected to be in accordance with the needs of the community, so that they have optimal use value and can contribute directly to improving the quality of life.

As a place or media that facilitates community activities, social facilities must be designed and managed in a sustainable manner. In addition, the construction of social facilities must also consider various aspects such as efficiency, accessibility, and environmental sustainability. (Ade Arif Firmansyah, 2018) ^[1]

The takeover of public facilities and social facilities (public facilities and social facilities) in the context of housing is an important issue that touches on legal, social, and economic aspects. In Indonesia, every housing developer is required to provide land allocated as public facilities and social facilities as a condition for obtaining a development permit. This is regulated in various laws and regulations, including the Civil Code (KUHP) and Regional Regulations that apply in each region, including South Tangerang City. (Iriani, L.Y., 2017) ^[7]

Public and social facilities play an important role in improving the quality of life of the community, providing space for social interaction, and supporting the sustainability of the residential environment. However, even though there are regulations that regulate the obligation of developers to hand over public facilities and social facilities to local governments, in practice there are often obstacles and challenges. (Dani Purwanto, Ujang Bahar, Endeh Suhartini, 2020) ^[5] Proses pengalihan ini tidak jarang mengalami

obstacles, both from developers who are reluctant to hand over the assets and from local governments that do not have an effective management mechanism. (Iriani, L.Y., 2017) ^[7] This study aims to analyze the process of taking over public facilities and social facilities by local governments in South Tangerang City by referring to the Criminal Code and local regulations. With a qualitative approach, this study will explore various aspects that affect the implementation of the takeover, including the rights and obligations of the developer as well as the responsibilities of the local government in the management of the facilities that have been handed over. (Luthfi J. Kurniawan, dkk, 2015) ^[10]

Based on the above explanation, the formulation of this research problem is for: 1) What is the process of taking over public and social housing facilities by local governments in South Tangerang City?, 2) How is the practical implementation of the takeover of public and social housing facilities in the field, including the challenges faced?

Methods

The research method that can be used for the title "Takeover of Public Facilities and Housing Social Facilities by Regional Governments Reviewed from the Criminal Code and Regional Regulations of South Tangerang City" is as follows: Empirical Normative Juridical Approach: This research will use a normative juridical approach to analyze the applicable regulations, namely the Criminal Code and Regional Regulations of South Tangerang City. In addition, an empirical approach will be applied to understand the practice in the field regarding the takeover of public and social facilities.

This method is descriptive analytical, aiming to provide a clear picture of the facility takeover process and the challenges faced. Analysis will be carried out on the data obtained to understand the relationship between legal theory and practice in the field. Primary data collection is through interviews with related parties such as local governments, housing developers, and the community. This interview aims to get first-hand information about the process and obstacles faced in the takeover of the facility. The Secondary Data used is to collect legal documents, including the Civil Code, South Tangerang City Regional Regulations, and other related documents relevant to the research.

Analysis The data collected will be analyzed qualitatively with a normative approach, namely by referring to existing legal norms and doctrines. This analysis aims to interpret the data in the context of applicable law and provide recommendations for improvement. With this research method, it is hoped that an in-depth understanding of the takeover of public and social facilities by local governments and its implications for the community and housing developers can be obtained.

Result and discussion

The process of taking over public and social housing facilities by the regional government in South Tangerang City

Housing and residential areas are a unified system that is integrated with each other to support the creation of a decent, safe, and comfortable residential environment for the community. (Luthfi J. Kurniawan, dkk, 2015) ^[10] This system covers various interrelated aspects, such as coaching,

implementation, to overall management of housing and residential areas. Through a holistic approach, housing management focuses not only on physical development, but also on the quality of life of its residents.

Coaching in the housing system and residential areas aims to provide guidance and supervision on the management of residential areas. This coaching involves various parties, including the government, the private sector, and the community. (Iriani, L.Y., 2017) ^[7] This process includes policy formulation, the provision of technical assistance, and capacity building of human resources involved in the management of residential areas and settlements.

The implementation of housing and residential areas is the core of this system, including the planning, development, and management of supporting infrastructure in the residential environment. This implementation must consider the community's needs for proper housing, access to public facilities, and spatial planning in accordance with the principles of sustainable development. With good management, residential areas can become places that support the social, economic, and cultural life of the community. (Supeno, S., 2020) ^[9]

In addition, the maintenance and improvement of residential areas is also an important part in maintaining the quality of the residential environment. These efforts include infrastructure maintenance, waste management, and greening of residential areas. Continuous maintenance not only ensures the feasibility of the facility, but also maintains the comfort and health of the environment for residents. (Iriani, L.Y., 2017) ^[7]

One of the main challenges in the housing system and residential areas is the prevention and improvement of environmental quality in slum areas. Slums are often faced with problems with poor infrastructure, population density, and inadequate sanitation. To address this, an integrated approach is needed that involves physical rehabilitation of the area, community empowerment, and increased access to basic services such as clean water and electricity.

The housing system and residential areas also include the provision of land, funding, and the active role of the community. The provision of strategic and appropriate land is the basis for the development of residential areas. (Supeno, S., 2020) ^[9] Adequate funding, both from the government and the private sector, is a determining factor for the success of housing programs. On the other hand, community participation is very important to ensure that the programs carried out are in accordance with the needs and aspirations of residents, so as to create a sustainable and inclusive housing environment.

The development of infrastructure, facilities, and public utilities in housing plays an important role in creating a decent, comfortable, and safe residential environment. Each of these elements must meet a number of requirements in order to be able to optimally support the daily activities of the community. The fulfillment of these requirements aims to create harmony between the needs of residents and the available facilities. (Shidarta, 2004) ^[13]

The first requirement that must be met is the ease and harmony of the relationship in daily activities. Infrastructure, such as roads, waterways, and power grids, must be designed to support the mobility of residents. In addition, facilities such as places of worship, educational facilities, and green open spaces must be easily accessible to the public. This compatibility ensures that residents can

carry out their activities efficiently without any significant hindrance. (Shidarta, 2004) ^[13]

The suitability between the service capacity and the number of houses is also an important requirement. In this case, the available facilities must be proportional to the number of residents in the neighborhood. For example, if a residential area has a large population, then the capacity of clean water networks, waste management, and other public facilities must be adequate to serve the needs of all residents. This is important to avoid imbalances that can reduce the quality of housing. (Supeno, S., 2020) ^[9]

The process of taking over public facilities (public facilities) and social facilities (social facilities) in housing by the South Tangerang City Regional Government is carried out as a form of government responsibility in ensuring the availability of adequate public services. Public facilities and social facilities, such as roads, parks, green open spaces, places of worship, and educational facilities, are important elements in supporting people's lives. (Tamara Marsya, 2016) ^[14] In this context, the takeover aims to ensure that the management of the facility is carried out optimally and in accordance with the needs of the community.

The first stage in the takeover process is the identification and inventory of public facilities and social facilities assets in residential areas. The local government works with developers to collect data related to the facilities that have been provided. This data includes the location, area, function, and condition of the facility. This step is important to ensure that all facilities that are the developer's obligation are available and ready to be handed over to the government. (Tamara Marsya, 2016) ^[14]

After the inventory process, an evaluation of the feasibility of public facilities and social facilities is carried out. The local government ensures that the facilities to be taken over meet technical and functional standards in accordance with applicable regulations. (Dedi Harianto, 2010) ^[6] This evaluation includes physical examinations, legality of documents, and compliance with regional spatial plans. If any defects or damages are found, the developer is required to correct them before the handover is made.

The next process is the official handover of public facilities and social facilities from the developer to the local government. This handover is carried out through the handover minutes (BAST) mechanism, which includes details of the assets handed over along with their supporting documents. In this stage, the local government also establishes a work unit that will be responsible for the management of the facility, such as the relevant agency that handles the cleanliness, security, or maintenance of the facility.

After the takeover, the local government began to manage and maintain these public facilities and social facilities. This step includes repairs, upgrades, or even rebuilds if needed. (Dani Purwanto, Ujang Bahar, Endeh Suhartini, 2020) ^[5] The government also ensures that these facilities can be accessed and utilized optimally by the community. In addition, the sustainability of the management of this facility is a priority to ensure that its function and quality are maintained in the long term. (Dedi Harianto, 2010) ^[6]

The process of taking over public facilities and social facilities by the South Tangerang City Government reflects serious efforts to improve the quality of public services and community welfare. With the management of public and social facilities by the government, the community can

directly benefit in the form of better services. (Arnholt, A.T. and Evans, B., 2017) ^[4] The success of this process also depends on the synergy between developers, the community, and the government in ensuring that the facilities provided truly meet the common needs. (Martin Roestamy, et al, 2015) ^[11]

Practical implementation of the takeover of public and social housing facilities in the field

The integration of infrastructure, facilities, and public utilities in housing and residential areas is an important step in building an integrated and optimally functioning residential environment. (Martin Roestamy, et al, 2015) ^[11]. This integration acts as a binding of a single system that connects various elements in housing and residential areas. This is done based on the hierarchy and spatial plan of the area that has been determined, so that each facility can support each other and provide maximum benefits for the community. (Dedi Harianto, 2010) ^[6]

In its implementation, this integration cannot be separated from the land provision plan in accordance with the provisions of laws and regulations. The provision of strategic and well-planned land is the basis for the development of integrated infrastructure, facilities, and public utilities. This ensures that all facilities built are not only adequate, but also in accordance with the needs and characteristics of the residential area. (Santosa, Y.B.P. and Noviyanti, R., 2020) ^[8]

This aspect of integration planning must also take into account the needs of community services. Thus, the facilities provided can meet the basic needs of residents, such as access to clean water, electricity, transportation, and sanitation. The calculation of these needs is carried out based on applicable technical standards, so that each element can function efficiently and have a positive impact on the quality of life of the community. (Arnholt, A.T. and Evans, B., 2017) ^[4]

The integration of infrastructure, facilities, and public utilities includes not only the provision of physical infrastructure, but also sustainable management. By integrating these various elements, residential areas can become an environment that supports the social, economic, and cultural life of the community. For example, roads connected to public facilities such as schools and markets will increase accessibility and accelerate economic activities. (Santosa, Y.B.P. and Noviyanti, R., 2020) ^[8]

The technical standards that guide the implementation of this integration cover various aspects, such as construction quality, durability, and efficiency of use. By complying with these standards, facility construction not only provides short-term benefits, but is also able to survive in the long term. (Aminuddin Salle, 2007) ^[3] In addition, the implementation of this technical standard also aims to ensure the safety and comfort of residents of residential areas.

The practical implementation of the takeover of public facilities (public facilities) and social facilities (social facilities) housing in the field requires strategic steps and good coordination between various related parties. This process begins with the identification of public and social facility assets available in residential areas. (Aminuddin Salle, 2007) ^[3] Developers usually submit a list of facilities that have been built to the local government as part of their obligations in accordance with laws and regulations. This

step ensures that the government has accurate preliminary data before starting the takeover process. (Aminuddin Salle, 2007) ^[3]

The next step is to conduct a direct inspection in the field. A team from the local government, which usually involves related agencies such as the Spatial Planning Office, Public Works Office, and Environment Office, conducts a physical check of the facility. (Martin Roestamy, et al, 2015) ^[11] This inspection aims to ensure that public facilities and social facilities are in accordance with previously agreed technical specifications, including their size, quality, and function. Facilities that do not meet technical standards will be returned to the developer to be repaired or completed first. (Santosa, Y.B.P. and Noviyanti, R., 2020) ^[8]

After the inspection is completed, the local government verifies the legality of documents related to public facilities and social facilities. This process includes checking land certificates, permits, and ownership documents. Clear legality is essential to prevent legal problems in the future. If there are incomplete or problematic documents, the local government gives the developer a deadline to complete the requirements before the submission process continues. (Luthfi J. Kurniawan, dkk, 2015) ^[10]

The official handover was carried out through the Handover Minutes (BAST). This document includes a list of assets of public facilities and social facilities that are submitted, the physical condition of the facilities, and other supporting documents. The signing of BAST involves developers, local governments, and other relevant parties. This handover marks that the management of facilities has officially become the responsibility of the local government. (Luthfi J. Kurniawan, dkk, 2015) ^[10] This stage is also often followed by community involvement to provide input related to the need for additional facilities or necessary maintenance. (Luthfi J. Kurniawan, dkk, 2015) ^[10]

After the handover process, the local government began the management of public facilities and social facilities that had been taken over. This implementation includes routine maintenance, such as road repairs, park management, and cleaning of public facilities. In addition, the government also improves facilities if new urgent needs are found, such as increasing public space or improving infrastructure networks. Community involvement in this stage is also important to ensure that existing facilities remain relevant to local needs. (Tamara Marsya, 2016) ^[14]

The practical implementation of the takeover of public facilities and social facilities in the field shows the importance of good coordination between developers, local governments, and the community. (Santosa, Y.B.P. and Noviyanti, R., 2020) ^[8] Obstacles such as non-conformity in specifications or legality of documents are often a major challenge, but they can be overcome with transparent communication and the right solutions. With good management, public facilities and social facilities can be an integral part of efforts to improve the quality of life of people in residential areas. (Nurus Zaman, 2016) ^[12]

Conclusion

The process of taking over public facilities (public facilities) and social facilities (social facilities) is carried out in stages in accordance with the applicable regulations, which stipulate that the new regulations will be effective six months after they are promulgated. This time frame provides an opportunity for all parties involved, both

developers and local governments, to prepare themselves administratively and technically. In this context, existing regulations aim to ensure that the transfer of assets is carried out with transparency, accountability, and in accordance with the technical standards that have been set. This includes the requirement to submit documents such as land certificates, building permits, and handover minutes (BAST) as formal evidence of the transfer of facilities to the local government. The regulations implemented in South Tangerang City provide detailed guidance in each stage of the takeover of public facilities and social facilities. This guideline includes a mechanism for handing over the responsibility for facility management, starting from asset identification, legality checks, to facility feasibility inspections in the field. Once this process is complete, full responsibility for the management and maintenance of the facility passes to the local government. With clear regulations, the government can ensure that public facilities and social facilities that are taken over can be managed optimally for the benefit of the community, while supporting the creation of a comfortable, orderly, and sustainable residential environment.

The handover of public and social facilities is regulated in Regional Regulation No. 3 of 2014 concerning the Implementation of Housing and Residential Areas, which requires developers to hand over infrastructure, facilities, and utilities to the local government at the time of processing building permits. The local government forms a verification team to ensure that the facilities handed over meet the set standards. After the handover, the management of public and social facilities is the responsibility of the local government. They can work with developers or private businesses for maintenance and management. Strict sanctions are needed for parties who violate the provisions in the handover process to ensure compliance and the quality of the facilities provided. The practical implementation of the takeover of public and social facilities in South Tangerang City shows that despite clear regulations, challenges on the ground remain. Coordination between local governments, developers, and the community is essential to create synergies in the provision of quality and sustainable facilities.

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