

LAND USE CONFLICTS IN THE PROCESS OF LAND DEVELOPMENT APPROVAL: A REVIEW OF DECISION BETWEEN TWO LEGISLATIONS IN MALAYSIA

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ABSTRACT--Land Use Planning is a process of planning to control and manage development. In Malaysia, the jurisdiction of land use planning is vested under the power of local authorities as stated under the Town and Country Planning Act 1976 (Act 172). As planning authority, Local Authority will determine the land use planning through zoning in the Local Plan. Each development proposal must be submitted to the Local Authority for approval before the development can take place. The local authority will give approval based on statutory compliance. However, there are appeal cases made by landowner concerning the rejection of Planning Permission by the Local Authority. Rejections of Planning Permission were made due to failure in obtaining approval for variation application cause by the conflict in the land condition stated in Land Title under section 52 National Land Code 1965 and zoning in the Local Plan as enshrined under section 12 The Town and Country Planning Act 1972. Therefore, this article discussed the theoretical perspectives of development process framework with further identification of conflicts that involves two legislations. Content analysis is used to identify causes of conflict in land development process based on the provision in the National Land Code 1965 and Town and Country Planning Act 1972. The findings demonstrate that land-use conflict in land development process happens due to unclear legislative provisions application in granting development approval. The outcome of this paper can be a catalyst for comprehensive research that will provide a clear guide in determining development approval. Effective land-use conflict resolution can facilitate infrastructure development that meets people's needs.

Keywords--Land Use Planning, Land-Use Conflict, Land Development Approval

I. INTRODUCTION

The law is designed to provide guidelines and rules to regulate proper conduct of society. In Malaysia, the functions of three branches of government are maintained by the law through the principle of power separated under Article 172 of the Federal Constitution (Chun, J. Hai @ Ibrahim, & Nor Fadzlina Nawi, 2012). Reflections on adoptions of the power separation have established laws and regulations in various aspects including land administration and development. At the beginning of Malaysia's existence when it was known as Tanah Melayu, the land legal system was based on the Customary Law and Islamic Law (Ishak, O, 1979). Nevertheless, after the

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British Colonialism, the Malaysia land legal system was transformed based on the principles of the Torrens System enacted through the National Land Code 1965 (NLC 1965) (Abidin, Z, Zulhilmi, Z, & Ta Wee, S, 2013). The Torrens system acknowledges that, land ownership is irrefutable after registration. The land title is a definite evidence to prove the owner of the land (Buang, S, 2008). With the existence of the titles, it acts as a security and facilitator in land matters.

Land development involves complex activity to consider the needs and demands of individuals, communities, and stakeholders that causes the importance of having variations of enacted laws. According to Act 172, land development is referred to as “carrying out building works, engineering, mining or changing the types of land uses or buildings or demarcation of land boundaries and land consolidation”. In other words, land development refers to the changes of land use for the purpose of residential, commercial or industrial. This is in line with the definition by Healey, P, & Barrett, S. M (1990) which stated that land development refers to how building and sites will turn the land into an urban area that will enable various activities for the society

Implementation of land development must comply with related land laws. Denyer-Green, B. P. D (1987) stated that land use planning comprises two main components, namely planning and development control. The first component is planning which referred to a process to determine the appropriateness of actions to be taken in the future (Davidoff, P, & Reiner, T. A, 1962). The main planning features are including a sequence of actions or strategies to resolve the probabilities of future problems. Planning has broad connotations depending on the variety of fields. According to Glasson J (2017), physical planning refers to the planning of the physical structure of land or land use derived from the rules and controls of urban development. UN Habitat (2009) defines planning as encompassing a variety of spatial governance activities and is done by defining the goals to be achieved and adhering to specific guidelines.

The second component involves land use planning that serves as a tool or mechanism for land development control. Planning permission is a method to control land development in Malaysia as prescribed under section 2(1) of Act 172 (INSTUN, 2007). It is a mandatory process for all development activities in regards to any physical changes of land as a result of construction, engineering, mining, and material changes in terms of use of land or buildings (Act 172). Once granted, it permits the person to carry out development according to the plans and conditions applicable therein. Process to apply for Planning Permission in Peninsular Malaysia is differs according to the application through provisions as stated under NLC 1965 as:

- i) Application for variations of conditions (Section 124);
- ii) Simultaneous applications for variation of conditions and subdivision (Section 124A);
- iii) Application of surrender and re-alienations (Section 204A to Section 204H).

Each application of development approval that is submitted under the three provisions shall be processed and considered by the “*Approved Authority*”. The decision from the “*Approved Authority*” shall determine the approval in the Planning Permission. This decision will determine the "next steps" of the landowner or developer to carry out the development. However, there are land developments that have violated the land conditions in the land title. Most of the development that has been built by violating the land conditions is permitted by the Local Planning Authority (Idris, N. A., 2015). There were also appeal cases brought to the Appeal Board and the High Court because of the rejection of Planning Permission due to conflict of land use. Issues involving land-use conflicts will not only hinder the current and future land development but if the approval is given by ignoring the "root cause",

it will have a direct impact on legal conflicts in municipal of land administration. Besides, it also causes loss to the State Authorities through facing lawsuits and decreases in the land revenue.

II. LAND USE CATEGORY BETWEEN TWO LEGISLATIONS

Human-land relations are fundamental to life as a form of ownership evidence (Dale, P., & McLaughlin, J. (2000).) In the 20th century, knowledge about land science has expanded in many fields from Russia to America (Shamsudin J, 1981). The evolution of land knowledge in various fields reflects the importance of land in human life. The awareness of importance of land as a non-renewable source led to an ideological breakthrough impelled the establishment and enactment of land-related laws. Land-related laws are intended to ensure that this land resource is sustained to be used for future generations. In line with the application of the law of the NLC 1965 enacted under the principles of the Torrens System, land title registration is an important element in land administration. The registration of each land transaction will render the rights and interests of the parties protected by law, which the NLC 1965 defines as an undeniable right (Muhammad Serji, 2016). In general, a land title is documents issued by the Land Office to a person giving the legal right to ownership of the property that consist of related land use information.

2.1 Land Use Category In National Land Code 1965 (NLC 1965)

Land use determined by the State Authority upon disposal to the new owner subject to certain conditions. There are three categories of alienated land through land disposal by the State Authority as stated below.

- i. Land disposed and alienated under the NLC 1965;
- ii. Land disposed and alienated under the provisions of the law before the NLC 1965;
- iii. Land disposed for alienation under the provisions of the law before the NLC 1965 but under the law of the NLC 1965.

Section 76 provides for the imposition of alienated land conditions including the determination of land use categories by the State Authority under section 52 which states that land use is subject to three categories namely "agriculture", "building" and "industrial". The State Authority within its jurisdiction shall determine the category of land created by gazette notification stating any determination of a land category within the State. The land categories made must be endorsed under subsection 52 (1). The enacted provisions in the NLC 1965 related to land categories, land conditions and restrictions of interest is a mechanism that enables the State Government to manage land development so it is in accordance with the land conditions stated in the document of title.

Section 103 of the NLC defines "condition" as an express or implied condition in any agreement to the State Authority excluding restriction of interest. This definition is further broadened in the context of "conditions that require continuous implementation" which means that the landowner has to make or stop conducting any work during the tenure of the land. The conditions imposed on the ownership are subject to the conditions and restrictions that must be complied with. The determination of the conditions and restrictions of land interests based on the application of the relevant section in the NLC 1965 depends on "when" the ownership is given. Land held under section 52 is subject to the conditions imposed by the State Authority under section 121 or section 122 as any

related case. Besides, it is also subject to such implied conditions that may apply to it under sections 115, 116 or 117 of the NLC 1965.

Express conditions and implied conditions are a control mechanism through a prohibition order on land. Express conditions and implied conditions must be applied consistently. The express conditions are slightly different from the implied conditions as the express conditions are stated in the title while the implied conditions are the opposite. Express conditions under the provisions of section 124 of the NLC 1965 are changeable, amended or repealed upon application by the landowner to the State Authority. The justification of this importance can be assessed by the provision of section 108 of NLC 1965 which states:

“If there is any conflict between any by-law or restriction imposed by any local authority or planning authority with the express condition on a land title, the express condition shall prevail”.

Accordingly, the landowner is responsible for complying with the conditions and restrictions set out in the document of title. Any violation of the land conditions by the landowner will result in the forfeited action.

2.2 Land Use Category in Town and Country Planning Act 1972 (Act 172)

Land use planning is crucial in determining, coordinating and controlling the direction of future infrastructure growth so that it can be properly planned as there is a scarcity of land resources (Hamzah, M.F, 2020). Under the Federal Constitution, Clauses (5) and (6) of Article 91 provides the responsibility of National Land Council to formulate a policy of land utilization through the advice from the Federal Government, State Government as well as National Finance Council. The administration of land use planning under the Act 172 in Peninsular Malaysia is regulated in three levels of governments; federal, state and local government. Urban planning is the process of organising an area according to Development Plan that comprised National Physical Plan, State Structure Plan, Local Plan and Special Area Plan that is part of the national planning system and functions to control the process of development (de Roo, G, 2017).

Act 172 introduces a hierarchy of national development plan system based on integrated planning concepts. National Physical Plan serves as a comprehensive planning guide that outlines the strategic policies to determine the direction of physical development throughout Peninsular Malaysia (PLAN Malaysia, 2019). NPP policies must be aligned with other sectorial policies that will be translated into Structure Plan and Local Plan. The determination of land use in the Local Plan is made through zoning whether agricultural zones, housing zones, commercial zones, industrial zones or other related zones. Although there is no reference to the specific method of zoning in Act 172, the zoning made through the Local Plan is made following the provisions of section 12 (1). In drafting the Local Plan, it should provide details information such as maps with a written statement as states in section 12 of Act 172.

Local Authority must confirm that the proposal summary of Local Plan is in line with the Structure Plan before it can be approved and gazetted. The preparation of a Local Plan should also take into account additional information, professional considerations, and opinions from the Committee as enacted under Section 12 (8) Act 172. Before Local Plan is gazette, the Committee must consult with the Local Planning Authority. Any inconsistency or amendment to the Local Plan, recommendations for the modification, revocation or

III. PROCESS OF LAND DEVELOPMENT APPROVAL

Unplanned development is a problem in developing countries which has major implications for urban land use patterns and sustainable development (Masoudi et al., 2017). Perspectives from Abdullahi, S & Pradhan B (2016) further reinforced that statement by saying that rapid and irregular urban growth led to land-use conflicts that left the objective of sustainable development unfulfilled. Ahmad, N. S. B. N., & Mustafa, F. B. (2019) in his study of land use analysis in Negeri Sembilan through the application of Geographic Information System (GIS) outlined several factors that led to land-use changes such as population growth, the economy, transportation network, and the conurbations establishment. Besides, other factors that also contribute to this conflict are land-use competition, physical factors and the location of the land.

Before land development activities can be carried out, an application of planning permission must be submitted to the Local Planning Authority. Section 19 of Act 172 required mandatorily to any person or body to obtain planning permission. The Local Planning Authority will proceed to process the application if the proposed development not contradict with the Local Plan or any other relevant provisions. Applications for development plan approval made separately and by phase according to the type of development to be undertaken. Wong Kee Kho (1996) categorizes the Land Development Approval Process into three phases as described below.

Phase 1 The application of variation of condition (Section 124), simultaneous application for variation of conditions and subdivision (Section 124A) as well as application of surrender and re-alienation (Section 204A to Section 204H) are process and approved by Land District Office which in the area of the proposed development will be undertaken.

Phase 2 Once the approval obtained, the development application must be submitted to the Local Authority to get planning permission approval. The application submitted contains details of the proposed development, planning plans, and prescribed fees. If the development proposal does not comply with the planning guidelines, the applicant must amend the plan and submit it accordingly within the period specified by the Local Authority.

Phase 3 The application for Building Plan Approval must be submitted once the Planning permission has been obtained. The application needs to be submitted to the Technical Department for a review of the proposed development suitability. Building Plan approval determines the feasibility of a development proposal. Plan amendments may be made in the event of a plan proposal that does not comply with the development guidelines

However, the process of land development approval has evolved since One-Stop Center (OSC) is established in 2007. One-Stop Center coordinates technical agencies in land development to provide feedback on a development approval that enables concurrent development approval. This development application includes the application for Subdivision, Variation of Conditions, Partitions, Planning Permission, and Building Plan Approval. One Stop Centre allows applications to be submitted simultaneously to the Lands and Mines Office and the Local Authority. The concept of technical agencies integrations in the One Stop Centre enables effective service delivery

system in land development. The framework summary of One Stop Center for land development application approval is illustrated in Figure 1 below.

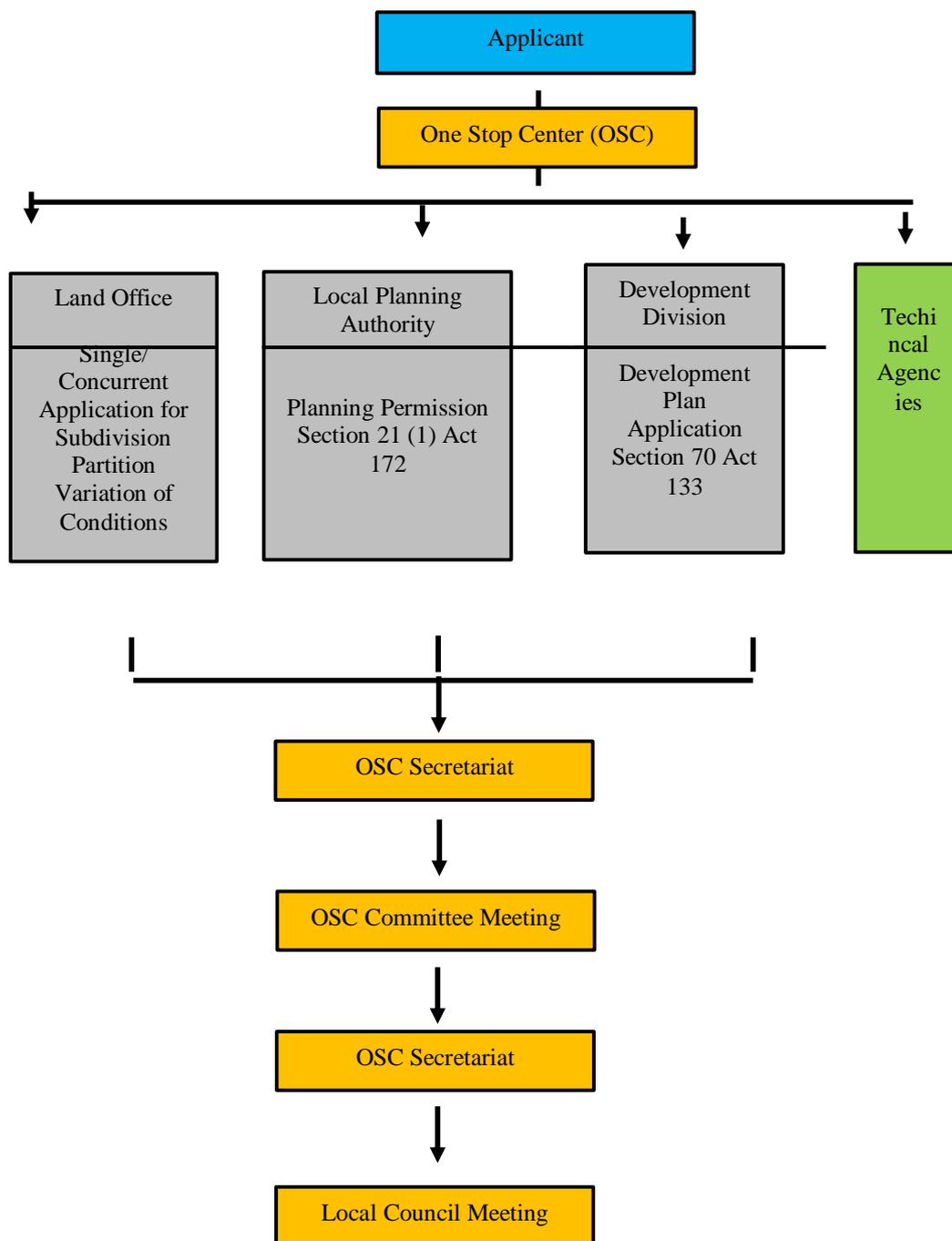


Figure 1: Framework Summary of One Stop Center for Land Development Application

Source: Directors of Land and Mines Office, 2007

IV. LAND USE CONFLICT IN THE PROCESS OF LAND DEVELOPMENT

APPROVAL

In land development process, issues of land-use conflict were identified during the planning permission phase. There were cases when Local Authorities reject the planning permission application due to failure of the proposed development plan to comply with the zoning requirements of the Local Plan. This led to various appeal cases made by the landowner to the State Appeal Board and High Court. Among these cases are discussed below.

➤ *Visamaya Sdn Bhd & Anor V Majlis Perbandaran Subang Jaya (2015)*

The lawsuit was filed by the appellant of the Majlis Perbandaran Subang Jaya due to conflict of provision in section 108 of NLC 1965 over the provision of Act 172 in the application of "service apartment" development. The "Service Apartment" for which the respondents were proposing fails to comply the requirements of the "Medium-Industry" in the land title while the zoning under the Local Planning Authority is gazetted as the "industrial" category which can be used for commercial purposes. The Planning Permission application made by the respondent using the authorities' representative of the registered owner was rejected due to the commercial activity of the "service apartment" which inconsistent with the land use in the neighbourhood. The respondent (Visamaya Sdn. Bhd) appealed to the Selangor Appeal Board but the appeal was rejected and the case was later referred to the High Court. Based on the judge's comments, there are a few things to consider in granting such a waiver. These considerations need to be taken in light of the law of the NLC 1965 that was enacted earlier than Act 172. The insight on these considerations is to understand that Act 172 should be read in conjunction with the NLC 1965. The principle, in this case, is to prove that the land use category in the Local Plan overrides the use of the land stated on the title of the land. This reflection gives us a sense of whether the By-Laws outweigh the NLC 1965

➤ *Ordinary Company Sdn Bhd V Majlis Bandaraya Petaling Jaya (2012)*

The appellant is the registered owner of lot 16994 which is categorized as "building" and the actual express condition imposed is "commercial building". However, his lot has been zoned as an "Open Space" under the Local Plan. The planning permission was applied to convert lot 16994 from "Open Space" to commercial use was rejected because it did not comply with Local Plan. The zoning of lot 16994 as a Public Space is contrary to the express conditions of "commercial building" in the title document. The court has ruled that under section 108, the NLC 1965 provides clear legislation that the by-laws or restrictions imposed by any Local Authority or planning which are contrary to the express conditions are rendered void (Idris, N. A, 2015).

➤ *Prominent Land Sdn Bhd V Majlis Perbandaran Subang Jaya (MPSJ) (2010)*

The appellant's land in lots 1200 and 1190 of Petaling Jaya, Selangor had been zoned in the housing category while the express conditions in the title states industrial. The Plaintiff's application for Planning Permission to develop 14 Units of Semi-D and 2 Units Industrial Premises was rejected by MPSJ. The Appellant filed a case to Selangor Appeal Board and justified that there is a possibility the preparation of a Local Plan has not been prepared in detail. However, the respondent justifies that there are no objections from the landowner when the "public

engagement" is made. Accordingly, the MPSJ considered that the appellant agreed with the proposed Local Plan proposal. The Appeal Board has ruled that in this case, the appeal for an amendment to the Local Plan by the Local Authority is considered. Based on the results of this case, it appears that land use under the Local Plan outweighs the express conditions in the land title.

➤ ***Beemer Sdn Bhd V Majlis Bandaraya Petaling Jaya (2014)***

The appellant (Beemer Sdn Bhd) had applied for Planning Permission on the new premises, ranging from residential to commercial as previously approved on his old premises. However, the appellant's application was rejected. The appellant brought the case to the Appeal Board but was unsuccessful. The appellant then presented the case to the High Court and the decision was in favour of the Appellant. The principle in the case of Beemer Sdn. Bhd. V Petaling Jaya City Council emphasised that the determination of land use under the title is intended to be supported by zoning and not vice versa. This means that the land use zone must be in line with what is registered on the title.

The wide variety of decisions brought to the Appeal Board and the High Court indicates that there is no specific provision in determining decision-making considerations on the land-use conflict in the land development approval process. The landowner has the right to conduct the development on his land following its land category, conditions, and restrictions of interest outlined in the land title. If the land to be developed has different categories and express conditions from the development plan, the landowner must first apply for a variation of conditions to the new category (Sairin, E. B. A, 2016). It is enshrined under section 124 of the NLC 1965, which provides that landowner may apply to the State Authority to change the land use category, revoke or amend any express or implied condition, or impose new conditions or restrictions to enable it to be used or develop the land for other allowed purpose.

Land development can be made by submitting a development application through the Planning Permission to commence development under section 2(1) Act 172. The land development application can be submitted in two methods, through the One-Stop Centre (OSC) or submitted directly to the relevant Land Office depending on the types of development applications under the provisions of sections 124, 124 A, 204 A to 204 H. Development applications through the OSC include approvals relating to land use, subdivision applications, concept plans, layout plans that submitted through Planning Permission. Planning permission under Section 22 (Act 172) must first be obtained from the Local Authority before one can initiate any development on the land.

Another method of development applications is submitted directly to the land office through the application for a "variation of condition". If the approval for the application of "variation of condition" is not obtained, then the proposed development is not feasible and this, in turn, affects the landowner in optimising their land resources. This situation indicates that the approval of a "variation of condition" is one of the viability of land development factors. The approval of a "variations of conditions" either through the Planning Permission or a single application will be considered by the State Authority based on inputs from related technical agencies such as PLAN Malaysia and the Local Planning Authority. However, the nature of Planning Permission is "pre-materia" which means that although the Planning Permission is approved, development cannot be carried out in contravention of the land use condition under the land title (Suliman, S et al. 2019). This is because the approval of the "variation of condition"

and subdivision must be obtained before any building approval (KMP) decision is issued by the Local Planning Authority.

The application of "variation of condition" shall comply with the provisions of section 124 of the NLC 1965 commences the process at the district office as illustrated in Figure 3.1. The application will be submitted for approval by the State Authority through consideration subject to the new condition of land use. However, the State Authority indirectly authorized the Land and Mines Office to grant an approval for this application. Besides, changing the land conditions through variation of conditions, there are application involves for changes restriction of interest. The restriction of interest may also change following the intended use once the application for such "variation of condition" is approved.

Conflict of land-use that is caused by the differences of land use condition in the land title (as governed under NLC 1965) with land-use zoning in the local plan (as governed by Act 172) has resulted in the failure in obtaining Planning Permission (Figure 2). However, the main factors that influence this conflict are the overlapping in the implemented legal provision. This is consistent with the statement by Marzukhi, M. A, Omar, D, & Leh, OLH (2012 that one of the constraints of sustainable development in the development process is due to the inconsistency of coordination among Local Planning Authority and Land Office, lack of comprehensive statutory instruments, and legal implementation challenges.

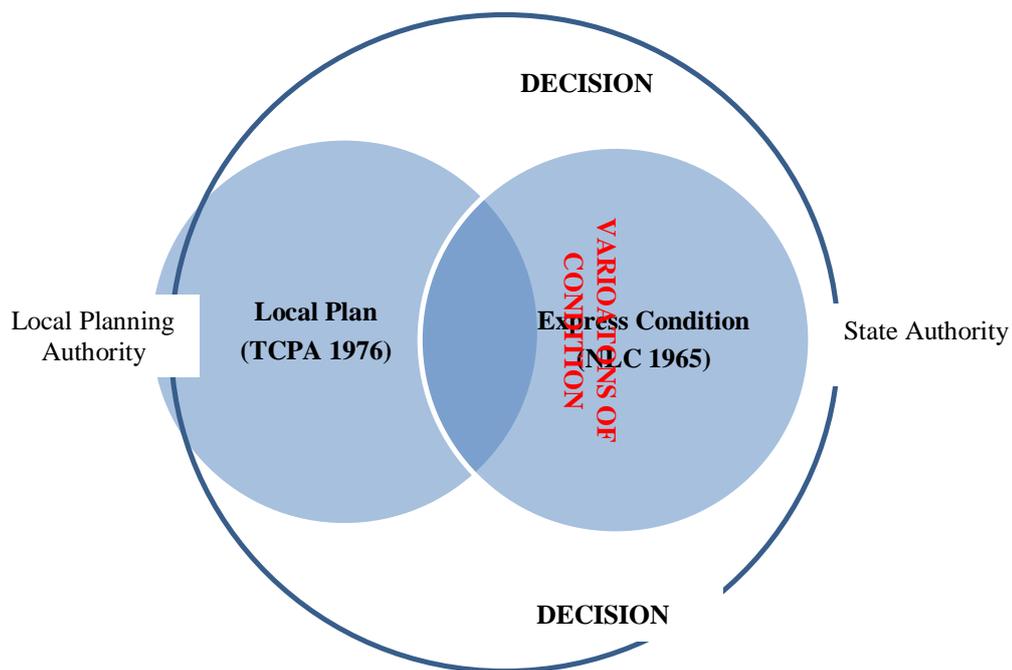


Figure 2: Land use conflict in development process

Source: Suliman S (2020)

Section 40 of the NLC 1965 clearly stated that the State Authority has the right to all lands under its administrative area. The State Authority is empowered under section 120 of the NLC 1965 to determine the condition of the land in the registered title. This section states, State Authority may grant land possession subject to any express condition and restrictions of interest in accordance with the law. Furthermore, section 108 provides

that in the event of land use conflict enacted through the NLC 1965 with any other provisions, the NLC provisions shall prevail. In other words, the provisions of section 108 indicate that the zoning of a development area that is contrary with the land use as stated in document of title is rendered void and unreasonable (Suliman, S et al. 2019).

In contrast, the requirements under Act 172 required that any development must not contradict and in accordance to the land use under the Local Plan. The conflict in the provisions of Act 172 is set out in Section 18 (1) which is:

“No person shall use or permit to be use any land or building otherwise than in conformity with the local plan”.

Local Plan is a statutory planning document to assist OSC in considering approval of Planning Permission (Yusoff et al, 2016). The Local Plan prepared by the PLAN Malaysia is a collaborative effort with several professional consultants in the related fields (Irdyati, 2005). Although the purposes of the Local Plan are stated under section 12 Act 172 that there is no specific guideline to determine land use in Local Plan, Irdyati (2005) in her study stated that Local Plan for future housing projections is drafted based on population growth, current local plans, committed development and future housing development proposals that will shape the overall land-use zoning plan for the area. Summarisation of these findings shows that the Local Plan was drafted based on modification of existing development plan according to future development projection without considering the aspects of "*land condition in the titles*". The absence of a uniform guideline in determining land-use and zoning in the Local Plan may cause disputes over the land.

Therefore, the Local Planning Authority should plan in detail to determine the land use criteria for an area to ensure that the proposed land-use plan is suitable for the existing physical development on the land as well as considering the condition of land stated in the land title. In other words, section 18 (3) acts as a proviso to section 18 (1) of Act 172 as follows:

“Subsection (1) shall not affect the continuance of the use of any land or building for the purposes for which and to the extent to which it was lawfully being used prior to the date when a local plan first came into effect in the area concerned or, where there has been a change of local plans or in a local plan, the date when the change became effective”.

However, what becomes a question is how well the section is interpreted in that approach and to what extent stakeholders is understand the provisions of that section. This is due to the fact that the draft of Local Plan does not take into account the provisions of Section 18 (3) and there are no specific procedures in preparing a Local Plan as a guideline. Accordingly, most Local Plans are in conflict with the condition of land in the land title that causes land-use conflicts.

The Local Authority is responsible for ensuring that the development application complies with the local plan without ignoring the condition of land specified in the title. However, in the event of a land-use conflict between land condition and land-use zoning, decisions made by the Local Planning Authority are based on legal priorities and discretion (considerations) (Hamzah, M.F, 2020). Most of the appeal cases brought to the appeal board shows that development approval from the Local Planning Authority emphasises on the compliance of proposed development with the Local Plan even though the application of “variation of condition” is approved. Although, the NLC 1965 has stated that the ownership of the land belongs to the landowner but the development on that land is tied to a statutory plan at the Local Planning Authorities and State Authorities (Syazlina, 2019). The provisions

of subsection 22 (3) Act 172 clarify the statement that the Local Authority may grant or refuse to grant Planning Permission and its consideration is subject to gazetted Local Plan. Local Plan has become a legal priority for the Local Planning Authority because there is an argument on the enactment of the NLC 1965 that was made before the provision of comprehensive land planning and development. Before the Act 172 was enacted, the powers and relationships between the authorities regarding the development and land use were not clearly set out (Nooi, P. S., 1989). Therefore, the situation for granting or determining the category of land or the condition of the land in the title is determined according to the professional opinion of the land administrator or the State Authority as well as the will of the owner (Hamzah, M.F, 2020). After the year 1976, when the Town and Country Planning Act (Act 172) and the relevant planning laws were enacted, a resolution of land use planning and comprehensive planning rules became a cross-reference with the main legislation of the NLC 1965. The Local Authority is responsible for determining land-use plans at the local level based on the highest and best use of the specific land.

The NLC 1965 and the Act 172 govern and define land use parameters and development control systems in Peninsular Malaysia. Wah, LH (1993) stated that two separate laws regarding land use and development control that run by separate bodies have created a conflict of interest that leads to a land-use conflict. The conflict arising from the unclear legislation implementation is seen to undermine the utility of law and planning as a tool for land use (Wah, L. H, 1993).

V. CONCLUSION

The NLC 1965 and the Act 172 is enacted to regulate land use and physical development for the public interest. The enactment of both legislations permitted under the Federal Constitution serves a development guideline and planning mechanism. However, overlapping in the legislation provision has caused land-use conflict. Landowners certainly want the land they own to be developed, and as a Local Authority, it is bound by legislation and guidelines applicable from the land-use planning perspective. It should be noted that the purpose of the legislation is to serve as a guide to decision-makers (local authority) who also serve as facilitators of land development. In the scenario where the decision-maker calls out the landowner to optimising their land but at the same time rejects their land development application through Planning Permission caused the landowners to go into a dilemma. This reflects as a motivation failure in the land development cycle. Land-use conflicts in the development process involving conditions of land that contradict with the local plan, portrays the weakness of governance. Thus, relevant legislation and guidelines need to be clearly defined and consistent with the application of the main legislation.

REFERENCES

1. Abdullahi, S., & Pradhan, B. (2016). Sustainable brownfields land use change modeling using GIS-Based weights-of-evidence approach. *Applied spatial analysis and policy*, 9(1), 21-38.
2. Abidin, Z., Zuhlilmi, Z., & Ta Wee, S. (2013). Isu konflik tanah adat bagi Orang Asli di Malaysia.
3. Ahmad, N. S. B. N., & Mustafa, F. B. (2019). Analisis perubahan guna tanah Negeri Sembilan melalui aplikasi Sistem Maklumat Geografi (GIS). *Geografia-Malaysian Journal of Society and Space*, 15(1).
4. Buang, S. (2008). *Malaysian law on housing development*. Sweet & Maxwell Asia.

5. Chun, J. Hai@ Ibrahim, & Nor Fadzlina Nawi.(2012). Principles of Public Administration: Malaysian Perspectives.
6. Davidoff, P., & Reiner, T. A. (1962). A choice theory of planning. *Journal of the American Institute of Planners*,28(2), 103-115.
7. de Roo, G. (2017). Integrating city planning and environmental improvement: Practicable strategies for sustainable urban development. Routledge.
8. Denyer-Green, B. P. D. (1987). The Act and its implications. In Proc. Seminar on The Reservoir Act 1975—The Surveyor's Role.
9. Dale, P., & McLaughlin, J. (2000). Land administration. Oxford University Press
10. Director of Land and Mines Office (2007), One Stop Centre Procedure. Web Access <https://www.jkptg.gov.my/>. Access on 10 March 2020
11. Federal Constitution of Malaysia
12. Glasson, J. (2017). Contemporary Issues in Regional Planning. Routledge.
13. Healey, P., & Barrett, S. M. (1990). Structure and agency in land and property development processes: some ideas for research. *Urban Studies*, 27(1), 89-103.
14. Habitat, U. N. (2009). Planning sustainable cities: global report on human settlements 2009. Earthscan, London.
15. Hamzah, M.F, (2020). Land Use Dari Perspektif Perancangan . Coffee Talk Siri 1/2020. Pejabat Tanah dan Galian Negeri Johor.
16. Irdyati Abdul Air (2005) Kadar Ketersediaan Tanah Untuk Pembangunan Perumahan Di Kawasan Bandar Menurut Rancangan Tempatan Daerah: Keberkesanannya Dari Perspektif Pemaju Tesis Sarjana UTM
17. Ishak, O. (1979).Hubungan antara undang-undang Islam dengan undang-undang adat. Dewan Bahasa dan Pustaka.
18. INSTUN (2007) Peranan Pihak Berkuasa Perancang Tempatan Dalam Pembangunan Tanah Kursus Perundangan Dan Pentadbiran Tanah
19. Idris, N. A. (2015). Tindakan pihak berkuasa negeri dan pihak berkuasa tempatan terhadap kes pelanggaran syarat guna \Tanah (Doctoral dissertation, Universiti Teknologi Malaysia).
20. Nooi, P. S. (1989). Sistem kerajaan tempatan di Malaysia. Kuala Lumpur: Dewan Bahasa dan Pustaka National Land Code 1965 (Act 56)
21. PLAN Malaysia (2019), Local Plan. Web Access <http://www.planmalaysia.gov.my/>. Access on 10 March 2020.
22. Marzukhi, M. A., Omar, D., & Leh, O. L. H. (2012). Re-appraising the framework of planning and land law as an instrument for sustainable land development in Malaysia. *Procedia-Social and Behavioral Sciences*, 68, 767-774.
23. Masoudi, M., Jokar, P., & Sadeghi, M. (2017). Land use planning using a quantitative model and Geographic Information System (GIS) in Darab County, Iran. *Journal of Materials and Environmental Sciences*, 8, 2975-2985.
24. Muhammad Serji, R. (2016). Pemakaian Islam dan Adat Melayu dalam Sistem Torrens di Malaysia. *Al-Irsyad: Journal of Islamic and Contemporary Issues*, 13-26
25. Shamsuddin, J. (1981). Asas Sains Tanah. Dewan Bahasa dan Pustaka, Kuala Lumpur.

26. Suliman S et al, 2019 (Jurnal Land JKPTG Vol 1, 2019)
27. Sairin, E. B. A. (2016). Percanggahan Kategori Gunatanah Di Daerah, K. L.
28. Syazlina Bahari (2019) Mekanisme Pelaksanaan Rancangan Tempatan Pengubahan Pihak Berkuasa Perancang Tempatan Negeri Perak. Tesis Sarjana, Fakulti Alam Bina dan Ukur, Universiti Teknologi Malaysia
29. Town and Country Planning Act 1976 (Act 172)
30. Wong Kee Kho (1996) The Effectiveness of Development Control : A Case Study of Kuching City, Sarawak Unpublished Thesis, Faculty of Housing Building and Plannig., Universiti Sains Malaysia.
31. Wah, L. H. (1993). Ideology and Conflict in the Systems of Control of Use and Development of Land in Malaysia and Scotland (Doctoral dissertation, Aberdeen University).
32. Yusoff, S. M., Yusof, F., & Arshad, A. F. (2014). An analysis of local plan for development control at local planning level in the state of Selangor. *Procedia-Social and Behavioral Sciences*, 153, 574-584.
33. *Visamaya Sdn Bhd & Anor V Majlis Perbandaran Subang Jaya* (2015)
34. *Ordinary Company Sdn Bhd V Majlis Bandaraya Petaling Jaya* (2012).
35. *Prominent Land Sdn Bhd V Majlis Perbandaran Subang Jaya (MPSJ)* (2010)
36. *Beemer Sdn Bhd V Majlis Bandaraya Petaling Jaya* (2014)