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BUILDING PERMITS (IMB) AND LOCAL INVESTMENT

KEY PROBLEMS AND RECOMMENDATIONS

JANUARY 2009

THIS PUBLICATION WAS PRODUCED FOR REVIEW BY THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT. IT WAS PREPARED BY **DAI**

BUILDING PERMITS (IMB) AND LOCAL INVESTMENT

KEY PROBLEMS AND RECOMMENDATIONS

JANUARY 2009 — DONALD ELLIOTT

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TABLE OF CONTENTS

1. INTRODUCTION.....	4
A. BACKGROUND TO UNDERLYING ISSUE	4
B. OVERVIEW OF BUILDING AND LAND USE REGULATIONS.....	4
2. COMMON PROBLEM WITH THESE TYPES OF REGULATIONS.....	7
A. REGULATIONS REVIEWED	7
B. LIMITED COVERAGE OF LOCAL IMB REGULATIONS	7
C. PUBLIC PARTICIPATION	8
D. USER FEES (RETRIBUSI)	9
1. GENERAL FEE STRUCTURE	9
2. APPARENT OVERCHARGING	10
3. REGIONAL COMPARISON.....	10
E. LACK OF STANDARDS.....	11
F. TIME REQUIRED	12
G. THIRD-PARTY MIDDLEMEN REQUIRED.....	13
H. COMBINED EFFECT OF MULTIPLE PERMIT REQUIREMENTS.....	14
3. RECOMMENDATIONS FOR LOCAL AND NATIONAL GOVERNMENT.....	17
A. SUBSTANTIVE RECOMMENDATION FOR REFORM	17
1. USER FEES (RETRIBUSI).....	17
2. LACK OF STANDARDS	17
3. TIME REQUIRED	18
4. THIRD-PARTY MIDDLEMEN REQUIRED.....	19
5. COMBINED EFFECT OF MULTIPLE PERMIT REQUIREMENTS.....	19
B. STRATEGIES FOR REFORM.....	19
1. LOCAL TEMPLATE REGULATION ON IMB.....	19
2. LOCAL TEMPLATE REGULATION ON THE IZIN LOKASI, IPPT, HO, UKL/UPL, AMDAL, IMB REGULATION CLUSTER	20
3. ADVOCACY CAMPAIGN ON BEST REGULATORY PRACTICES	21
4. MINISTERIAL REGULATION	21
4. BIBLIOGRAPHY OF PUBLICATIONS/RESOURCES.....	23
A. LAWS AND REGULATIONS REVIEWED	23
B. OTHER MATERIALS REVIEWED.....	23
ATTACHMENT 1: DON ELLIOT PRESENTATION OF DECEMBER 5, 2008	24

1. INTRODUCTION

A. BACKGROUND TO UNDERLYING ISSUE

All modern economies regulate the use of land and the construction of buildings for several reasons. The first and most obvious is public health and safety. Over 100 years ago municipal governments in the United States and Europe began regulating building safety by requiring fire-resistant materials, fire escape stairways, and the separation of buildings to prevent the spread of fire. As iron frame construction began to allow for taller buildings, cities also adopted technical standards to ensure that the iron structure would support the weight of the building and would not collapse when exposed to predictable seismic vibrations. These building-oriented regulations were then extended to require room configurations that allowed light and air to reach the residents and bathroom and plumbing facilities to ensure basic sanitation. While these regulations at first covered only residential buildings, they were in time extended to cover commercial and then industrial buildings, and today no one seriously questions the regulation of building safety as a legitimate function of either local or central governments.

The second reason for land use and building regulations is to reduce the impacts of very different types of activities located adjacent to one another. The classic example was industry located adjacent to wealthy housing – the residents complained of industrial smoke and smells and created political pressure that eventually resulted in regulations to keep these types of uses apart from each other. While planners like to talk in terms of “externalities” (i.e., impacts of a land use that are not contained on the owners’ parcel but instead affect the neighbors), the underlying reality is that many land use regulations are driven by politics. Throughout the world, residential neighborhoods try to protect themselves against negative influences that would make their neighborhoods noisier, less safe, or more crowded with people or cars. In democracies, they tend to elect officials who will protect their neighborhoods, and the standard way to do that is through land use regulations. The growth of decentralized government throughout the world has strengthened political pressure to protect residential areas and the use of land use regulations to do so.

Private landowners and investors sometimes maintain that land use and building regulations restrict private market activity (i.e., the market might use the land in other ways or build other types of buildings if not for the regulation). On the other hand, planners and elected officials maintain: (1) that land use regulations actually stabilize land markets by sending clear signals about where different types of investment are appropriate, and prevent one investor from acting in ways that undermine another investor’s activities; and (2) that public health and safety should not be negotiable. All of these claims are true in some instances, and most developed countries spend considerable time and energy appropriately balancing their regulations to optimize effectiveness while minimizing impact on economic growth.

B. OVERVIEW OF BUILDING AND LAND USE REGULATIONS

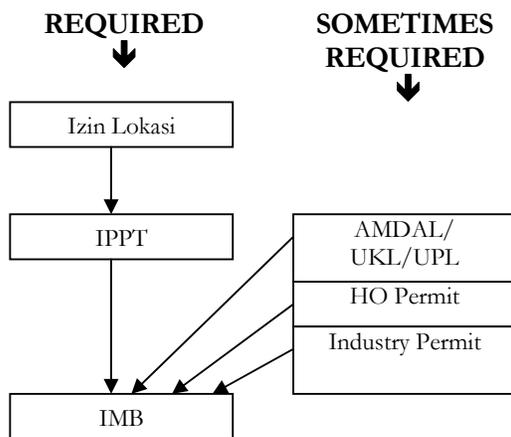
Indonesia has three basic regulations that address these concerns about appropriate land use and building design:

- Location Permit (Izin Lokasi)
- Advice Planning Permit (IPPT)
- Building Permit (IMB)

In practice, however, there are at least three other groups of regulations that often come into play for investors considering construction of new facilities (or expansion of existing facilities) in Indonesia:

- Environmental Permits and Reviews (AMDAL and UKL/UPL)
- Disturbance Permit (HO Permit, or Hinderordonnantie)
- Industry Permits

The conceptual relationship between these six regulations is shown below.



Indonesia has recently passed legislation to begin the process of creating a land use zoning system (Law 26 of 2007 on Laying Out). While the country’s move towards a land use zoning system will be a significant step forward for both local governments and investors, it may take several years before the national regulations, local regulations, and local maps are developed to implement zoning. Even when zoning is in place, it is likely that the Building Permit legislation will need to remain in place, because the act on Laying Out does not address technical standards on building construction safety. Based on experience in other countries, environmental and industry permits may also need to stay in place for certain types of industries and developments that create significant risks or impacts. There is hope, however, that a successful zoning system can replace several of the other regulatory tools listed above, and that the resulting system will be more streamlined and transparent than the current system.

In the interim before zoning is fully implemented, the six regulations listed above create a confusing mix of rules that cover potentially overlapping issues. More importantly for potential investors, they create the need to interact with local government officials at several different points in the investment process, each of which can become a source of delay or requests for inappropriate payments in order to expedite government action. SENADA’s prior research as part of the RegMap process has documented that the

GLOSSARY OF KEY TERMS

In order to understand Indonesia’s building and land use regulatory system, it is first necessary to identify several key terms used in regulatory discussions:

AMDAL: An “Environmental Impact Analysis” required for larger developments, which may require mitigation or offsets for environmental impact, issued by the central government.

HO (Hinderordonnantie) Permit: A “Disturbance Permit” issued by the local government authorizing activities that have economic, social, environmental, or community psychology impacts, often after exacting some form of compensation or offset for those impacts.

IMB Permit: A “Building Permit” issued by the local government authorizing the construction of a specific building in a specific location on a specific parcel of land in the city or regency.

Industry Permit: A permit issued by the central government authorizing the conduct of a specific industry that involves heavy impacts or the use of potentially dangerous materials or procedures.

IPPT: An “Advice Planning” or “Land Use” certificate issued by the local government confirming the planning parameters (i.e., building height coefficient, lot coverage coefficient, setbacks) applicable to a parcel of a property.

Izin Lokasi: A certificate issued by local government confirming the general planning designation (i.e., “commercial”) of the area where a parcel of land is located.

UKL/UPL: An “Environmental Review” required of projects or activities smaller than those requiring an AMDAL (Environmental Impact Analysis). Unlike AMDAL, a UKL/UPL is not a formal certificate, and does not include conditions requiring the applicant to mitigate impacts – it simply requires that a narrower list of environmental impacts be considered in the decision-making process.

HO permit and IMB permit are in fact among those that cause the most delay or expense for investors, as shown in the table below.

Type of Regulation	Number In RegMAP 1st Short List
IMB Permits	21
HO Permits	19
Land Use/Zoning	3
Liquid Waste	17
Underground water	6
Pollution Control	4
Industry	3

Although the primary focus of this assignment has been the review of the Building Permit (IMB) procedures is clear that significant improvements in the economic climate for investors will require broader attention to the interrelationship between all six of these regulations. The remainder of this report has been drafted with that in mind.

2. COMMON PROBLEMS WITH THESE TYPES OF REGULATIONS

A. REGULATIONS REVIEWED

In the course of this research, the following land use and building regulations were reviewed:

- IMB National Regulations
 - Law 28 of 2002
 - Regulation 36 of 2005
- IMB Local Regulations
 - Bojonegoro Regency (Regulation 09 of 2005)
 - Cimahi Municipality (Regulation 76 of 2003)
 - Pekalongan Municipality (Regulation 19 of 2000)
 - Sukoharjo Regency (Regulation 17 of 2003)
 - Tangerang Regency (Regulation 10 of 2006)
- IPPT (Advice Planning)
 - Bandung Municipality (Regulation 04 of 2002)
 - Bekasi Municipality (Regulation 74 of 1999)
 - Sleman Regency (Regulation 11 of 2001)
- Laying Out
 - Law 26 of 2007

These regulations were drawn from a selection of local planning regulations contained in the first filter of the RegMAP process. In making the selection from this short list, care was taken to draw local regulations from a variety of regions across Java (i.e., from JABATOBK, West Java, Central Java and East Java). In addition, documents related to the HO (Hinderordinnantie) permit were reviewed, and those documents are listed in Section 2 of this report.

B. LIMITED COVERAGE OF LOCAL IMB REGULATIONS

Although Law 28 of 2002 addresses a wide range of issues related to regulation of building permits, almost all of the local regulations only addressed the calculation and payment of fees for the issuance of IMBs by local government. More specifically, the national law on building permits addresses the following topics:

- Function of buildings
- Requirements of buildings (including building layout, use, intensity, architecture, control of environmental impacts, reliability, safety, health, convenience, and access)
- Construction of buildings (including conservation, demolition, and rights and obligations of owners)
- Public role
- Nurture (i.e., technical assistance, training, and education)
- Sanctions
- Transitional provisions

This list is somewhat similar to topics that would be covered in a building permit regulation in developed economies; the primary focus would be building construction, health, safety, reliability, and access, with a secondary focus on architecture and environmental impact.

In contrast to the broad coverage of Law 28 of 2002, the local regulations of Bojonegoro Regency, Pekalongan Municipality, Sukoharjo Municipality, Bandung Municipality, and Bekasi Municipality addressed only the payment of fees (*retribusi*). The regulations of Tangerang Regency and Sleman Regency are slightly broader in that they address issues of permit administration (application requirements, sequence, preliminary/temporary permit, and relation to some other permits) as well as fees. However, none of these regulations address substantive requirements for building construction or safety or the size or location of the building on its site. Interestingly, several of the regulations define technical terms required for building regulation — such as building coverage ratio (KDB), floor area ratio (KLB), and building height ratio (KKB) — but they do not include substantive regulations related to any of those definitions.

The exception to this practice is the IMB regulation for Cimahi Municipality, which went beyond provisions on calculation and collection of *retribusi* to address environment and building architecture, base coefficients, fencing, environment/open space, public areas, relation to AMDAL, building above ground and below the ground, water absorption, height, airport safety zones, reconstruction after fire, boundary lines, and how to address areas for which there is no detailed city plan in place. In other words, the Cimahi regulation addresses many more (but not all) of the technical areas where regulation is authorized by Law 28 of 2002. This regulatory focus on local government fees creates two significant causes for concern.

- First and most importantly, the failure to establish or cross-reference technical standards for building construction, safety, or site design means that potential investors do not know how their projects need to be designed in order to receive a building permit.
- The second concern is that local governments may be focusing on calculation, payment, and enforcement of fees (*retribusi*) as the primary function of local regulations in this area (rather than the administration of substantive building regulations). In fact, some regulations may be aimed at generating local revenue beyond that needed to cover local costs of administering the various permits.

In addition, these local regulations raise concerns related to public participation, the time required to obtain a building permit, and the need for third-party middlemen in the process. Each of these concerns is addressed below.

C. PUBLIC PARTICIPATION

The discussion of the HO permit (or *Hinderordonnantie*) in the separate report on HO of this report raises serious concerns about the existing approach to public participation in Indonesia's local governments. It appears that the same public participation practice may be followed during IMB application and review, and if so then the comments in the HO report would apply to the IMB process as well.

It is unclear whether these requirements are being applied at the IMB stage, or at the IPPT stage, or at the HO permit stage, though most interviewees agreed that it is generally required only once for each proposed development. Please refer to the HO report for a detailed discussion of concerns with the public participation process.

D. USER FEES (RETRIBUSI)

As noted above, most of the reviewed IMB (and IPPT) regulations focus on calculation of the user fees (retribusi) to be paid by the applicant/investor to obtain the permit. These provisions raise two major concerns, both of which are discussed below.

- First, it appears that the calculated fees may in fact be higher than the local governments' costs of reviewing building plans and issuing the permits.
- Second, the fees themselves appear to be higher than those imposed in several other Southeast Asian countries, which may put Indonesia at a disadvantage in attracting investment.

1. **General Fee Structure.** Most of the reviewed regulations include: (1) a "base rate" for retribusi (usually per square meter of building area); (2) detailed tables and charts establishing "factors" by which the base rate is multiplied in order to reflect the design, structure, size, or opulence of the building being reviewed; and (3) various "add-on" fees for plan review or permit issuance. This approach is more objective and transparent than an unstated or "negotiable" fee. In some cases, applicants will be able to calculate or approximate the fee that may be payable for their proposed building (though that would be difficult for larger or more complex buildings).

Although highly technical in appearance, however, it is difficult to tell whether these retribusi calculations in fact reflect the local governments' costs in reviewing site and building plans or issuing IMB permits, because the calculation of the "base rates" is not documented. It is not possible to evaluate where the base rate came from or how it relates to actual local government permitting costs. As an example, Pakalongan Municipality uses a base rate of Rp 225,000 for general building construction, but it is not possible to know how that figure was calculated. These base rates are then multiplied by a series of factors, which in the case of Pakalongan Municipality include:

- Road Category Coefficient (which ranges from .75 for buildings on local roads to 2.00 for buildings on main roads);
- Building Status Coefficient (which ranges from 1.00 for a government building to 1.50 for a private building);
- Building Story Coefficient (which ranges from 1.00 for a one-story building to .60 for a five-story building);
- Building Use Coefficient (which ranges from 1.40 for a commercial building to .60 for a utility structure); and
- Building Category Coefficient (which ranges from 1.00 for a permanent building to .75 for a semi-permanent or temporary building).

Finally, there are two special rules for applicants in Pakalongan Municipality. Changes of building use are subject to a fee of 30 percent of the original IMB charge, and demolition of the building is subject to a fee of Rp 500 per square meter.

Although details vary between different municipal and regency regulations, this fee structure is fairly common. The logic behind some of the coefficients is sometimes unclear however. For example, it is not clear why review of plans for the same building would cost the local government more than twice as much if the building is located on a main road as opposed to a local road. In fact, these factors may reflect local government opinions as to what kinds of buildings "should" pay more for governmental services (i.e., important buildings located on

main roads or commercial buildings that will be earning revenue for their owners). This in itself is not unusual – local governments throughout the world often adjust their charges to lower fees on some types of favored development (usually including small projects, single family housing and government buildings) and raise them on other types of projects (usually larger, revenue-producing projects). However, it is relatively unusual to see these adjustments in a building permit fee, since the government’s costs of reviewing site and building plans does not vary depending on whether the building is for a favored type of development.

2. Apparent Overcharging. Some local governments appear to be imposing retribusi beyond their costs of reviewing and issuing IMB permits. Examples include the following:

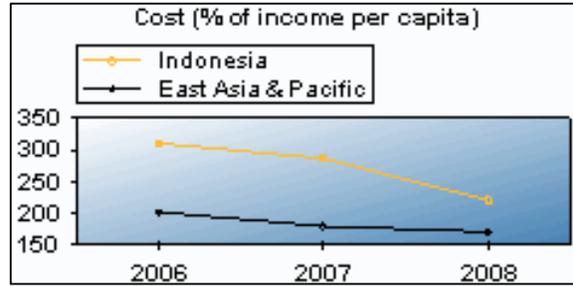
- The Bojonegoro regulation provides that buildings constructed before the regulation was adopted can get a “write-off” or “normalization” of the IMB fee otherwise due upon payment of retribusi based on the age of the building. Buildings constructed before 1970 will be charged 30 percent of the IMB fee, while those built after 2001 will be charged the full fee. Since these buildings are already built and occupied, it is not clear what plans the local government will be reviewing (if any) or what review or inspection services the local government will be providing in return for these fees.
- The Cimahi Municipality regulation requires payment of additional fees for drawing certification, drawing examination, construction supervision, and IMB Board supplies in addition to the base rates adjusted by building factors. This may be appropriate if none of those four costs are included in the base rate calculations, but in many local governments they are included in standard building permit rates. More importantly, the itemization of these four “extra” costs raises the question: If drawing examination and certification, building supervision, and supplies are not included in the base rate, then what do the base rates include?

3. Regional Comparison. Because almost all local governments charge building permit fees, investors are accustomed to paying those fees and in fact do not usually question them unless they appear excessive. For many investors the primary question is whether the combination of fees they will need to pay to an Indonesian local government substantially exceeds what they would pay to construct the same facility in another jurisdiction or another country. In order to evaluate whether this is the case, data from the World Bank’s *Doing Business 2009* report was reviewed.

The *Doing Business* reports do not focus on building permits in particular but on the total of all fees paid to local government between the time a new facility is proposed and the time the new building is completed and occupied by employees. Rather than calculating the fees in US dollars or Indonesian rupiahs, these reports summarize fee costs in terms of a percentage of income per capita in each country. Data for Indonesia is summarized in the following chart, which is based on a standardized warehouse construction project.¹

¹ Despite its title, this report was issued in 2008. For purposes of this study, the World Bank defines the East Asia and Pacific region to include Laos, Malaysia, the Philippines, Singapore, Thailand, and Timor-Leste, among others. For further information on these reports or the East Asia and Pacific region, see <http://www.doingbusiness.org/Documents/CountryProfiles/IDN.pdf>.

This chart shows that the total costs of local government permitting fell from an index of 310.5 to 221.1 between 2006 and 2008, which is a very significant improvement for investors. The chart also shows that Indonesia's local government permitting fee index is still higher than the average for the East Asia and Pacific region, where the average index has fallen from around 200 to 170 during the same period. More specifically, the World Bank index for Laos is 172.1, and the index for the Philippines is 90.1 – suggesting that their local governments are able to review and issue planning and construction related permits at a lower indexed cost than Indonesia. Although it is impossible to tell exactly where the extra costs are entering Indonesia's system, the fact that many investors single out the HO and IMB permits as regulations of concern suggests that IMB fees may be at least partly to blame.



E. LACK OF STANDARDS

While the level of user fees (retribusi) is of concern to investors, it is likely that investor concern with the HO and IMB permit procedures is also due to the ambiguities and lack of standards in those local government procedures. The development cost for a new facility is often closely related to what construction and building safety standards will be applied, and in most of the reviewed regulations those standards are not clear. To recap, the national law grants Indonesia's local governments authority to regulate:

- Building layout (use, intensity, architecture, and environmental impacts)
- Coefficients of building coverage, total building area, and height
- Free distances (setbacks)
- Building appearance, harmony, and compatibility with the environment
- Function of rooms and indoor spaces
- Reliability of the building
- Capacity of the building to support load and prevent fire and damage from lightning
- Ventilation, lighting, sanitation, vibration, noise
- Access for the handicapped

Most of the regulations reviewed had no standards in place to address these topics, and only Cimahi Municipality's regulation had standards addressing some of them. This would not be a problem if Indonesia's IMB system incorporated cross-references to acknowledge standards in these areas – for example, if it required compliance with an accepted version of the International Building Code and stated that local governments would review projects based on those standards. That does not appear to be the case, however. While Indonesia has developed national standards (SNI) for some technical aspects of construction, local government officials are not required to apply those standards in their conduct of local government IMB permitting. Those standards are often treated as advisory only, and in case of conflict between SNI standards and local engineering or planning practice, reviews may be conducted (and changes in the project may be required) based on local practice.

In addition, the lack of local building and site planning standards would be less troubling if there were cross-references to detailed city plans that had actually been adopted. For example, the lack of a local standard on free distances (the distance by which a building must be set back from a property boundary, neighboring building, river, or road) would not be a significant issue if a detailed city plan

for the area had been adopted and that plan spelled out specific free distances for the site. The ability to refer to detailed plans and regulations for the site is an international best practice. The investor's architect could then refer to the plan, design the project accordingly, and submit an IMB application with confidence that the free distances would be accepted. However, many of Indonesia's local governments have only begun to develop detailed city plans from their general city plans. The existing general city plans do not offer site- or block-specific information, so when an IMB application is received the city staff must either find an existing document that spells out the standards for the area or develop them while the application is pending.

Without clear technical site and building standards or detailed city plans for each area of the city, investors may need to engage in significant negotiation with local government staff about what is required, they may face requests to alter submitted building plans even if they meet international norms and requirements, or they may be asked to pay for studies needed to establish those standards for their own sites. It appears that this is happening, and that investors are sometimes asked to alter site and building plans to meet local requests even if those requests would result in a development that does not meet accepted national or international standards.

While it is important for investors to have clear and objective standards in place, it is also important to have a process in place to vary those standards. International experience shows that a significant percentage of development applications require "variances" to the adopted planning, building, or site development standards in order to make the proposed development meet the needs of the investor. It appears that both Law 28 of 2002 and the related local regulations are almost completely silent as to how an investor or builder would obtain variances to adopted local regulations or what standards would apply to requests for variations. Most of the reviewed local regulations simply indicate that the Mayor or Regent can offer a "reduction," "exemption," "additional regulations," or a more "lenient" requirement. While those provisions offer a high degree of flexibility, they may not offer the level of predictability that investors require, because they put the applicant's development at the mercy of the mayor or regent without any standards to govern their actions.

Internationally, land use and building regulations generally contain procedures where applicants can apply for adjustments and variations to adopted standards. Those requests are heard by a board or committee with special expertise in the area (for example, a "building permit variance board" or a "flood plain development review board"), and those groups are required to make decisions based on previously adopted, objective criteria (for example, an evaluation of any additional risks to public health or safety). Once again, in the absence of adopted standards or procedures, investors are left wondering whether it will take additional time or money to get approval for changes from the local government, and whether those approvals will in fact be granted.

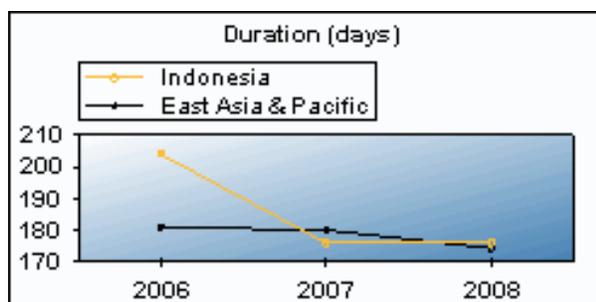
F. TIME REQUIRED

In addition to the cost and predictability of obtaining an IMB permit, investors are often concerned with the time required to get the permit, because from a business perspective "time is money." During the time when the investor is navigating the IMB process, it may be incurring costs to hold the land available for development (i.e., payments to a bank on a land loan while the land is not producing any revenue). In addition, most new facilities are proposed to enable the investor to capture a market opportunity before its competition captures that same opportunity, and each day of the permitting process represents a risk that the competition may get its facility under construction and in operation first.

Indonesian law requires that local governments issue most permits within 14 days of receiving a complete application. Most local government officials interviewed indicated that they issue IMB permits within 14 days of receiving a complete application from the investor. However, local governments are

apparently meeting this requirement by refusing to accept applications until they are perfectly poised for approval. For example, if an investor attempts to file an application that does not comply with local engineering practice, the city refuses to accept the application until the issue is resolved, and negotiations between the owner’s engineers and city staff take place outside the 14 day requirement. This is a typical local government reaction to a mandated time schedule, and one that is also seen in North America and Europe. When governments are forced to perform services efficiently, they often push all non-governmental parts of the activity onto the private sector and require that they be performed outside the mandated time-frame. Because of this behavior, the relevant question for investors is not “how long does it take to get an IMB permit issued?” but “how long will it be between the time I try to submit my IMB application and when an IMB permit is actually issued?”

Since local governments do not appear to keep time records on this broader question, data from the World Bank’s *Doing Business 2009* report was again reviewed. That study does not isolate time required for building permits, but aggregates the time required for all interactions with local government between the time a construction project is proposed and the time it is completed and occupied. That period includes not only pre-IMB periods (for preliminary land use approvals, for examples) but also post-IMB periods (for construction supervision and final inspection) for a standardized warehouse construction project. According to this report, in Indonesia the total time required for this process has fallen from 204 days to 176 days over the past two years, which is near the average for East Asia. These trends are illustrated in the chart to the right.



For purposes of comparison, completion of the same warehouse project in Malaysia would require 261 days, in the Philippines it would take 203 days, while the figures for Laos and Thailand are 172 days and 156 days respectively. This time performance is perhaps reflected in the World Bank’s documentation of the number of steps involved in these governmental functions. *Doing Business 2009* documents 18 steps in Indonesia’s process, which is close to the average of 16 for the East Asia and Pacific Region.

In short, Indonesia’s local governments may be charging higher IMB user fees than nearby countries, and the lack of standards in local regulations may introduce significant unpredictability for investors, but it appears that the country’s local governments are providing construction approval and supervision services about as quickly as (or quicker than) most of their regional competition.

The sections above have evaluated Indonesia’s local government IMB regulations from the investor’s primary perspective of money, predictability, and time. These reviews have highlighted two secondary issues related to the IMB process:

- The need for third-party middlemen to navigate the process
- The combined effects of multiple required permits (besides IMB) on Indonesia’s investment climate

Each of those two secondary issues is discussed below.

G. THIRD-PARTY MIDDLEMEN REQUIRED

It appears that investors often use third-party “middlemen” to navigate the IMB permitting process in Indonesia’s local governments. In this discussion it is important to draw a distinction between “consultants” and “middlemen.” Investors throughout the world often use architectural, engineering,

design, or environmental consultants to design projects that will meet or exceed governmental approval standards. This is appropriate and reflects an efficient use of economic resources. Investors and building developers have different skills than engineers and architects and it would be inefficient for them to master those specialized skills. Instead, they hire engineers and architects to provide the technical skills they lack to design their development sites and buildings.

In most communities, some architectural and engineering firms invest more time and energy in learning how to meet the city's standards than their competitors, and they become informally preferred consultants. City staff know that projects designed by these firms generally meet the local government standards on the first try and their projects get through the permitting process faster. If asked by investors to recommend a consultant, these preferred consultants may be mentioned, but there is no financial or employment relationship between the city and the consultant, and the consultant is not given any advantage over its competitors in the review process.

In contrast, the term "middleman" refers to an individual or firm whose primary role is to facilitate the IMB review and permitting process, rather than designing the site or the building in question. The need to employ a middleman often suggests that the local government permitting process is not objective or transparent, that reviewers are not acting fairly with respect to all applicants, or that the system is overly complex. Middlemen cost money, and most investors would prefer not to pay them unless they reduce project permitting time or costs or improve predictability by a value larger than their fee. The use of middlemen in Indonesia's local permitting process suggests that a more transparent, objective, and predictable process is needed.

As noted in the HO report, middlemen are sometimes used to conduct the process of obtaining the required consent from abutting property owners. In addition, investors applying for IMB permits are sometimes strongly urged to use "preferred" consultants in order to expedite the permitting process. Interviewees stated that professional architectural or engineering firms sometimes affiliate with a middleman firm so that their plans and drawings are less likely to be questioned or revised in the local review process. In some cases the reason for the recommendation is that "they know how to draw it the way we like to see it drawn," even though the resulting plan might be less competent or less compliant with established safety standards than the applicant's original submittal. More seriously, in some cases, the preferred consultant may be owned, financially controlled by, or financially tied to local government officials, and city staff may be employed by the preferred consultant to perform some of the work. Finally, some comments focused on the fact that middlemen are sometimes used because they can negotiate a single retribusi payment in a process where multiple permits are required and multiple user fees might otherwise be required.

While it is impossible to know whether these statements are correct or reflect common practice in Indonesia's local governments, they clearly suggest the need for a more objective and transparent permit review system, and for a system that effectively limits user charges to the actual costs of government services.

H. COMBINED EFFECT OF MULTIPLE PERMIT REQUIREMENTS

Not surprisingly, there is considerable ambiguity about how the six planning and building permits listed on page 2 interact. First, there is ambiguity about the boundaries between the scope of various permit reviews (for example, what types of environmental impacts are to be reviewed through AMDAL or UKL/UPL, as opposed to being reviewed under the environment language in the HO or IMB permit regulations). This opens up the possibility that investors will need to prepare studies or present evidence on the same topic to more than one level of government, or to more than one department, or at more than one point in the permitting process.

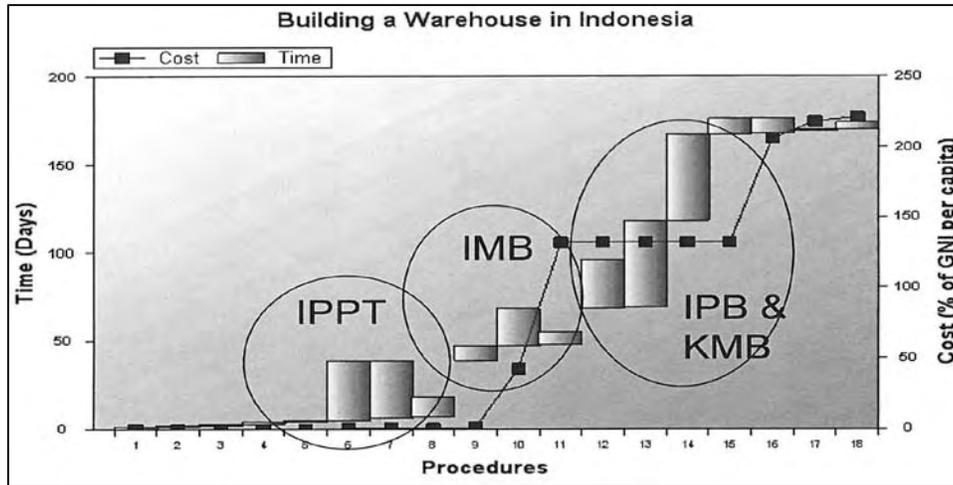
Second, it is unclear the order in which various permits need to be obtained, or whether the issuance of one permit can simplify the issuance of a later permit. For example, major investment projects may require AMDAL review, as well as an HO permit and an Industry permit, but it is not clear in what order those permits need to be obtained or how to present information in a way that will reduce the combined time required to obtain more than one permit.

Third, it is unclear why so many related permits are required. As discussed in the HO report, it appears that the HO permit can probably be eliminated once land use zoning and AMDAL reviews are in place. In the same vein, it is not clear why local governments need to require three certificates and approvals (Izin Lokasi, IPPT, and IMB) to cover the non-environmental impacts of even standard commercial or low-impact industrial projects. It appears that the very general level of land use information provided in Izin Lokasi (“your land is located in the commercial area as designated on the general city plan”) could be provided as a matter of public information without requiring the issuance of a city permit to that effect. That would match international best practices regarding this type of general zoning information. In many countries a property owner can request that the local government issue a certificate documenting the planning or regulatory zone in which the property is located, but the property owner is not required to obtain that certificate in order to apply for later development permits.

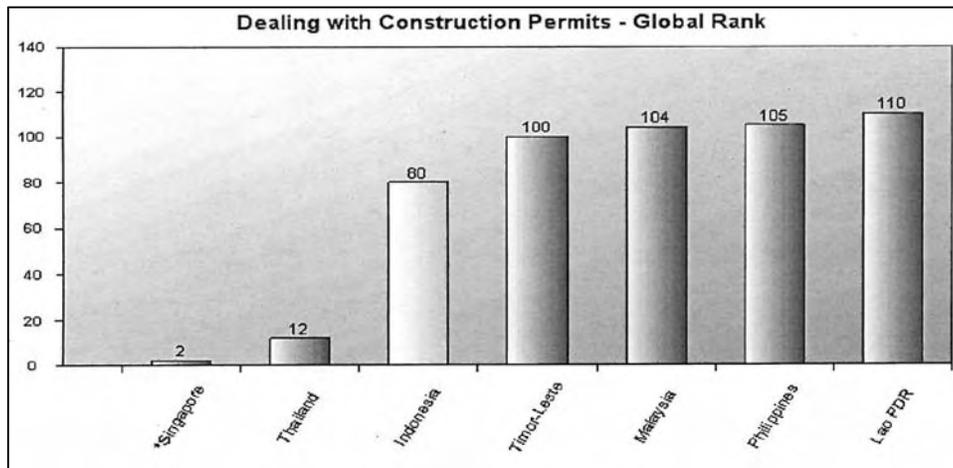
Fourth, the existence of six different development related permits multiplies the obligations for property owners and investors to interact with local government officials. The trend towards “one-stop shops” for local government permitting reflects a general belief that citizens, property owners, and investors should be able to conduct business with the government through interaction with only a small number of officials, and that the city is responsible for coordinating its internal procedures so that the potential for inconsistent information and overlapping reviews can be minimized. At best, the requirement for issuance of Izin Lokasi, IPPT, and IMB permits takes more time than a two-step process. In practice, it also creates opportunities for communication of inconsistent information. At worst, it creates multiple opportunities for deliberate delay and/or requests for improper payments to expedite the application.

For all of these reasons, it is difficult to evaluate the local government IMB process in isolation. Although respondents to the initial SENADA RegMap effort singled out the HO and IMB permits for special concern, they experience those procedures as part of a larger system. The HO and IMB permits appear to be the most visible and negotiable parts of the system and perhaps the ones where large retribusi payments are being required. The interaction and combined effects of these six permits are shown by the following timeline chart and regional ranking from the *Doing Business 2009* report for Indonesia, which has been annotated to match the terminology used in this report.

This chart on the next page illustrates that the time and expense associated with the IMB permit is only a portion of the total costs and time required to erect and occupy a typical warehouse project in Indonesia. There are also significant expenditures of time and money associated with obtaining the IPPT certificate (Advice Planning), probably because of the absence of detailed city plans. In addition, and perhaps more importantly, there are significant expenditures of time and money associated with post-IMB construction supervision. These are significant because at this point the project is under construction, the investor is committed, and delays affect the date on which the investment begins to produce revenue for the investor. Perhaps because the World Bank analysis is based on a fairly simple warehouse product, its analysis does not include additional time or expenses for the HO permit that might be required for more complex projects.



Finally, the overall ranking of construction permit efficiency on the right illustrates that it is the entire cluster of planning/building/industry regulations that affects Indonesia's competitiveness in the region. The combined effect of the six identified permit procedures results in a ranking of 80 (out of a possible 181). While that is slightly better than the rankings earned by Malaysia and the Philippines, it places Indonesia far behind Thailand and Singapore in construction-related permitting efficiency.



3. RECOMMENDATIONS FOR LOCAL AND NATIONAL GOVERNMENT RESPONSES

This section builds on the content of the analysis above to provide specific suggestions for reform. These recommendations are divided into two subsections. The first outlines specific substantive actions that could be taken to reform the IMB permitting system; the second outlines overall strategies for how SENADA could promote these changes through activities at the local or national level.

A. SUBSTANTIVE RECOMMENDATIONS FOR REFORM

1. **User Fees (Retribusi).** Possible over-charging of retribusi for the IMB permit (relative to actual government costs for reviewing plans and implementing the permit) could be addressed by a national regulation capping the amount of retribusi as a percentage of construction cost or per square meter of proposed floor space. Possible limiting language includes:

“The maximum retribusi for IMB, inclusive of all review and supervision fees, shall not exceed 5% of construction value, as documented in construction drawings and related cost estimates certified by the applicant and architect/engineer;”

or

“The maximum retribusi for IMB, inclusive of all review and supervision fees, shall not exceed Rp _____ per square meter of finished floor area.”

Internationally, many larger cities base building permit fees on estimated construction costs, because calculation of building costs is a fairly standardized procedure for which the city can institute spot checking based on national construction estimators. In addition, there are established and effective systems for penalizing applicants who understate actual building cost estimates. If either of those factors is missing in Indonesia (i.e., accurate national cost estimators and effective enforcement mechanisms for misstatements of costs), then the first alternative may not be workable.

If the second option is pursued, the maximum fee per square foot should be calculated based on a time-and-expense study for a medium-sized Indonesian municipality. That is, an independent firm should review the actual time required for local government review and approval, plus a pro-rated portion of the city’s general overhead expenses, and that analysis should be used to establish the maximum rate.

2. **Lack of Standards.** The lack of adopted technical standards for building construction can most easily be addressed by explicitly cross-referencing available SNI standards or accepted international standards and then requiring that local governments use those standards for review of IMB applications. Possible language includes the following:

“Where the [municipality/regency] has adopted a detailed city plan covering the applicant’s property, the application shall comply with the provisions of that plan, and the city shall approve portions of the application that comply with that plan.”

“Where the [municipality/regency] has not adopted technical building construction standards applicable to the proposed type of construction, the [municipality/regency] shall apply those

technical standards contained in the following SNI standards, and shall approve construction plans that comply with those standards.

- *[List of SNI Standards]*
- _____
- _____
- _____

If the standards listed above do not address one or more aspects of building construction, the [municipality/regency] shall apply those technical standards contained in the International Building Code (version _____) or the International Fire Code (version _____) applicable to that aspect of construction, and shall approve construction plans that comply with those standards.”

While this approach can address missing engineering and technical standards for building construction, it cannot address the problem of missing site planning parameters. While in principle it is possible to establish minimum free distances (from other buildings, streets, and physical site features) and maximum building heights that would apply in the absence of detailed plans, in practice it is difficult to establish those parameters before area planning has been completed. Parameters that are appropriate in congested urbanized areas do not often work well in more open, outlying areas, so efforts to establish generalized site planning standards often produce poor results. For these reasons, there is no simple solution to the absence of detailed city plans in the IMB process.

3. **Time Required.** Indonesia’s current laws already require that local governments issue certificates and permits such as the IPPT and IMB within 14 days. This is a relatively strong requirement, as countries that impose time limits often allow 28 or 30 days for many general permits. As noted above, efforts to place time limits on local government activities often result in the government defining its duties very narrowly and pushing required communications, meetings, and planning negotiations outside the mandated time limit, which can defeat the purpose of the time limit. This has already occurred in Indonesia, and there is every reason to believe that local governments would respond to another time limit in a similar fashion.

In addition, site and building planning processes are inherently difficult to standardize. Some applicants prepare excellent documents that reflect thoughtful planning and sound building construction on the first try; but experience in other countries suggests that others will submit partial, incomplete, or less thoughtful plans that will require revisions (often several rounds of revisions) even if the local government is acting promptly, reasonably, and in good faith. Some proposed site and building plans do not in fact protect the public health and safety and should not be allowed to proceed until they are significantly revised, and when property owners are resistant to those changes the required negotiations can take a long time. In addition, local governments are not in control of many steps in the permitting process; once plans and drawings have been returned to the applicant for corrections, the applicant may complete those corrections in a day, or a month, or six months, or may never complete them. For all these reasons, attempts to impose an overall time limit on planning negotiations and approvals are generally not successful.

Since the World Bank’s data suggests that Indonesia is currently competitive with many of its East Asian competitors in terms of overall permitting time, the creation of additional time limits is not recommended. Instead, the IMB process should be simplified in the ways described in subsections A.1, A.2, and A.3 above. Simpler and clearer procedures and standards should result in time savings; if they do not, then it may be appropriate to revisit this issue.

- 4. Third-Party Middlemen Required.** Since it is sometimes necessary to use middlemen for very large or complex projects, it is not useful to try to eliminate the use of middlemen in the development process. Instead, reform should focus on the most obvious abuse – having city staff employed (directly or indirectly) by firms or groups of firms that provide services to the applicants. Possible language to limit this practice could include the following:

“No employee of a [municipality/regency] may be involved in the review or correction of any IMB application except in their capacity as a public employee. No employee of a [municipality/regency] shall receive additional compensation, directly or indirectly, from any applicant or any individual or entity affiliated with or paid by the applicant to provide assistance with the IMB application.”

- 5. Combined Effect of Multiple Permit Requirements.** As noted above, the six related planning and building permits currently used in Indonesia interact in ways that are difficult to understand and predict – both for local government officials and for investors. This issue is complicated by the Indonesia’s strong commitment to decentralized government, for interactions and permitting relationships that are clear at the central government level may not be clear at the regency or municipal level. Efforts to “rationalize” complex permitting procedures at the central government level often take significant time and energy and can get bogged down in “turf wars” when two or more departments have a different view of the relative importance of different permits or the order in which they should be obtained.

For all of those reasons it is often simpler and more effective to sort out potentially overlapping and conflicting permitting procedures at the local level. Based on experience with real world projects (for example, a large factory that requires an AMDAL approval, an Industry permit, and both HO and IMB permits) a local government may learn valuable lessons about how to review facts and studies in order to complete the process more quickly the next time. Often the best way to rationalize complex systems is for local governments to share those lessons among themselves. Often the innovations do not require central government approval or revision of national level laws – they simply fill in the gaps and ambiguities in those national laws with efficient local standards and procedures.

The most effective way to simplify these multiple permit procedures may be to develop a series of flowcharts explaining how different combinations of permits apply to prototypical development projects, the order in which required permits need to be obtained, and what types of information are required for each permit. Those flowcharts should be developed based on successful local projects and then made available to Indonesia’s local governments for onward provision to potential investors.

B. Strategies for Reform

This section of the report identifies how the specific reforms listed above could be packaged and disseminated through SENADA, cooperating donors, or NGOs. Because of the short time remaining in the SENADA project, this discussion focuses on strategies that could be implemented in the next twelve months.

- 1. Local Template Regulation on IMB.** One way to package and implement the regulations above is to draft a local template regulation addressing the IMB permit. The review of existing local regulations suggests that local governments are already sharing regulation templates – many of the existing retribusi-focused IMB regulations have exactly the same structure even when the details of retribusi calculation differ. The template IMB regulation could cover:

- a. A maximum limit on retribusi required per square meter of building space, as suggested in section A.1 above. Local governments would be free to use their base rates and formulas, but if the result of those calculations exceeded the maximum limit, the applicant's fee would be reduced to that maximum limit amount. The regulation would also limit the additional fees due for reissuance of a lost IMB permit, for plan certification, and for normalization of pre-existing buildings based on estimates of actual governmental effort involved.
- b. A provision limiting the maximum combined retribusi payment when multiple (and potentially overlapping) permits are required from local government – particularly when IPPT, HO, and IMB permits are all required for the same project.
- c. A provision cross-referencing SNI/International Building Code/International Fire Code standards for building construction and obligating the local government to use those standards in its review.
- d. Provisions specifically addressing what site planning standards the local government will apply to applications involving land for which detailed city plans have not been approved, or documents to which the local government will refer in completing its review.
- e. Language limiting city staff employment or involvement as middlemen related to development review and approval, as suggested in section A.4 above.

The template regulation would be a significant improvement over current practice because it would indicate how the local government intends to fill several key gaps between authorities granted in Law 28 of 2002 and the very cursory local IMB regulations currently in place. SENADA or its partners would then make this template regulation available to local governments for local tailoring and adoption.

These recommended regulatory provisions could, of course, be embodied in a national ministerial regulation similar to that currently under development for the HO permit. However, the HO ministerial regulation process shows that it often takes significant time, energy, and political will to get movement at the national level. This local template approach would provide a counterexample of action from the local level and might enable SENADA to draw some conclusions about the relative effectiveness of each approach. In most cases, a dedicated local government could effectively implement most of the reforms listed above on its own initiative.

2. **Local Template Regulation on the Izin Lokasi, IPPT, HO, UKL/UPL, AMDAL, IMB Regulation Cluster.** In order to help potential investors understand and navigate the multiple permitting requirements that may apply to medium- or large-sized investments, SENADA could create a template regulation specifying how the permits inter-relate and the order in which they should be pursued in order to minimize the time required for review and permitting. The template could include flowcharts for prototypical investment projects (i.e., one that includes AMDAL and HO and IMB; one that includes AMDAL and an Industry Permit and IMB; one that includes only HO and IMB; etc.). In addition the template could include a combined list of information required for the complete permitting process, so that investors could collect and obtain the material one time, and at an adequate level of detail required for the most detailed review – rather than collecting information at a low level of detail for one permit and then learning that more detailed information on the same topic is required for a later permit. As

noted above, this template should reflect the experiences of local governments on real projects to the greatest degree possible.

3. Advocacy Campaign on Best Regulatory Practices. Indonesia is a relative newcomer to the practice of decentralized government. It takes time for local government officials to learn the basics of land use and building regulation and the interrelationships between local user charges and economic development. For local governments that are still learning how to use their decentralized powers, one of the basic lessons is that increasing user charges beyond the actual costs of government may slow the rate of economic development and investment. Local government officials also need to know how other regencies and municipalities are using their powers and balancing their desires for revenue against their desires for economic growth. To address this need for information, SENADA could conduct an advocacy campaign among local government to promote best practices in planning and building permits, with an emphasis on those practices that would remove barriers to business formation, expansion, and economic development. A best practices campaign could cover the following topics:

- The importance of linking local plan reviews to accepted national or international standards, or to objective standards adopted and published in advance so that investors know what is required of them.
- The importance of conducting inter-departmental meetings with applicants for planning or building permits, so that applicants do not receive inconsistent information from different departments or individuals.
- The importance of limiting the number of required contacts between applicants and city staff, and incorporating permitting requirements into “one-stop shops” where those exist.
- Evaluation of actual local government time and expense incurred in processing different types of permits, and calculation of accurate base rates for retribusi.
- The importance of allowing multiple permit reviews to occur simultaneously, or conducting multiple steps in a single permit review simultaneously, where possible, in order to reduce overall time requirements for the investor.
- The importance of preventing conflicts of interest by preventing outside staff employment related to applications pending before the local government (or to be submitted to the local government) for review.
- Review of the template regulations developed pursuant to sections B.1 and B.2 above, if those are pursued.

The best practices campaign could be conducted by means of workshops or interactive “webinar” events. Because government officials often change duties and new local governments are elected from time to time, it is important that these materials be available in both printed form and through the internet, so that successor officials can have access to the same information as those they replace.

4. Ministerial Regulation. Each of the reforms listed in sections B.1 and B.2 above could be included in a ministerial regulation instead of (or in addition to) a local template regulation. However, based on past experience it may be difficult to organize and complete a ministerial

regulation process in the time remaining to the SENADA effort. In addition, in many cases the reforms listed in sections B.1 and B.2 may evolve and improve over time, and it may be better not to have those specific recommendations embodied in a national regulation. For example, it may be that the language on conflicts of interest (prohibiting city staff outside employment) needs to evolve over time as the local government identifies some forms of outside employment that do not create conflicts of interest, or as the local government discovers new ways in which conflict of interest are arising. Similarly, the fastest way to coordinate various permits may change as the different ministries responsible for various permits change their procedures and requirements over time.

The one area where a ministerial regulation may be necessary is in limiting retribusi payments for IMB permits or related IPPT and HO permits. As noted above, it appears likely that some of Indonesia's local governments are collecting user charges in excess of their actual permitting costs and possibly using those excess revenues to fund other local government services. If that is true, then it will be difficult for them to end this practice unless an alternative source of funding for local government services becomes available – which is unlikely in the short run.

This problem occurs in more developed local governmental systems as well – it is always tempting for local governments to overcharge user fees (which fall on a limited number of property owners or investors) rather than raising fees or taxes that affect most or all of their voters. Where overcharging occurs and the national or state government wants to reduce it (usually to promote the industry affected by the user charge), it often requires a regulation by a higher level of government to limit local fees. If the collection of retribusi in excess of permitting costs is in fact occurring and of concern to SENADA, it may be necessary to promote a ministerial regulation on this topic (or perhaps to broadening the language addressing user charges in the pending ministerial regulation on the HO permit so that it effectively limits combined charges imposed for HO, IMB, or IPPT permits).

4. BIBLIOGRAPHY OF PUBLICATIONS / RESOURCES

LAWS AND REGULATIONS REVIEWED

- IMB National Regulations
 - Law 28 of 2002
 - Regulation 36 of 2005
- IMB Local Regulations
 - Bojonegoro Regency (Regulation 09 of 2005)
 - Cimahi Municipality (Regulation 76 of 2003)
 - Pekalongan Municipality (Regulation 19 of 2000)
 - Sukoharjo Regency (Regulation 17 of 2003)
 - Tangerang Regency (Regulation 10 of 2006)
- IPPT (Advice Planning)
 - Bandung Municipality (Regulation 04 of 2002)
 - Bekasi Municipality (Regulation 74 of 1999)
 - Sleman Regency (Regulation 11 of 2001)
- Laying Out
 - Law 26 of 2007
 - Elucidation on Law 26 of 2007 (Business News 7599, Pages 10A-30A)

Other Materials Reviewed

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ATTACHMENT 1: DON ELLIOTT POWERPOINT PRESENTATION OF DECEMBER 5, 2008

USAID **SENADA**

Preliminary Thoughts on Local Regulations for Building Permits (IMB)

Prepared by Don Elliott
Consultant, SENADA
Dec. 5, 2008

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Assumptions

- Major goal is reduction in costs, delays, and unpredictability to potential investors due to local government IMB requirements
- Primary focus is IMB (Building Permit)
- Secondary focus is related permits
 - Izin Lokasi (Zoning Designation)
 - IPPT ("Advice Planning" – Site Plan Constraints)
 - HO ("Disturbance Permit")
 - AMDAL – UKL/UPL (Environmental Approvals)

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Regulations Reviewed

<p>IMB (Building Permit)</p> <ul style="list-style-type: none"> Law 28 of 2002 Regulation 36 of 2005 <p>IMB Local Regulations</p> <ul style="list-style-type: none"> Bojonegoro Regency Cimahi Municipality Pekalongan Municipality Sukoharjo Regency Tangerang Regency 	<p>IPPT (Advice Planning)</p> <ul style="list-style-type: none"> Bandung Municipality Bekasi Municipality Sleman Regency <p>•Bill and Elucidation on "Laying Out" (26 of 2007)</p>
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Key Areas of Concern

- Public Participation**
- User Fees (Retribusi)**
- Lack of Standards**
 - On Non-Fee Issues
 - For Adjustments/Variations
- Time Required**
- Third Party Help Required (Beyond Design)**
 - Negotiating Retribusi & Missing Standards
 - Possible Conflicts of Interest
- Combined Effect of Multiple Permits**

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Overlap with HO Permit Concerns

- Two key concerns were also mentioned in H.O. Study

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Public Participation – Neighborhood Veto

Izin Tetangga Issue is the same as for HO permits

- Applicant is required to obtain written approval of adjacent property owners (or all owners within a given radius for taller buildings) – though it is not clear whether any Law or Regulation actually requires this procedure
- Records are poor, so never clear whether proper signatures have been obtained
- Creates an opportunity (or requirement) for informal payments
- Relieves local government of decision making responsibility

Solution is the same as for H.O. permit

- Prohibit the practice through a Ministerial Regulation

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Money – A Very Detailed “Black Box”

- Each regulation has “factors” that are multiplied by a base rate (for each type of development) to calculate the User Fee
 - Sometimes more detailed list of “sub-factors” must be added up to determine the base rate
- Fairly predictable (which is good) . . . but
- Base rate is a “Black Box”
 - No way to compare it to actual costs for reviewing plans and issuing the IMB



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Money – Example (Pekalongan)

- Building construction base rate = Rp. 225,000/m²
- Multiplied by:
 - Road Category Coefficient (.75 to 2)
 - Building Status Coefficient (1 to 1.5)
 - Building Storey Coefficient (.6 to 1)
 - Building Use Coefficient (.6 to 1.4)
 - Building Category (.75 to 1)
- Some cities add a review fee and/or a certification fee



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Money – Beyond the Permit Costs

- Some local governments appear to be imposing retribusi beyond their costs of permitting
 - Cimahi – adds drawing certification, drawing examination, construction supervision, and IMB Board supply fees on top of other retribusi
 - Tangerung – 75% of retribusi due for normalization of buildings built before the regulation (25% for lost IMB)
 - Bojonegoro – Buildings built before regulation get “write-off” upon payment of retribusi (ranging from 30% for pre-1970 buildings to 100% for post 2001 buildings)



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Money – Comparison

- Local governments generally given authority to set fees to cover their costs
 - Lots of variation around the world
 - Not really worth trying to open the “black box” and uncover whether the “base rate” is right
- More useful to compare overall costs to comparison countries and local governments
 - That’s what really matters to investors
 - “Is the cost of getting governmental approval in Indonesia higher than in X? If so, how much higher?”



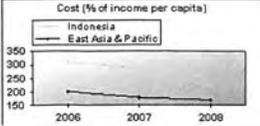
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Money – Comparison

World Bank “Doing Business Report (2009)”

- Cost is measured as a multiple of income per capita
- Total cost of the entire process through building completion fell from an index of 310.5 to 221.1 between 2006 and 2008 – Still higher than East Asia and Pacific Region



Year	Indonesia	East Asia & Pacific
2006	310.5	221.1
2007	221.1	172.1
2008	172.1	90.1

Laos = 172.1
Philippines = 90.1
Thailand = 9.4
Malaysia = 7.9

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Time – No Focus on Entire Process

- The “14 days” Answer
 - By national regulation, local governments need to issue most permits with 14 days – and local governments say they comply
 - It appears that they refuse to accept applications until they are “perfect” – i.e. all consultation with local government regarding planning/construction requirements, consultations with neighbors, and revisions of drawings take place before this 14 day process starts.
 - This is the typical response of local governments to imposed processing deadlines in other countries . . . but it results in a lack of focus on total time required



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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

Time – Comparison

World Bank “Doing Business Report (2009)”

- Time is measured from initial contact to occupancy permit approval
- Total time required has fallen from 204 days to 176 days over the past two years, which is near the average for East Asia

Country	Duration (days)
Malaysia	261
Philippines	203
Laos	172
Thailand	156

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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

Predictability

- Law 28 of 2002 addresses
 - Building layout (use, intensity, architecture, enviro impacts)
 - Coefficients of building coverage, total building area, height
 - Free distances (setbacks)
 - Building appearance, harmony, and compatibility with the environment
 - Function of rooms and indoor spaces, and reliability of building
 - Capacity of the building to support load and prevent fire and damage from lightning
 - Ventilation, lighting, sanitation, vibration, noise
 - Access for the handicapped

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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

Predictability

- The local IMB regulations reviewed addressed almost none of these issues
 - Most of them address only calculation of user fees
 - Cimahi is the exception, addressing coefficients, height, etc.
- It is not clear whether there national standards on each of these issue, and if so, whether they are cross-referenced in other local regulations
- If not, it would be very hard for investors to plan or budget for building construction, and would leave interpretation of what is required to local discretion/negotiation

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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

Predictability

- Local regulations reviewed are also silent about how the applicant can obtain a variation/adjustment in applicable planning or construction standards
 - In practice, investors almost always need them
- Without a process or standards in place, it appears that applicants may appeal to the Mayor/Regent for “leniency”
 - In practice, this may lead to negotiations or exactions between staff and applicants in return for an IMB that does not meet the standards

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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

“Third Party” Assistance

- Consultants are often used to guide applications for larger commercial or industrial buildings through the IMB process
- The use of consultants for architectural / engineering/ environmental help is standard in most countries
- Often, some consultants master the process better and become the “preferred” consultants – which is also standard
- Some comments suggest that applicants are sometimes urged to use preferred consultants and/or that some preferred consultants are in fact local government employees
- Some comments suggest that consultants are used in order to negotiate a single combined retribusi rate for multiple permits

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SENADA NEGARA CERMAT TEKNOLOGI MANUSIA

The Bigger Picture – A “Cluster” of Regulations

- Review of IMB or HO permits alone does not give the full picture of local government regulation of construction activities.
- At least four different permits interact, and the interrelations between them are not clear
 - Izin Locasi (Zoning Designation)
 - IPPT (“Advice Planning” – Site Plan Approval)
 - HO (“Disturbance Permit”)
 - AMDAL – UKL/UPL (Environmental Approvals)
- Retribusi is payable at several points

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SENADA NUSAHA EKSPRES - TERBUKA INDOnesia

The Bigger Picture – A “Cluster” of Regulations

World Bank “Doing Business Report (2009)”

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The Bigger Picture – A “Cluster” of Regulations

World Bank “Doing Business Report (2009)”
Index combines complexity cost (average), time (average), and cost (significantly above average) – Indonesia ranks 80 of 181

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Next Steps

1. Create a Template Local Regulation on IMB

- Capping retribusi as a percentage of construction cost or per square meter of proposed floor space

“The maximum retribusi for IMB, inclusive of all review and supervision fees, shall not exceed 5% of construction value, as documented in construction drawings and related cost estimates certified by the applicant and architect/engineer.”

“The maximum retribusi for IMB, inclusive of all review and supervision fees, shall not exceed ____ Rp. per square meter of finished floor area.”

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Next Steps

1. Create a Template Local Regulation on IMB

- Addressing or clearly cross-referencing missing/vague standards
- Creating objective/predictable standards for adjustments
- Prohibiting the neighborhood veto process

“The applicant shall be required to include a statement as to whether each adjacent property owner has an objection to the proposed development, and the grounds of that objection, but the application shall not be considered incomplete and shall not be denied because of the objection of any or all adjacent landowners if it otherwise meets the technical standards applicable to the site and the proposed building.”

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Next Steps

2. Create a Template Local Regulation Addressing the Izin Locasi, IPPT, HO, UKL/UPL, IMB Cluster

- Early “Screening Form” to identify which permits required, in which order, based on project specifics
- Clarifying scope, coverage, exclusions, extension, amendment of HO and timing with respect to IPPT and IMB
- Allow for simultaneous processing of related applications
- Removing duplicate application requirements – each form only submitted once
- Clarifying/limiting total retribusi when multiple permits required
- Reducing need for third party consultant “expeditors”

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Next Steps

2. Create a Template Local Regulation for the Izin Locasi, IPPT, HO, UKL/UPL, IMB Cluster

- Use graphics to explain interaction of various approvals
- Use graphics to eliminate duplicate / repetitive steps

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Next Steps

3. Organize Education/Advocacy on Best Practices

- Orientation to template local regulation on the cluster of permits
- Identify time savings through simultaneous processing for different types of commercial/industrial development
- Identify examples of lowest retribusi charged by local governments for different types of commercial/industrial development
- Include case study walking through streamlined timeline for example development
- Demonstrate computerized permit management systems

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Next Steps

4. Possible Ministerial Regulation

- Addressing combined retribusi (as noted above)
- Addressing missing/vague standards (as noted above)
- Addressing coordination of permit cluster
- Prohibiting civil servants from referring or participating as consultants for development applications

"No employee of a Regency/Municipality may be involved in the review or correction of any IMB application except in their capacity as a public employee. No employee of a Regency/Municipality shall receive additional compensation, directly or indirectly, from any applicant or any individual or entity affiliated with or paid by the applicant to provide assistance with the IMB application."

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