Law enforcement on the issuance of construction permits violating spatial planning in Medan City

Anton¹, Ediwarman¹, Madiasa¹ dan M Hamdan¹

¹Faculty of Law, Universitas Sumatera Utara, Jl. Universitas Nomor 4 Kampus USU, Medan 20155, Indonesia
Email: antondiarya_stewardsurbakti@unprimdn.ac.id

Abstract. Law enforcement on the issuance of Construction Permits that violates spatial planning is needed in revitalizing the spatial planning map. The process of law enforcement often raises new problems in the process of spatial planning implementation. In practice, violations of a spatial arrangement seem to be ignored by government. Result of the legalization was changing the existing spatial planning. The research used juridical-normative by analyzing and reviewing through the legal approach which is carried out by examining all laws and regulations relating to law enforcement issuance of building permits that violate spatial planning in Medan. It can be concluded that Law enforcement for building permits that are not only in accordance with spatial planning but also necessary as a revitalization of spatial plan maps, to be able to comprehensively know what area have been established. Implementation of sanctions according to Perda No. 6 of 2011 concerning Specific Licensing tends to be mild so as not to create a deterrent effect for violators, plus a lack of supervision, and law enforcement resulting in frequent violations.

Keywords: Law enforcement, construction permits, planning

1. Introduction
Medan is one of the largest city in Indonesia has an area 26,510 hectares (265.10 km²) or 3.6% of the total area. Thus, compared to other cities/districts, it has a relatively small area with a relatively large population. [1] As the provincial capital, it is part of the Medan-Binjai-Deliserdang and Karo urban area (MEBIDANGRO) which has been designated as a national strategic area in accordance with Republic of Indonesia Government Regulation Number 26 of 2008 concerning Regional Spatial Planning (RTRW). [2]

One of the point in the development of the region in Medan which was quite fast with a relatively rapid population growth too, then environmental become a bother that is quite urgent in the discussion of the environment for the future of generations. The rapid development of the area of Medan along with the increase in population has resulted in limited land which subsequently resulted in the transfer of land functions as conservation areas and green open spaces into residential areas.

These environmental conditions caused many natural disasters that occurred in various regions, the cause of which was due to spatial violations. One problem that is always haunting is flooding which is generally very close related to the development of urban areas, activities and land needs, both for settlements and economic activities.

Building Construction Permits or commonly known as IMBs are permits granted by the Regional Head to building owners to build new, change, expand, reduce or maintain buildings by the administrative requirements and applicable technical requirements. Building Construction Permit (IMB)
is one of the legal products to create a certain order so that order, security, safety, comfort and legal certainty are arranged by the government. The obligation of every person or entity that will build a building to have a building permit is regulated in Article 5 paragraph 1 of Regional Regulation 7 of 2009. [3]

Practically, the function of IMB is as the standard legality of building adjustments to the surrounding environment which are planned in accordance with the predetermined spatial plan, and provide direction for building construction planning that can be accounted for with the intention of mutual interest. Spatial planning is a form of spatial structure and spatial pattern. Regional spatial planning is one of the problems in the development of cities today, the development of the city is quite fast with a fairly rapid population growth as well then environmental become a point that is quite urgent in the discussion of environmental sustainability for the future of generations. Likewise, with spatial planning being important, every province, city/district must have rules that guide spatial planning and become a reference in implementing development. [4]

The government dealing with arraying out its duties and responsibilities and realizing good governance, clean and authoritative, has the right and authority to regulate the lives of its citizens. At the level of good, clean and official, the establishment carries three essential functions, namely service, empowerment and development. The government in addition to carrying out development tasks, also provides, and improves public services with the form of licensing services by enacting RI Law No. 26 of 2007 concerning Spatial Planning, Republic of Indonesia Law No.12 of 2008. Practically, the Medan Government has made regulations regarding Regulations concerning building permits stipulated in the Regional Regulation of Medan No. 3 of 2015 concerning Amendments to Regional Regulations of Medan No. No. 5 of 2012 concerning Building Permit Levies, one of which is building permit as a form of public service. A Building permit is a form of area income in the form of regional retribution. The Medan Housing and Spatial Planning Housing Office (MHAPHO) or PKPPR is a building permit service provider that must have the capability to provide services to the community, and every building permit is issued as a standard reference for adjusting buildings to the surrounding environment. As for the planned building of houses or settlements, it will guarantee environmental conditions that guarantee all activities. [4]

The focus that arises was law enforcement over the issuance of building permits that violate spatial planning in Medan. There were several buildings that have been established or will stand in the city of Medan that was suspected by having problems in managing the IBM. The construction of the Podomoro Building on Jalan Guru Patimpus Medan (ex Deli Plaza) which is planned for 30 floors has apparently straddled the Medan Regional Regulation regarding the IBM. Center Point does not have an IBM even though it is already operating, Murni Teguh Hospital, Caribbean Hotel, Lottemart Mall and Apartment 29 are also being built without IBM. [5]

So, the obligation to complete each house construction with IBM applies to everyone and there are no specific exceptions. Indeed, in practice the implementation of the obligation to complete the construction of houses with IBM is related to community legal awareness and law enforcement from the local government. Therefore, it is imperative that IBM become an absolute obligation for anyone who wants to carry out development without differentiation.

Building Construction Permits are needed in revitalizing spatial plan maps and as powerful and legitimate evidence before the law regarding the legality of buildings. Without written useful, in the form of a building permit certificate, the legal recognition of the object of the law becomes invalid. A building permit certificate will provide certainty and legal guarantees to the community. This paper will discuss the law enforcement of the issuance of building permits that violate spatial planning in the city of Medan.

2. Method
The research method used juridical-normative by analyzing and reviewing through the law approach carried out by examining all laws and regulations relating to law enforcement issuance of building permits that violate spatial planning in Medan.
3. Results

From the method of research in the previous paragraph, the study discussed The Relationship between IBM and City Spatial and Law Enforcement in Issuance of Building Construction Permits (IBM).

3.1. The Relationship Between IBM and City Spatial

The history of the arrangement of spatial planning (cities) in Indonesia, began in the 7th century when the City of Jayakarta (later became Batavia). It was controlled by the Dutch, but the regulation was only carried out in the 20th century, and the first rule that was recorded by De Statuen Van 1642 VOC in the City of Batavia. This regulation not only builds roads, bridges and other buildings, but also formulates the authority and responsibility of city government. Spatial planning involved aspects of life so that the community needs to get access to the spatial planning process. The basic concept of spatial planning found in the Opening of the 4th paragraph of the 1945 Constitution and Article 33 paragraph (3) of the 1945 Constitution. [6]

Control and utilization of spatial planning in the City of Medan referred to Law Number 6 of 2007 concerning Spatial Planning which is then further specified through Regional Regulation No. 5 of 2012 concerning Levies on Permits to Establish Medan Kotja Buildings. Thus the regulation regulates every person or legal entity who wants to utilize land or space in Medan. Spatial planning, spatial use is inseparable from controlling the use of space in the form of: zoning, licensing, incentive and disincentive regulations, as well as environmental-based sanctions that adjusted to the Medan Spatial Plan (RTRW).

Literally spatial planning is a form of spatial structure and spatial pattern. Furthermore, spatial planning is a process to determine the structure of space and spatial patterns which include the preparation and determination of spatial plans. Spatial planning carried out to produce: general spatial plans and detailed spatial plans. The Regional Spatial Plan (RTRW) consists of National RTRW, Provincial RTRW, and District RTRW and City RTRW. [7]

Arrangements in granting permission to establish and use buildings are carried out to ensure that urban physical growth in the framework of supporting overall economic growth, and does not cause environmental damage. The issuance of permits can be in the form of IBM aimed at structuring buildings and maintaining the reliability of buildings that meet the administrative and technical requirements of building functions. IBM is a permit granted by the government of regional except for special function by the Government to building owners to build new, change / repair / rehabilitation / renovation, expand, reduce, and / or maintain buildings, and / or restore in order to preserve buildings in accordance with administrative requirements and applicable technical requirements. Thus IBM services are given to foster building management, and building permit administration. In addition to the issuance of the IBM, the Environmental Impact Analysis (EIA) is also one of the required documents to obtain an IBM in the city of Medan.

3.2. Law Enforcement in Issuance of Building Construction Permits (IBM)

Regional spatial planning based on sustainable development begins with the existence of environmental planning as one of the focus in the development of a region that is quite fast with a rapid population growth as well, so law enforcement becomes a target that is quite urgent in the discussion of building permits in the framework of environment-based sustainability development for future generations. Spatial planning becomes a subject, so every province, city/district must have rules as a guideline in spatial planning and become a reference in implementing development.

The purpose of law enforcement for the issuance of building permits that violate spatial planning in Medan is to make Medan a healthy and environmentally friendly city, so there is a need for strict law enforcement regarding violations of the spatial plan. Roscoe Pound and Mochtar Kusumaatmatja stated that law must be a means of development. Means the law must encourage modernization and be by with the ideals of social justice for all the people of Indonesia. All purposes and objectives in the regulation
of the law are based on the principle of safety, usefulness, balance, and harmony of buildings with their environment, for people who are humane and have justice.

A building permit issued by the Housing Area Settlement and Spatial Planning Service Office (PKPPR) aims to regulate, supervise and control every activity of building to repair and overhauling and demolishing buildings as a form of building arrangement in accordance with the spatial plan in the Medan City Government.

There are several factors that complicate the management of IBM in Medan, it is seen from a large number of public complaints in the form of protracted services, complicating/discriminating services and the length of time for completion of services, extortion carried out by State Civil Service Personnel (ASN), use of brokerage services, until the growth of "mental thugs" from the ASN individual [8]. This is several thing in the issuance of the IMB if it is allowed to drag on and will create uncertainty for the people of Medan, especially regional spatial planning based on sustainable development and the environment.

Regarding law enforcement on the issuance of building permits that violate spatial planning, the City Government of Medan still considers building permits to be a priority in supporting sustainable environment-based development, but merely encourages physical infrastructure improvements, which often sacrifice environmental sustainability life that is not in accordance with the City Spatial Plan (RTRW) of Medan. Building permits that violate spatial planning include making residential areas, construction of public infrastructure and industrial facilities quite worrying so that they hurt impact on the economy, socially, while threatening environmental sustainability if not taken seriously.

Soekanto, said that law enforcement was an activity to harmonize the relationship of values outlined in solid rules and actions as a series of final stages of the translation of it to create, maintain and maintain life's social peace. [9] According to Satjipto Rahardjo, law enforcement was essentia the enforcement of ideas or concepts about eternity, truth, social benefits, and so on. In other words, law enforcement was an attempt to realize these ideas and concepts into reality.

Law enforcement was the potential to make efforts to uphold or function legal norms in a tangible manner as a guideline for behavior in traffic or legal relations in public and state life. In a broad sense, the law enforcement process involves all legal subjects in every legal relationship. In a narrow sense, in terms of it, law enforcement is only interpreted as an attempt by surely law enforcement agencies to guarantee and ensure that the rule of law goes as it should. In ensuring that the law upheld, if it was necessary, law enforcement officials are permitted to use forced power.

Regarding law enforcement on the issuance of building permits that violate spatial planning, the Legal System Theory from Lawrence M. Friedman, could be used as one of the parameters why law enforcement in Medan City regarding the issuance of building permits that violate spatial planning does not work effectively. Lawrence M. Friedman explained that there are 3 (three) factors that influence law enforcement, namely as follows: a) Legal Substance; b) Legal Structure, including its institutions; c) Legal Culture.

Law enforcement as a way to assess how the effectiveness of law in the community is going well is shown by choice of using it that depends on the level of compliance of the environment itself. Factors influencing law enforcement, especially the issue of building permits that violate spatial planning, are related to legal structures or legal structures, this occurs because there is a lack of coordination and consolidation between related institutions / agencies in law enforcement, so that the appearance of such violations is not important. Later it can give a negative effect both to the community itself as a user but to the environment that can damage the ecosystem.

The measurable and comprehensive efforts of the Medan Government's law enforcement efforts against parties violate the fact that building permits that are not by spatial planning do not needed to occur if three are legal compliance efforts in the community as a form of force that binds their behavior. The law enforcement efforts applied are divided into 3 regimes, including the following:

- Administrative Legal Facilities as stipulated in article 63 of the Republic of Indonesia Law Number 26 of 2007 concerning Spatial Planning in the form of Supervision and Administrative
Sanctions. In the case of Supervision carried out by the Housing Area Settlement and Spatial Planning Agency (PKPPR) and the Medan Civil Service Unit (Satpol PP). While administrative sanctions can be in the form of written warnings, suspension of activities, temporary termination of public services, location closure, revocation of permits, demolition of buildings, restoration of space functions, and administrative fines. Of the many administrative sanctions mentioned in article 63 of the Republic of Indonesia Law Number 26 of 2007, in Medan City itself has not been carried out to the maximum or may not have caused a deterrent effect for building owners.

- Civil Law Facilities, as stipulated in Article 66 and 67 of the Republic of Indonesia Law Number 26 of 2007 concerning Spatial Planning regulate law enforcement that can be submitted if there are people or parties who feel disadvantaged, especially in terms of material due to misuse of space used in the form of civil lawsuits collected to court.

- Criminal Law Facilities are regulated in Article 68 up to Article 75 by the Republic of Indonesia Law Number 26 of 2007 concerning Spatial Planning. Law Enforcers conducting investigations are carried out by the National Police or Civil Servant Investigators (PPNS) in the field of Spatial Planning. The criminal threat imposed is still relatively mild as referred to as regulated in Article 63, namely a written warning; temporary suspension of activities; temporary termination of public services; location closure; revocation and cancellation of permit; demolition of buildings; recovery of space functions; and/or administrative fines.

4. Conclusions
Law enforcement for building permits that are by spatial planning is needed as a revitalization of spatial plan maps, to be able to comprehensively know what zonations have been established in an area. Implementation of sanctions according to Perda No. 6 of 2011 concerning Specific Licensing tends to be mild so as not to create a deterrent effect for violators, plus a lack of supervision, and law enforcement resulting in frequent violations.

5. Recommendation
The Government of Medan should in the process of law enforcement need to take strategic steps in issuing permits that violate spatial planning. Law enforcement for the issuance of building permits that violate spatial planning is a very complex phenomenon and must be more assertive by applying various approaches, legal, social, political, economic, and cultural issues to benefit the citizens, government interests and spatial harmony. Environmental sustainability needs the carrying capacity of the environment and natural resources.

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