



INTERMEDIATE TECHNICAL DEVELOPMENT WORKSHOP

17-21 MAY 2004

INTERMEDIATE TECHNICAL DEVELOPMENT WORKSHOP

Date : 05 - 09 July 2004

Venue : Sri Nilam

Objective:

1. Understand various purposes and basis of valuation
2. Enhance knowledge on methods of valuation
3. Enhance knowledge in administration and procedures relating to land acquisition
4. Enhance skills in report writing
5. Use relevant computer application

Organised by:
Valuation and Property Services Programme
National Institute of Valuation (INSPEN)
Valuation And Property Services Department
Ministry of Finance, Malaysia
No. 5, Persiaran Institusi Bangi
43000 KAJANG



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Kandungan

- 1. Purpose of Valuation**
- 2. Investment Method of Valuation**
- 3. Cost Method**
- 4. Prinsip Jadual Pertama Akta Pengambilan Tanah 1960**
- 5. Panduan Ringkas Penentuan Pampasan Pengambilan Tanah**
- 6. Pecah Pisah**
- 7. Land Acquisition in Malaysia**
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INTERMEDIATE TECHNICAL DEVELOPMENT WORKSHOP



Perkhidmatan Bernilai Komitmen Kami

Purpose of Valuation



Perkhidmatan Bernilai Komitmen Kami

Introduction



Objective:

1. To understand the different purposes of valuation
2. To enhance knowledge on methods of valuation
3. Able to use relevant computer application

Purpose of Valuation

- Statutory valuation
- Valuation based on the provision in the acts of parliament or enactments of respective states in Malaysia
- Valuers have to understand the provision in the acts of parliament or enactments
- Example: date of valuation, interest to be valued, powers to act etc.

Purpose of Valuation

- Non- Statutory valuation
- Valuation based on the requirement of clients
- Valuers have to understand the basis of valuation and normal practice provided by Board of Valuers and departmental circulars
- Example: date of valuation, interest to be valued etc.

Acts of Parliament

- Acts are laws passed by Parliament of Malaysia
- Applicable throughout Malaysia unless stated date or sections to be adopted by the state Authority
- Certain acts may not be applicable in Sabah and Serawak
- Basically contain rules and regulations, power to act, interpretation and penalty of wrongdoing
- Example: Valuers, appraisers and estate agents Act 1981

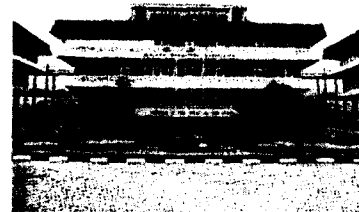
Enactment

- Enactments are laws passed by the respective State Assemblies in Malaysia
- Applicable throughout the respective states only
- Basically contain rules and regulations, power to act, interpretation and penalty of wrongdoing and gudeines for regulation called rules
- Example: Malay reservation Enactment

Ordinance

- Ordinance are laws that existed before independence
- Applicable throughout Malaya and Borneo and respective states only
- Basically contain rules and regulations, power to act, interpretation and penalty of wrongdoing
- Example: Stamp Ordinance 1952(Cap.137 Laws of Sabah)

FUNCTION OF VALUATION AND PROPERTY SERVICES DEPARTMENT



a. To carry out valuation for purpose of:

- i) Taxation
 - Stamp Duty
 - Real property gains tax
 - Estate duty

ii) Government staff housing loans

iii) Capital valuation

- Sales of property by Government Agencies.
- Purchase of land and properties by Government

iv) Compensation

- Land acquisition
- Electricity wayleave
- Water pipe wayleave
- Gas pipeline
- v) rental and lease valuation

Group discussion: Statutory valuation



Stamp duty

- Duty or tax imposed by federal government on instruments as stated in Schedule 1 of the stamp Act 1949
- Collector of stamp duty are empowered to collect the duty. Request the assistance of Valuers to carry out provisions under Section 12 of the Act.
- In term of landed property, duty are based on the market value or consideration based on money worth of the property.
- Date of valuation as at the date of execution of agreement or the date of execution of instruments
- Interest to be valued is based on the information provided in the Section 5 forms

Stamp duty

- Statutes applicable: Stamp Act 1949, Stamp ordinance 1952 (Sabah), Stamp Ordinance Cap. 32. Laws of sarawak
- Duty payable
 - 1% on the first RM100,000
 - 2% on the next RM100,001-RM500,000
 - 3% on the next RM500,001-RM2,000,000
 - 4% on RM2,000,000 and above

Real property gains tax

- Tax imposed by the Federal Government on gains on transfer of landed properties.
- Power to carry out the collection rest on the Director General of Inland Revenue
- IRD will refer to VPSD to carry out the valuation of landed property on transfer either by sales and purchase or gift or exchange
- Date of valuation on the date of transfer, date of agreement or R.T.70

Real property gains tax

- Statute: Real property gains tax act 1976.
- Rate of tax:
 - Individual (Resident)
 - Disposal within 1 & 2 years of acquisition - 30%
 - Disposal in the 3rd year - 20%
 - Disposal in the 4th year - 15%
 - Disposal in the 5th year - 10%
 - Disposal in th 6th year - 5%
 - Disposal on the 7th year and above - 5%
 - Non resident
 - Disposal 1-5 years - 30%
 - Disposal on the 6th year and above - 5%

Real property gains tax

- Rate of tax:
- Company
- Disposal within 1 & 2 years of acquisition- 30%
- Disposal in the 3rd year - 20%
- Disposal in the 4th year - 15%
- Disposal in the 5th year - 10%
- Disposal in th 6th year and above - 5%

Land acquisition

- Alienated land acquired by the state authority shall be adequately compensated.
- Only state authority has the power to carry out provisions in the Act.
- Compensation is limited to Schedule 1 of the act
- Application for valuation by the Land Administrator or Director General of Land and Mine of respective states.

Land acquisition

- Statutes Land Acquisition Act 1980
- Basis of compensation
- Market value at the date of notification in State Government gazette under Sec. 4 or Sec.5
- Disregard restriction in interest i.e. malay reservation
- Betterment
- Severance and injurious affection.
- Removal expenses
- Written undertaking by acquiring authority for accomodation works

Group discussion: Non-Statutory valuation



Basic information

- Purpose: sale, purchase, rent, lease or estimate
- Date of valuation required
- Interest to be valued
- Property data
- Relevant provision in the departmental circulars
- Procedure on report and valuation

INVESTMENT METHOD OF VALUATION

By
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State Director of Valuation
Valuation and Property Services Department
Melaka

Definition of Investment

- Investment is the giving up of a capital sum now in exchange for benefits to be received in the future, such as an income flow and or capital gain
- 2 forms of investment:
 - money is lent and a debt is created such as granting of a mortgage/acquisition of public authority stock
 - Proprietary interest is acquired such as acquisition of an interest in property.

Investment markets

- Stock and shares bought and sold on the Stock Exchange
- Government bonds
- Debentures(loans to companies)
- Insurance policies
- Unit trusts
- Property

Property Investment Market

- Many sub sector to accommodate different classes of investors, type and size, location.
- Small owner occupied house / multi million dollar office block.
- An industrialist may limit his demand to a particular area whereas insurance company may be relatively indifferent to the part of the country the property is located

Method of investing in Property

- Direct investment
- House purchase by private treaty, by tender, auction or take over bid or property development
- Private letting
- Property companies- investment companies and development companies
- Dealing company
- Estate agency company

Method of investing in property

- Indirect investments
- Institutional investment: insurance companies, pension funds, unit trust and property bonds

Return on Investment

- Income generated or capital gain achieved from investment can be measured by converting it to a percentage of the capital outlay
- The percentage is calculated on an annual basis- known as rate of interest or discount rate

Return on Property investment

- Property bought for letting-Rental income
- Owner occupation- savings in rental outgoings
- Initial yield = current net income(expressed as percentage of capital value
- Yield reflects investors views about the future risks attached to the investment.High yield ,high risk and vice versa.
- Rate of return is determined by the forces of supply and demand
- Effect of taxation, classes of investors etc.

The Investment Method

- The value of an investment property depends on the amount of income it can generate.
- As you devalue so must you value
- 2 approaches: conventional method and Discounted cash flow method

Conventional method

- Capital value = current rental x year's purchase
- $RM65,000 = RM4,200 \times 15.47$
- Duration of income will affect the capital value of the right to receive it.Income receivable for ninety years worth more than the same income receivable for 30 years only

- Determinant of years purchase- time , risk , and yield
- Freehold interest – able to derive income from property in perpetuity
- Leasehold interest – able to derive income from the property until the term of his lease expires

Yield

- Relationship between income and capital sum paid for property and expressed as a percentage
- RM80,000 was the value of a perpetual income of RM4,200, the yield was 5.25%.The income was 5.25% of the capital value
- Investors are willing to pay proportionally less for an income if its circumstances are risky than if they are secure

- Income of the risky prospect will be a larger proportion of the price, which can be expressed in a higher percentage yield
- Yield expectation of a prime shop might be 3.5% but a secondary industrial unit might go up to 12%.

Discounted Cash Flow approach

- Capital Value= Rental income x year's (assumed growing) purchases
- This method is the product of the current era of high inflation
- The years' purchase (YP) based on a yield reflecting the opportunity cost where all other types of investment are considered, not only property.
- In the conventional approach, YP is based on a yield reflecting the opportunity cost where only other property transactions are considered

The Investment method

- Used for valuing properties which are normally held as income producing investment.
- The value of such an investment is the product of the net income and the inverse of the market yield.
- Freehold properties are deemed to produce a perpetual income for valuation purposes. Income may vary in the future, and the currently acceptable yield is determined by the market,

- Net income x years purchases= capital value
- The YP is the expression given to the inverse of the yield and the net income

The process

- The method of valuation consists of finding the present capital value of a future income flow discounted at an appropriate rate of interest.
- To use this method, a valuer, must be able to estimate the income which will be produced and appropriate rate of interest at which to discount that income

Illustration 1

A purchaser paid RM100,000 for an interest in a property and expect the rate of interest of 5% on his capital. Therefore he must be able to anticipate an annual perpetual income of RM5,000, that is 5% of RM100,000.

Calculation: $5/100 \times 100,000/1 = RM5,000$

- To reverse this mathematical process, A perpetual income of RM5,000 will be derived from a property and the appropriate rate of interest at which this income should be discounted is 5% ,the present capital value will be RM100,000, calculated:-

$$\frac{100}{5} \times \frac{5000}{1} = \text{RM}100,000$$

The multiplier applied to the income, $\frac{100}{5}$ is known as the Years' Purchase or Present value of RM1 per annum

Factors affecting yield(rate of interest)

- Security of capital
- Regularity of income
- Liquidity of capital
- Management
- Yield spectrum –Agriculture 11%
 - Residential 3-5%
 - Commercial 4-7%
 - Industrial 8-10%

Rental value and net income

- Full rental value (FRV)/ rack rent
Property is vacant, estimate of rent obtainable on letting
- Reserved rent
Property is let ,actual income and determined by the term of the lease i.e. landlord bear cost of repair,insurance etc.Usually less than FRV since landlord is restrained from increasing it until end of lease.

Determination of rental value

- Basis of rent actually paid
- Comparisons of rent
- Rent in relation to cost

Factors affecting rent

- Supply
- Regulations
- Building technology
- Taxation
- Finance

Factors affecting rent

- Demand
- Intrinsic qualities
- Economic prosperity
- Changes in the character of demand
- Rent as proportion of income
- Rent as proportion of profit margin
- Competitive demand

Factors for management and maintenance

- Repairs – internal and external, immediate and annual repair allowance
- Insurance
- Taxes- rates, sewerage rates
- Management
- Sinking fund

Application 1 : Freehold interest

- Value the freehold interest in a terrace house let at RM350 per month net. A similar unit let at RM400 per month has just been sold for RM100,000.
- **Stage 1: analysis**
 $\frac{\text{Net income}}{\text{Capital value}} \times 100 = \text{yield}$
 $\frac{\text{RM4,800}}{\text{RM100,000}} \times 100 = 4.8\%$

□ Stage 2: capitalization

Net income	RM4,200
YP in perpetuity $\frac{100}{4.8}$	<u>20.8333</u>
	RM87,499

Say RM88,000

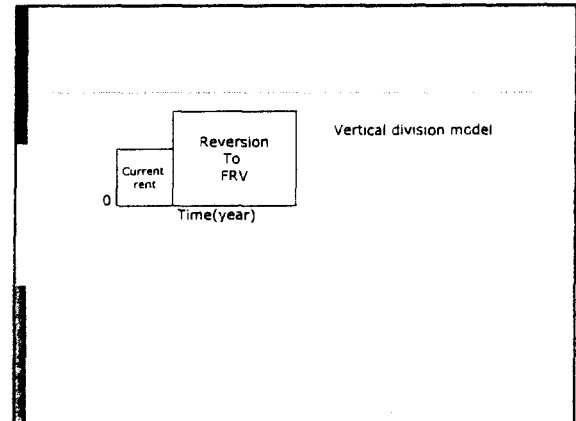
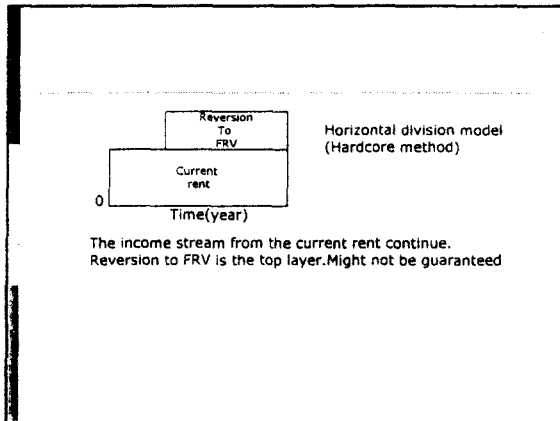
Application 2: Freehold property

- Ahmad, the owner of a freehold shop let to Ah Chong at an existing rent of RM50,000. The estimated full rental value is RM100,000. The capitalisation rate at full rental value is 5%. There are 3 years left to run on the lease. Calculate capital value of Ahmad's interest

Solution:

□ Term and reversion		
Current rent	RM50,000	
YP 3 years @ 4%	<u>2.7751</u>	RM138,755
Reversion to Full rental value	RM100,000	
YP in 'perpetuity @ 5%	20	
PV of RM1 in 3 'years @ 5%	<u>0.8638</u>	
Capital value		RM1,727,600 RM1,866,355

The yield is reduced to reflect security of income



Hardcore method

□ Term and reversion		
Current rent	RM50,000	
YP in perpetuity @ 5%	<u>20,00000</u>	
		RM1,000,000
Reversion to Full rental value	RM100,000	
Less current rent	RM50,000	
Top slice	RM50,000	
YP in 'perpetuity @6%	16.667	
PV of RM1 in 3 'years@6%	<u>0.8396</u>	
		<u>RM699,681</u>
Capital value		RM1,699,681

The income stream is split horizontally

Application 3: Leasehold property

□ Ahmad, the owner of a freehold shop let to Ah Chong at an existing rent of RM50,000. The estimated full rental value is RM100,000. The capitalisation rate at full rental value is 5%. There are 3 years left to run on the lease. Calculate capital value of Ah Chong's interest

Solution:

□ Full rental value	RM100,000	
Less rent paid	<u>RM50,000</u>	
Profit rent	RM50,000	
YP 3 years @ 6% & 3%(tax 28%)	<u>1.9632</u>	
Capital value		RM98,160

Comments:

Ahmad's Capital value	RM1,866,355
Ah Chong's Capital value	RM98,160

INTERMEDIATE TECHNICAL DEVELOPMENT WORKSHOP

Valuation Principles
The Comparison and Cost Method

Oleh
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Pengarah Penilaian Negeri
Jabatan Penilaian dan Perkhidmatan Harta
Negeri Melaka

Content

-Comparison Method-

- Understanding the basic principle of comparison method .
- Factors to be considered in selecting comparables.
- Analysis of comparable sales.
- Opinion of Value based on the comparable sales.

Content

-cost Method-

- Understanding the basic principle of cost method .
- Factors to be considered in estimating land and building value.
- Analysis building cost.
- Opinion of Value based on the method

Comparison Method

Definition

- Market data approach
- Process where property to be valued is compared to recent comparables sales in the vicinity
- The comparable sales are processed systematically, to indicate the market value of the property.
- Comparable sales will be adjusted in order to get a similarity between the sales and subject property

Principles

- 'Replacement' principles.
- Property to be valued should not have a higher or lower value than the comparable property at a point of time with the assumption all factors affecting value are fixed.

The Approach

- Date of Valuation
- Data on subject property
- Identify subject property
- Integrity of comparables
- Analysis of comparables.
- Adjustment to be made on comparables
- Techniques of adjustment
- Opinion of value based on the market value indicated by the 'adjusted value'

Factors to be considered in choosing comparables

- Comparable sales should be the same type of property
- Recent date of valuation.
- Arm's length transaction.
- Registered sales
- Description of comparables
- Location and accessibility
- Existing land use.
- Legal interest- freehold or leasehold.
- Restriction in interest
- Type, age, condition (crops or building)
- Type, design, finishes of building

Factors to be considered in choosing comparables

- Basic amenities
- Land and building size
- Surrounding development
- Development potential
- Planning details
- Physical terrain
- Economic factors. i.e. recession
- Market data

Data analysis

- Comparable sales converted to a common unit comparison such as p.s.m./per hectare/ per metre length
- Average method- land of irregular shape and road frontage not an important factor
- Fraction or division- same type of property but different land or building size. i.e. standard land size, main building etc.

Data analysis

- Zoning method- road frontage land have similar frontage/length but differs in depth. Frontage portion is more valuable than the back portion.
- Same depth to be adopted .RMx psm. for zone A, RM1/2x for zone B etc.
- Per metre length- commonly used for commercial properties in high street. i.e. bigger exhibition area
- Per hectare- average based on land area, usually for lower value property.

Data analysis

- Per unit basis- Usually adopted for housing units in a housing schemes. Market value does not differ greatly due to smaller differences in land or building area.

Adjustment technique

- A few good and suitable comparables should be sufficient to form a value trend to indicate the market value of the property
- Seldom have good and suitable comparables due to imperfection in property market.
- Detailed research on the differing factors are important to enable justification in using the comparables
- Main basis of adjustment- observation and systematic record of the market for subject property and how the factors are related to the properties. Experience is important to estimate the amount of adjustment needed.

Adjustment Factors

- Terms of sales
- Time
- Location
- Physical features
- Interest in title
- Town Planning factors
- Restriction in interest
- Encumbrance

Adjustment Techniques

- Lump sum adjustment
- Percentage adjustment
- Location 20%, no legal access 20% etc

Factors to be considered in making adjustment

- Comparables in the same vicinity. If different locality, explain why is it considered suitable
- Recent sales. Explain why do you use old sales
- Explain the differences between the comparable and the subject property based on research or simple analysis
- Amount of adjustment must be reasonable and in line with the market trend.

Factors to be considered in making adjustment

- Adjustment percentage must be supported by analysis or simple calculation where possible
- Where actual cost/amount can be determined, do not use percentage
- Too many adjustment factor will render the comparable unsuitable. If more than four factors or 30% for each factor, explain why it should be used
- Adjustment should be made in series. Adjust for time to indicate the sale price at that point of time, then proceed to adjust for other factors

Example 1

Perbandingan Milian

Perbandingan (1)
 Lot 1751, Mukim Chang, daerah Malaka Tengah
 Jalan Bertam Ulu-Sg Udang, berebelehan Trm Bertam Jaya
 Tarikh (PM): 27/9/2001
 Syarat gusa tanah: Tiada, Pegangan Kekal
 Keluasan: 14.40 hektar

Nilain Asas (N) RM32.17 smp

(-) Keluasan			
Lot subjek mempunyai keluasan 40.4349 hektar		-5%	
VS perbandingan 14.40 hektar			
Lot subjek 2.8 kali lebih besar			
(-) Kegunaan			
Lot subjek kegunaan tiada		-10%	
VS lot perbandingan mempunyai kegunaan bangunan		-15% x	0.85
			RM27.34 smp
			Katakan RM27.00 smp

The techniques

- Estimate depreciation based on the physical, economic and functional obsolescence
- Physical - related to structure, maintenance, repair and physical age
- Economic - external factor such as change in demand, govt. policy, tax etc.
- Functional- Obsolete design due to change in technology, change in taste of the population

Example:

Rumah teres 1 tingkat. diMelaka

Tanah:

130 mp @ RM 300 smp RM39,000

Bangunan:

Utama 100 mp @ RM430smp- RM43,000

Luar 9.3mp @ RM215smp- RM1,999

RM44,999

Susutnilai 10% RM4,499 RM40,500

RM79,500

Katakan RM80,000

**PRINSIP-PRINSIP JADUAL PERTAMA
AKTA PENGAMBILAN TANAH 1960**

OLEH

CHE ROSLAN BIN CHE DAUD
PENOLONG PENGARAH
UNIT PENGAMBILAN TANAH
JABATAN KETUA PENGARAH TANAH DAN GALIAN PERSEKUTUAN
NEGERI KELANTAN

INTERMEDIATE TECHNICAL DEVELOPMENT WORKSHOP
17 – 21 MAY 2004

PRINSIP-PRINSIP JADUAL PERTAMA

1.0 MUKADDIMAH

Perkara 13 Perlembagaan Persekutuan menyatakan tiada seseorang pun boleh dilucutkan hartanya kecuali mengikut undang-undang dan tiada sesuatu undang-undang pun boleh membuat peruntukan atau menggunakan harta dengan paksa tanpa pampasan yang mencukupi.

2.0 TAFSIRAN NILAI PASARAN

Tidak ada tafsiran nilai pasaran yang diberikan oleh APT, 1960 seperti juga dengan lain-lain undang-undang pengambilan tanah yang terpakai di Singapura, India, England, Canada malah USA sekalipun.

Walau bagaimanapun bagi maksud nilai pasaran itu Pejabat Penilaian dan Perkhidmatan Harta berkecenderungan untuk menggunakan prinsip-prinsip yang telah diputuskan oleh Mahkamah-Mahkamah di India dan Malaysia.

Dalam kes Nanyang Manufacturing Co., Ltd. Lawan Collector of Land Revenue Johor, Hakim Buhagiar telah memetik definisi yang diberikan oleh Jenkins C.J. dalam kes Kailas Chandra lawan Secretary of State iaitu seperti berikut :-

"The market value of land may be roughly described as the price that an owner willing, and not obliged to sell might reasonably expect to obtain from a willing purchaser with whom he was bargaining for the sale and purchased of the land".

Hakim Sufian juga dalam kes Superintendent of Lands and Survey lawan Aik Hoe and Co. Ltd., dengan kebenaran, telah memetik satu keputusan kes Majlis Privy yang disampaikan oleh Lord Romer dalam kes Vyricherla Narayana Gajapateraju lawan The Revenue Divisional Officer, Vizagapatem iaitu seperti berikut :-

"The compensation must be determined by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded. Neither must be considered as acting under compulsion. This is implied in the common saying that the value of the land is not be estimated at its value to the purchaser It may also be observed in passing that it is often said that it is the value of the land to the vendor that has to be estimated. This, however, is not in strictness accurate. The land, for instance, may have for the vendor a sentimental value far in excess of its market value. But the compensation must not be increased by reason of any such consideration. The vendor is to be treated as a vendor willing to sell at the market price...."

Sebagai kesimpulan nilai pasaran itu dirumuskan sebagai :-

"..... as the price a willing purchaser is prepared to pay a willing seller for the property in open market".

3.0 **TARIKH NILAI PASARAN**

Mengikut ketetapan Jadual Pertama, APT, 1960 tarikh nilai pasaran hendaklah bermula pada tarikh pemberitahuan di bawah seksyen 4 disiarkan dalam Warta, dengan syarat bahawa pemberitahuan itu hendaklah, dalam masa 12 bulan daripada tarikh itu diikuti dengan pengisytiharan di bawah seksyen 8.

Sekiranya Borang D di bawah seksyen 8 diwartakan selepas 12 bulan daripada tarikh pewartaan Borang A, maka tarikh pewartaan Borang D itu hendaklah diambil sebagai tarikh bermulanya nilai pasaran itu. Perhatikan contoh di bawah ini :-

Contoh I Tarikh pewartaan Borang A – 5.4.2003
 Tarikh pewartaan Borang D – 3.6.2003
 Oleh itu tarikh nilai pasaran bermula pada 5.4.2003 kerana Borang D diwartakan dalam tempoh 12 bulan daripada tarikh pewartaan Borang A.

Contoh II Tarikh pewartaan Borang A – 5.4.2003
 Tarikh pewartaan Borang D – 3.5.2004
 Oleh itu tarikh nilai pasaran bermula pada 3.5.2004 kerana Borang D tidak diwartakan dalam tempoh 12 bulan dari tarikh pewartaan Borang A.

Contoh III Borang A langsung tidak diwartakan kerana tidak diperlukan. Borang D diwartakan pada 5.4.2003. Oleh itu tarikh nilai pasaran bermula pada 5.4.2003.

Oleh itu pada tarikh bermulanya nilai pasaran itu, hanya harga bagi mana-mana tanah yang terlibat itu akan terbeku dengan sendirinya. Sebarang spekulasi harga tanah yang dibuat selepas tarikh itu tidak akan diambil kira bagi maksud pembayaran pampasan.

4.0 **ASAS-ASAS NILAI PASARAN**

(a) **Kekesanan Sesuatu Syarat Nyata**

Apabila mentaksirkan nilai pasaran kekesanan sesuatu syarat nyata atau syarat tetap bagi mana-mana hakmilik yang menyekat penggunaan tanah yang dijadualkan itu hendaklah diambil kira. Misalnya, sebidang tanah pertanian tidak boleh digunakan untuk tujuan-tujuan lain kecuali bagi

tujuan-tujuan yang dibenarkan di bawah seksyen 115 KTN sahaja. Dengan demikian syarat tetap (*implied condition*) itu mengehendkan kegunaan tanah tersebut kepada tujuan-tujuan pertanian sahaja.

Oleh itu sekiranya di atas sebidang tanah pertanian seluas 2 hektar telah didirikan sebuah kilang papan tanpa syarat nyatanya ditukar terlebih dahulu kepada industri, maka bagi maksud menentukan nilai pasaran ianya hendaklah dinilai sebagai tanah pertanian dan bukan sebagai tanah industri.

(b) Tanah Rizab Melayu, Tanah Pegangan Melayu Terengganu Dan Tanah Adat Negeri Sembilan Dan Melaka

Tanah Rizab Melayu, Tanah Pegangan Melayu Terengganu atau tanah-tanah Adat di Negeri Sembilan dan Melaka seolah-olah telah diaku terima sebagai tanah yang mempunyai nilai pasaran yang rendah jika dibandingkan dengan tanah-tanah lain. Bagi maksud penentuan nilai pasaran kedudukan tanah-tanah ini sebagai TRM, Tanah pegangan Melayu Terengganu atau Tanah Adat di Negeri Sembilan/Melaka hendaklah jangan diambil kira. Anggapkan tanah-tanah itu sebagai tanah yang setaraf dengan lain-lain tanah dan oleh itu nilai pasarannya hendaklah sama dengan tanah lain itu.

(c) Kawasan Tanah Termasuk Ke Dalam Pelan Pembangunan Yang Dirancang Untuk Satu-Satu Tujuan

Jika tanah yang dijadualkan itu termasuk ke dalam satu pelan induk pembangunan bagi kawasan tanah yang dimajukan pada masa-masa akan datang oleh mana-mana pihak berkuasa, maka tanah itu hendaklah ditaksirkan dengan mengambil kira kegunaan tanah khusus bagi tanah itu sebagaimana yang ditunjukkan dalam pelan pembangunan itu. Dalam konteks ini, penilaian ini adalah berdasarkan kepada potensi bagi kegunaan yang lebih tinggi yang hanya boleh dilakukan apabila potensi demikian disahkan oleh Pengarah Jabatan Perancang Bandar dan Desa.

5.0 PENINGKATAN NILAI PASARAN YANG TIDAK BOLEH DIAMBIL KIRA

Sekiranya nilai pasaran bagi sesuatu tanah itu menjadi lebih tinggi akibat daripada dua perkara yang dinyatakan di bawah ini, maka kenaikan sedemikian hendaklah **jangan diambil kira**.

Pertama, sekiranya peningkatan nilai itu berpunca dari apa-apa pembaikan (*improvement*) yang dibuat dalam tempoh **dua (2) tahun sebelum pengisytiharan di bawah seksyen 8** disiarkan di dalam Warta, melainkan jika pembaikan itu boleh dibuktikan yang ianya dibuat dengan *bona fide* dan tidak dengan tujuan untuk mendapat nilai yang tinggi dalam prosiding pengambilan tanah yang dicadangkan itu.

Perlu ditegaskan bahawa hanya kerja-kerja bercorak pembaikan sahaja yang ditegah. Kerja-kerja yang bercorak *maintenance* seperti mengganti atap rumah yang sudah bocor atau papan lantai yang sudah reput dan sebagainya, tidak terikat dengan tegahan ini.

Kedua, suatu kenaikan dengan sebab penggunaan tanah itu, atau mana-mana premisnya, dengan cara yang boleh dihalang oleh mana-mana Mahkamah, atau berlawanan dengan undang-undang atau boleh membahayakan sama ada kesihatan penghuni-penghuni premis itu atau pun kesihatan awam. Sebagai contoh, di Malaysia, tanah pertanian digunakan untuk maksud aktiviti perindustrian asid yang membahayakan kesihatan awam.

Tegahan ini termasuk apa-apa *alterations or renovations* yang telah dilakukan tanpa mendapat kelulusan pihak berkuasa tempatan.

PERKARA-PERKARA YANG PATUT DIPERTIMBANGKAN DALAM MENENTUKAN PAMPASAN

Selain daripada aspek nilai pasaran terdapat beberapa aspek lain yang boleh digunakan sebagai asas bagi menentukan pampasan yang mencukupi ke atas mana-mana tanah yang terlibat dalam satu-satu kes pengambilan tanah iaitu seperti berikut :-

1. Apa-Apa Kenaikan, Yang Hendaklah Dipotong Daripada Jumlah Pampasan Pada Nilai Tanah-Tanah Lain Kepunyaan Orang Yang Berkepentingan Itu Yang Mungkin Terakru Daripada Penggunaan Tanah Yang Diambil Itu

Untuk mencapai maksud di atas orang berkepentingan itu hendaklah mempunyai sekurang-kurangnya sebidang tanah lain berdekatan dengan tanah kepunyaannya yang terlibat dengan pengambilan itu. Sebagai contoh katakan A mempunyai dua keping lot tanah yang berdekatan di antara satu sama lain iaitu lot 123 dan lot 345 – di mana kedua-dua tanah ini adalah tanah sawah padi yang kering kontang yang tidak boleh digunakan untuk menanam padi. Nilai pasaran bagi tiap-tiap lot ini, katakan RM10,000.00 sehektar.

Lot 123 terlibat dengan satu pengambilan untuk projek tali air. Apabila projek tali air ini siap nanti, sudah pasti nilai pasaran bagi lot 345 kepunyaan A yang tidak diambil itu akan naik, katakan RM12,000.00 sehektar. Oleh yang demikian nilai pasaran yang boleh dibayar kepada A bagi lot 123 itu ialah, bukan RM12,000.00 atau RM10,000.00 sehektar tetapi RM8,000.00 sahaja.

Kenaikan nilai tanah lain itu (dalam kes ini lot 345) kepunyaan A akibat daripada pengambilan lot 123 itu hendaklah diambil kira dan prosedurnya ialah dengan cara menolak nilai RM10,000.00 sehektar bagi lot 123 sebelum diambil dengan nilai kelebihan RM2,000.00 sehektar bagi lot 345 akibat daripada pengambilan lot 123, dan bakinya ialah RM8,000.00 dan itulah kadar nilai pampasan yang mencukupi yang boleh dibayar pada A mengikut konsep ini.

2. **Kerosakan, Jika Ada, Yang Ditanggung Atau Yang Mungkin Akan Ditanggung Oleh Orang Yang Berkepentingan Itu Semasa Pemungut Mengambil Milik Tanah Itu, Disebabkan Oleh Pengasingan Tanah Itu Daripada Tanahnya Yang Lain**

Jika sebahagian daripada keluasan sebidang tanah diambil untuk projek jalan raya oleh JKR, umpamanya dan pengambilan itu melibatkan tanah itu terpisah dua di mana satu daripadanya mempunyai keluasan yang kecil dan mempunyai bentuk tiga segi atau lain-lain bentuk yang tidak menentu maka sudah pasti nilai pasaran bagi kawasan tanah yang kecil itu menjadi rendah dan tidak ekonomik lagi dan ini merupakan satu kerosakan.

Satu bentuk kerosakan lagi ialah apabila sebahagian sahaja daripada tanah itu yang diambil, seperti projek melebarkan rizab jalan umpamanya, di mana mendekatkan lagi rumah yang ada itu dengan jalan raya dan dengannya "*privacy and other amenities are interfered with*". Sama ada benar atau tidak kerosakan itu berlaku terpulanglah kepada tuan tanah untuk membuktikannya.

Persoalannya, bagaimanakah penentuan bayaran pampasan itu hendak dibuat. Tidak ada satu formula yang boleh diikuti. Walau bagaimanapun pegawai penilai berkecenderungan untuk menggunakan formula :-

Nilai pasaran tanah baki sebelum diambil, ditolak dengan nilai pasaran tanah baki, selepas diambil.

Sekiranya nilai pasaran tanah baki sebelum diambil katakan, RM50,000.00 sehektar dan nilai pasaran tanah baki selepas diambil katakan, RM40,000.00 maka pampasan bagi kerosakan yang perlu dibayar ialah RM50,000.00 tolak RM40,000.00 iaitu RM10,000.00 sehektar.

3. **Kerosakan, Jika Ada, Yang Ditanggung Atau Yang Mungkin Akan Ditanggung Oleh Orang Yang Berkepentingan Itu Semasa Pentadbir Tanah Mengambil Milik Tanah Itu Oleh Sebab Pengambilan Itu Menyebabkan Kesan Mudarat Pada Hartanya Yang Lain, Sama Ada Harta Alih Atau Tak Alih, Dengan Apa Cara Lain.**

Peruntukan di atas boleh dirumuskan seperti berikut :-

- (i) kerosakan yang **ditanggung semasa** pengambilan
- (ii) kerosakan yang **mungkin akan ditanggung** lama selepas pengambilan itu berlaku,

dan kerosakan-kerosakan itu akan melibatkan kerugian (*injuriously affecting*) ke atas hartanya yang lain. Dalam kes PHT lawan Looi Lam [1981] 1 MLJ 300 [Mahkamah Persekutuan], sebidang tanah, Lot 412, CT 13287, Bandar Kuala Lumpur telah diambil untuk kegunaan satu projek bagi meluruskan Sg. Bunus yang merentang Kampung Bahru, Kuala Lumpur. Lot 412 ini mempunyai keluasan seluas 1.994 ekar dan kawasan seluas 15,540 kaki persegi sahaja yang diambil. Berdekatan dengan kawasan yang diambil ini terdapat hartanya yang lain iaitu sebuah rumah kediaman dua tingkat, beralamat 175, Jalan Raja Muda, Kampung Bahru, Kuala Lumpur.

Walaupun rumah ini tidak terlibat dengan pengambilan ini namun akibat daripada pengambilan tersebut rumah ini telah rosak dengan teruknya dan perlu dibaiki segera. Rumah ini dimiliki oleh orang yang sama. Pemungut pada peringkat awalnya tidak membayar apa-apa pampasan ke atas rumah ini kerana ianya tidak terlibat. Tetapi apabila rayuan dikemukakan ke Mahkamah 8 tahun kemudian, pampasan sebanyak RM40,185.00 telah diluluskan kerana rumah ini telah rosak dengan teruknya akibat pengambilan itu. Hakim sebenarnya menarik perhatian ramai bahawa pampasan ini diluluskan kerana adanya peruntukan seksyen 2(d) Jadual Pertama yang menyatakan :-

“kerusakan yang mungkin akan ditanggung”

Rumah ini tidak terlibat dan soal **“kerusakan yang ditanggung”** tidak timbul tetapi kemudiannya berlakulah **“kerusakan yang mungkin akan ditanggung”**. Oleh itu wajarlah pampasan dibayar.

Terdapat dua unsur penting jika formula ini hendak digunakan.

- (i) Rumah itu dipunyai oleh tuan yang sama;
- (ii) Kerosakan itu berlaku akibat daripada pengambilan sebahagian daripada tanah tersebut

4. Jika Akibat Daripada Pengambilan Itu, Dia Terpaksa Atau Mungkin Terpaksa Menukar Tempat Kediaman Atau Tempat Perniagaannya, Perbelanjaan-Perbelanjaan Yang Berpatutan Jika Ada, Yang Bersampingan Dengan Pertukaran Itu (Seksyen 2e Jadual Pertama).

Tidak dapat dinafikan bahawa ada ketikanya rumah kediaman atau tempat perniagaan terpaksa dipindahkan ke tapak lain. Maka ianya melibatkan perbelanjaan perpindahan, maka perbelanjaan ini adalah yang bersangkutan dengan pertukaran itu seperti kos pindah, sewaan kediaman atau tempat perniagaan sementara dan sebagainya. (kehilangan pendapatan tidak boleh diambil kira, Pin. Akta A999).

Persoalannya berapa banyakkah pampasan yang hendak dibayar terutamanya **perbelanjaan sampingan** yang dimaksudkan itu. Tidak ada satu formula tetap yang boleh digunakan. Ianya bergantung kepada *‘merit’* sesuatu kes itu. Sebelum huraian lanjut diberi, peruntukan sebahagian daripada seksyen 21(2)(b), APT, 1960 perlu diteliti, iaitu:-

“di mana bangunan itu berbentuk sementara, atau sebaliknya boleh dipindah dan didirikan semula, boleh memindahkannya sendiri dan membangunkannya semula bangunan sedemikian”.

Pemungut diberi kuasa untuk memindahkan dan mendirikan semula mana-mana bangunan berbentuk sementara atau bangunan yang boleh dipindah dan didirikan semula.

Rumah orang Melayu yang terdapat di kampung-kampung tradisional atau di pinggir bandar, yang mempunyai tiang bertanam atau yang diletakkan di atas satu alas atau lapik tidak merupakan sebahagian daripada tanah seperti yang pernah diputuskan oleh Mahkamah Tinggi Negeri Sembilan. (Lihat kes Kiah Hanafiah lawan Som Hanafiah, [1963] MLJ 82).

Sebagai contoh, katakan rumah itu baru didirikan setahun yang lepas. Rumah ini mempunyai bekalan elektrik, air dan telefon.

Apakah perbelanjaan-perbelanjaan sampingan yang perlu diadakan semula oleh Pemungut supaya tuan punya rumah itu boleh menikmatinya semula dalam keadaan sebelum ianya dipindahkan. Perkara yang disenaraikan di bawah ini tidak dapat dielakkan.

- (i) Menyewa sebuah rumah yang lain untuk menempatkan keluarga tuan rumah bagi tapak rumah itu dibuka dan siap dipasang semula.
- (ii) Belanja memunggah, mengangkat dan mendirikannya semula.
- (iii) Sekiranya rumah itu di dalam kawasan pihak berkuasa tempatan, fee bagi menyediakan pelan bangunan, fee bagi menandatangani kontrak di antara PTD dan kontraktor, belanja bagi meratakan tapak rumah baru dan sebagainya.

- (iv) Belanja pendawaian elektrik dan deposit api, belanja memasang paip air dan deposit air, belanja memasang dawai telefon dan deposit telefon
- (v) Membeli bahan-bahan bangunan yang rosak.
- (vi) Gangguan (*disturbance*).

Cuba kita bayangkan apa akan terjadi kalau bayaran itu merupakan sebuah bangunan lama yang sudah berusia 50 – 60 tahun yang masih boleh didiami dengan selesa oleh keluarga tuan punya rumah, sekalipun 90% daripada bahan-bahannya sudah usang dan reput. Kewajipan Pemungut di bawah peruntukan seksyen 20(b)(ii), APT 1960 ialah memindahkan dan mendirikan semula dalam bentuk asal baik dari segi bentuk mahupun saiz.

Tuan punya tidak meminta Pemungut mendirikan rumah baru. Yang beliau mahu ialah memindahkan rumah itu ke tempat lain dalam bentuk tidak ada cacat celanya. Itu sahaja. Tidak lebih dan tidak kurang. Itulah yang diperuntukkan dan itulah diminta oleh tuan punya.

5. **Di mana Hanya Sebahagian Sahaja Daripada Tanah Itu Hendak Diambil, Apa-Apa Akujanji Oleh PBN, Atau Oleh Kerajaan, Orang Atau Perbadanan Yang Bagi Pihaknya Tanah Itu Hendak Diambil Bagi Membina Atau Mendirikan Jalan, Longkang, Dinding, Pagar Atau Kemudahan-Kemudahan Lain Yang Memberi Faedah Pada Mana-Mana Bahagian Tanah Yang Belum Diambil, Dengan Syarat Akujanji Itu Jelas Dan Boleh Dikuatkuasakan.**

Kadang kala pengambilan sebahagian daripada tanah itu akan menyebabkan tuan punya tanah terpaksa mengadakan *culvert* longkang, dinding atau benteng bagi menyekat hakisan, jambatan atau titi dan sebagainya yang kesemuanya memerlukan wang untuk mengadakannya. Pampasan atau ganti rugi terpaksa dibayar kepada mereka yang berkenaan.

Walau bagaimanapun dalam kes-kes tertentu pihak Kerajaan, orang atau perbadanan yang bagi pihaknya sesuatu tanah itu diambil membuat Akujanji bahawa pihak mereka sendiri akan mengadakan, *culvert* longkang, pagar dan sebagainya itu. Sekiranya, Pentadbir Tanah ada menerima Akujanji sedemikian maka pampasan atau wang ganti rugi bagi membolehkan tuan punya tanah mengadakan, jambatan, pagar dan sebagainya itu tidak perlu diberikan dengan syarat Akujanji yang diberikan itu jelas dan boleh dikuatkuasakan. Sekiranya Akujanji itu tidak jelas dan tidak boleh dikuatkuasakan, maka Pentadbir Tanah hendaklah meluluskan pampasan yang mencukupi kepada tuan punya tanah bagi membolehkan mereka sendiri mengadakan *culvert*, longkang, pagar dan sebagainya itu.

PERKARA-PERKARA YANG TIDAK BOLEH DIAMBIL KIRA DALAM MENENTUKAN PAMPASAN

Di samping mengambil kira faktor nilai **pasaran** tanah serta beberapa perkara yang perlu **diambil kira** bagi menentukan bayaran pampasan yang mencukupi selaras dengan peruntukan Perkara 13 Perlembagaan Persekutuan, terdapat pula beberapa perkara yang **perlu diketepikan** dalam perkiraan bagi menentukan bayaran pampasan. Ini dinyatakan selengkapnya pada seksyen 3, Jadual Pertama, APT 1960 yang dihuraikan satu persatu di bawah ini.

1. Tingkat Kedesakan Keadaan Yang Telah Membawa Kepada Pengambilan Itu (*Degree Of Urgency*)

Tidak dapat dinafikan bahawa ada ketikanya sesuatu tanah itu perlu diambil dalam keadaan terdesak di mana peruntukan kewangan yang disediakan terpaksa dibelanjakan pada tahun itu juga atau atas lain-lain sebab yang memerlukan sesuatu tanah itu diambil dalam keadaan terdesak.

Lazimnya jika sesuatu tanah itu perlu diambil dalam keadaan terdesak maka PBN boleh menggunakan peruntukan seksyen 19 Akta Pengambilan Tanah, 1960 di mana Pesuruhjaya mengeluarkan Borang I mengarahkan Pemungut berkenaan mengambil tanah yang dijadualkan itu di bawah Perakuan Kedesakan (*Certificate of Urgency*).

Dalam situasi demikian Pentadbir Tanah boleh mengambil milik tanah itu selepas 15 hari daripada tarikh notis awam dalam Borang E dikeluarkan di mana proses siasatan, penawaran *award* dalam Borang G serta penyerahan Borang H dibuat kemudian.

Dalam keadaan ini pihak tuan tanah atau lain-lain orang yang berkepentingan tidak boleh mengambil kesempatan dari keadaan kedesakan itu bagi menuntut pampasan yang lebih tinggi dan Pentadbir Tanah hendaklah berhati-hati dalam hal ini kerana inilah di antara yang dimaksudkan oleh seksyen

3(a) Jadual Pertama ini di mana pampasan yang diawardkan itu **tidak mengambil kira** akan tingkat kedesanan sedemikian.

2. **Keengganan Berpisah Dari Tanah**

Pada kelazimannya mana-mana tanah yang dimiliki menerusi proses pewarisan mempunyai *sentimental value* yang tinggi. Begitu juga dengan tanah yang ada hubungan dengan keagamaan seperti tanah yang telah diwakafkan untuk sekolah agama, madrasah, masjid dan sebagainya kerap kali mendapat tentangan daripada masyarakat setempat.

Walau bagaimanapun baik di Malaysia mahupun di Singapura, belum ada lagi kes Mahkamah berhubung dengan perkara ini. Di India, terdapat satu kes yang melibatkan pemindahan patung Hindu, oleh penganut-penganut Agama Hindu dikatakan:

“would cause the ideal to loose its religious efficacy if carried through the public way”.

Mahkamah, walau bagaimanapun memutuskan :

“ This was too sentimental an objection to merit the awarding of additional compensation “

Oleh yang demikian keengganan sedemikian tidak boleh diambil kira dan tidak boleh mempengaruhi bayaran pampasan yang lebih daripada yang sepatutnya.

3. Apa-Apa Kerosakan Yang Ditanggung Oleh Orang Yang Berkepentingan Yang Jika Disebabkan Oleh Orang Perseorangan, Tidak Akan Menjadikan Suatu Kuasa Tindakan Yang Baik

Peruntukan ini menyatakan bahawa Pentadbir Tanah tidak diberi kuasa untuk memberi pampasan yang lebih ke atas apa-apa kerosakan yang jika dilakukan oleh orang perseorangan tidak menjadikan suatu sebab yang baik untuk bertindak. Dengan erti kata yang lain jika kerosakan yang dilakukan oleh orang perseorangan itu boleh dijadikan sebab yang baik untuk bertindak maka Pentadbir Tanah boleh menimbang pampasan yang lebih ke atas kerosakan yang dialami oleh mana-mana orang berkepentingan itu. Umpamanya kedai A menjadi kurang maju akibat daripada kedai B, maka A tidak mempunyai sebab yang baik untuk bertindak kerana undang-undang tidak membolehkan A mengambil tindakan undang-undang terhadap B.

Bagi memahami huraian ini selanjutnya katakan X mempunyai sebidang tanah di mana sebuah banglo satu tingkat telah didirikan di bahagian tengah tanah itu. Pihak Berkuasa Negeri telah mengambil bahagian utara tanah itu untuk didirikan sebuah asrama tiga tingkat. Apabila asrama itu didirikan kelak sudah pasti ianya akan mencacat pandangan banglo X itu kerana ianya dilindungi oleh asrama itu. Dalam hal ini X tidak boleh menuntut pampasan yang lebih akibat daripada kecacatan itu.

4. Apa-Apa Susutan Nilai Tanah Yang Diambil Itu Yang Mungkin Berakibat Daripada Tujuan Tanah Itu Akan Digunakan Apabila Diambil.

Tidak dapat dinafikan bahawa kadang kala kawasan tanah yang sesuai diperlukan untuk diambil bagi dijadikan kawasan pelupusan sampah, padang tembak atau tapak perkuburan dan sebagainya. Lazimnya pengambilan ini melibatkan tanah pertanian.

Sebelum tanah pertanian itu diambil nilai pasarannya bergantung kepada jenis tanaman yang terdapat di atasnya serta kedudukannya. Andaikan tanah pertanian itu mempunyai nilai pasaran sebanyak RM10,000.00 sehektar. Nilai tanah yang sama akan menjadi lebih rendah selepas diambil kerana kawasan pelupusan sampah, padang tembak atau tapak perkuburan itu tidak mempunyai nilai pasaran yang baik.

Bagi maksud seksyen 3(d) Jadual Pertama ini, Pentadbir Tanah hendaklah **jangan mengambil kira akan kesusutan nilai tanah yang pasti berlaku apabila tanah yang diambil itu dimajukan sebagai kawasan pelupusan sampah, padang tembak atau perkuburan itu.** Pentadbir Tanah hendaklah menilai tanah itu dalam keadaan kegunaannya yang ada ketika itu tanpa mengambil kira tujuan pengambilan itu. Di England sebaik-baik sahaja diketahui bahawa sebidang tanah itu akan diambil untuk suatu projek awam maka nilai pasaran bagi tanah sedemikian akan menjadi rendah dengan sendirinya. Oleh itu seksyen 9, Akta Pampasan Tanah, 1961 'England' memperuntukkan bahawa *"no account shall be taken of any depreciation attributable to an indication that compulsory purchase is likely"*.

5. **Apa-apa kenaikan pada nilai tanah yang diambil itu yang mungkin terakru daripada tujuan tanah itu akan digunakan apabila diambil**

Peruntukan ini adalah lawan kepada peruntukan seksyen 3(d) di atas. Tanah pertanian yang diambil akan mempunyai nilai yang lebih tinggi sekiranya selepas pengambilan itu nanti tanah itu akan digunakan sebagai tapak industri berat, umpamanya. Dalam keadaan sedemikian nilai pasaran yang patut diberi adalah nilai pasaran bagi tanah pertanian dan bukan nilai pasaran bagi tanah perindustrian.

6. **Apa-Apa Perbelanjaan Mengenai Tambahan Atau Pembaikan Pada Tanah Yang Diambil Itu Yang Ditanggung Beban Selepas Tersiarinya Pengisytiharan Di Bawah Seksyen 8, Melainkan Jika Tambahan Atau Pembaikan Itu Adalah Perlu Bagi Penyenggaraan Sesuatu Bangunan Dalam Keadaan Baik, Dan Melainkan Mengenai Tanah Pertanian, Apa-Apa Wang Yang Telah Dibelanjakan Untuk Penanaman Tanaman Yang Berterusan Ke Atasnya.**

Peruntukan ini jelas menyatakan bahawa apa sahaja tambahan atau pembaikan ke atas tanah, termasuk apa-apa bangunan yang terdapat di atasnya, yang dilakukan selepas tarikh pewartaan Borang D di bawah seksyen 8, APT, 1960. (yang sudah pasti akan menaikkan nilai pasaran bagi tanah itu) hendaklah jangan diambil kira bagi menentukan bayaran pampasan.

Walau bagaimanapun terdapat dua kekecualian. Pertama, sekiranya tambahan atau pembaikan itu terpaksa dilakukan dengan tujuan untuk menjaganya dengan baik, seperti membaiki atap yang bocor atau mengganti lantai yang reput dan sebagainya, maka pembaikan sedemikian adalah dibenarkan. Jika dengan pembaikan itu akan menaikkan sedikit nilai bangunan itu, maka ianya hendaklah diambil kira.

Kedua apa-apa perbelanjaan yang telah dikeluarkan bagi meneruskan aktiviti pertanian di atas tanah yang sedang dalam prosiding pengambilan itu, seperti belanja membajak, membuat batas, saluran air dan sebagainya itu adalah dibenarkan dan Pentadbir Tanah hendaklah mengambil kira akan segala perbelanjaan yang telah dikeluarkan itu.

Tuan punya tanah atau bangunan hendaklah mengemukakan resit bayaran yang telah dibelanjakan itu ketika mengemukakan tuntutan yang berpatutan untuk pertimbangan Pentadbir Tanah, semasa siasatan di bawah seksyen 12, APT, 1960 dijalankan.

**PANDUAN RINGKAS
PENENTUAN PAMPASAN PENGAMBILAN TANAH**

DISEDIAKAN OLEH

CHE ROSLAN BIN CHE DAUD
PENOLONG PENGARAH
UNIT PENGAMBILAN TANAH

JABATAN KETUA PENGARAH TANAH DAN GALIAN KELANTAN
TINGKAT 3-5, BANGUNAN SAPURA, JALAN SULTANAH ZAINAB, 15050
KOTA BHARU, KELANTAN

TERHAD

PENGHARGAAN

Bismillahir-Rahmanir-Rahim

Segala puji bagi Allah (Azzawajalla), Selawat dan Salam untuk Junjungan Besar Nabi Muhammad (s.a.w.), para sahabat dan semua mereka yang sentiasa berada di atas landasan kebenaran.

Alhamdulillah, bersyukur Ke hadrat Ilahi kerana limpah dan keizinanNya akhirnya dapat saya menyiapkan **Panduan Ringkas Penentuan Pampasan Pengambilan Tanah** yang mana sedikit sebanyak dapat membantu para Pegawai Siasatan (*Hearing Officer*) Jabatan Ketua Pengarah Tanah dan Galian (JKPTG) Kelantan dalam mengendalikan kes-kes pengambilan tanah.

Saya ingin mengambil peluang ini untuk mengucapkan jutaan terima kasih kepada Puan Hajjah Samsiyah Binti Adam, Pengarah JKPTG yang sentiasa memberi dorongan dan motivasi untuk saya menulis panduan ini. Tidak dilupakan juga para *staff* Unit Pengambilan Tanah (UPT) yang membantu saya dengan memberi maklumat-maklumat berguna dari pengalaman mereka terutama sekali Encik Shkri Bin Ismail dan Encik Che Johari Bin Che Soh. Mudah-mudahan mereka semua mendapat ganjaran pahala dari Allah (Azzawajalla) di dunia dan akhirat.

Wassalam.

TERHAD

4.0 UNIT ASAS SYSTEM INTERNATIONAL D 'UNITES' (SI) DAN GANDAAN

Gandaan yang digunakan adalah ditunjukkan dengan kata-kata awalan tetapi bukan semua Unit tersebut selalu digunakan. Jadual 1 menunjukkan Unit-Unit asas SI dan gandaan-gandaan yang digunakan.

JADUAL 1
UNIT-UNIT ASAS SI

Faktor Pendarapan		Kata Awalan	Simbol	Unit SI & Gandaan		
				Panjang	Luas	Isipadu
1 000 000	10^6	mega	m	-	-	-
1 000	10^3	kilo	k	km	km ²	-
100	10^2	hektar	h	-	-	-
10	10	deca	da	-	-	-
1	1	-	-	m	m ²	m ³
0.1	10^{-1}	deci	d	-	-	dm ³
0.01	10^{-2}	senti	s	sm	sm ²	sm ³
0.001	10^{-3}	mili	m	mm	mm ²	-

Nota: Unit kaki digunakan 2 angka selepas titik perpuluhan (3.28 kaki) dan unit ekar 3 angka selepas titik perpuluhan (2.471 ekar) untuk kiraan pertukaran unit

TERHAD

HURUF-HURUF RINGKAS

ek	-	ekar
in	-	inci
ka	-	kaki
rt	-	rantai
km	-	kilometer
m	-	meter
sm	-	centimeter

FAKTOR-FAKTOR PENUKARAN

A - Panjang dan jarak jauh

in	(X	25.40	=)	mm
	(=	0.03947	X)	
ka	(X	0.3048	=)	
	(=	3.281	X)	m
batu	(X	1.609	=)	
	(=	0.6214	X)	km

B. Luas

in ²	(X	6.452	=)	
	(=	0.1550	X)	sm ²
ka ²	(X	0.0929	=)	
	(=	10.76	X)	m ²
rt ²	(x	0.04047	=)	
	(=	24.71	X)	m ²
batu ²	(X	2.590	=)	
	(=	0.3861	X)	km ²
ek	(X	0.4047	=)	
	(=	2.471	X)	ha

C. Isipadu

in ³	(x	16.39	=)	
	(=	0.06102	X)	sm ³
ka ³	(X	0.02832	=)	
	(=	35.32	X)	m ³

5.0 SIFIR BAGI MENENTUKAN NILAI PAMPASAN

1. RUMAH

A. Batu	
i. Julat Upah	RM 12.00 - RM 17.00 / ka ²
ii. Kontrak terima siap	RM 45.00 - RM 75.00 / ka ²
B. Kayu	
i. Julat Upah	RM 5.00 - RM 12.00 / ka ²
ii. Kontrak terima siap (Jenis kayu Malaysia)	RM 25.00 - RM 45.00 / ka ²
C. Lain-lain	
i. Porch / Sutuh	
a) Julat Upah (Batu)	RM 12.00 - RM 17.00 / ka ²
b) Julat Upah (kayu)	RM 5.00 - RM 12.00 / ka ²
c) i) Julat upah (Besi –bentuk biasa)	RM 6.00 – RM 10.00 / ka ²
ii) Julat upah (Besi –bentuk kubah)	RM 20.00 / ka ²
ii) Tile / Mosaic	
Upah berdasarkan harga satu (1) keping tile	RM 0.80 @ RM 1.50 / ka ²

2. PAGAR

Jenis	RM skl
Julat Upah dan Bahan	
Pagar kawat duri	RM 4.00 atau 5.00
Pagar zink (c/i)	RM 8.00
Pagar chain link	RM 10.00 – RM 12.00
Pagar simen blok	RM 25.00
Pagar konkrit	RM 30.00 – RM 40.00 (mencecah RM 50.00)
Pagar besi biasa	RM 5.00 – RM 10.00

TERHAD

5. KOS TAMBUN

A. Berdasarkan isipadu

Panjang x Lebar x Dalam = Unit padu

$$\therefore \frac{\text{Unit padu}}{\text{-----}} = \text{Jumlah Lori}$$

$$4.6 \text{ m}^3$$

$$\therefore \text{Kos bagi satu lori} \times \text{Jumlah Lori} = \text{Kos Tambung keseluruhan}$$

Nota : tanah / pasir satu (1) lori 6 roda ialah sebanyak 4.6 m^3
tanah / pasir satu (1) lori 10 roda ialah sebanyak 8 m^3

<p>Saptic Tank</p> <p>Upah berdasarkan jumlah hari kerja dan kos bahan binaan</p>	<ul style="list-style-type: none"> - kebiasaan upah ialah RM 30.00 - 50.00 / hari - Bahan binaan seperti Jongkong RM 220.00 / 1000 ketul
<p>Tambang Hadir Siasatan (hearing)</p> <p>i) Bas pergi dan balik</p> <p>ii) Teksi pergi dan balik, Makan / minum</p> <p>iii) Pelbagai kos (kehilangan pendapatan pada hari bicara)</p>	<ul style="list-style-type: none">)kebiasaannya dibayar RM 200.00 bagi)KL, Perlis, Kedah, Melaka dan tambahan)RM 50.00 sekiranya dari Johor.)Sekiranya dalam negeri RM 50.00)Berdasarkan kadar kerajaan ditanya semasa perbicaraan

Nota:

- a. Tambang yang diberi ini adalah jarak yang jauh seperti luar daripada negeri ke tempat siasatan atau jajahan yang jauh

7. Kos Pindah

Pindah barang	satu (1) trailer : RM 700.00 / trip
Penyewaan untuk tuan premis	<p>3 bulan kadar sewa mestilah berdasarkan jumlah penghuni dan barang-barang yang akan dipindahkan.</p> <p>Julat sewa : RM 200.00 - RM 400.00</p>
Pindah kayu gergaji (<i>sawn timber</i>)	<p>Kiraan panjang x Lebar x Tinggi = Unit Isipadu</p> <p>Satu (1) lori boleh muat maksimum 15 m³</p> <ul style="list-style-type: none"> -Pindahan kayu gergaji RM 700.00/trip - Sewa Forklift RM 250.00/hari

Nota:

Semua Kadar harga ini berubah dari masa ke semasa bergantung kepada keadaan pasaran

KANDUNGAN

Muka Surat

	KANDUNGAN	(i)
	PENGHARGAAN	(ii)
1.0	PENGENALAN	1
2.0	PRINSIP YANG DIGUNAKAN DALAM PENENTUAN PAMPASAN	1
3.0	NILAI PASARAN	1
4.0	UNIT ASAS SYSTEM INTERNATIONAL D'UNITES (SI) DAN GANDAAN	2
5.0	SIFIR BAGI MENENTUKAN NILAI PAMPASAN	6
6.0	PENUTUP	11

1.0 PENGENALAN

Panduan ini dikeluarkan kepada semua Pegawai Bicara (*hearing officer*) Jabatan Ketua Pengarah Tanah dan Galian kelantan sebagai garis panduan bagi menentukan nilai pampasan yang mencukupi kepada tuan-tuan punya tanah atau tuan-tuan punya bangunan. Pampasan yang mencukupi ini adalah selaras dengan Perkara 13 Perlembagaan Persekutuan yang menjelaskan bahawa "*No person shall be deprived of property save in accordance with law and no law shall provide for compulsory acquisition or use of property without adequate compensation*". Selain daripada itu, Ianya juga memuatkan sedikit penukaran unit dari Sistem Imperial kepada Sistem Metrik atau sebaliknya dalam sektor tanah sahaja. Panduan ini juga adalah bertujuan supaya nilai pampasan yang dibuat oleh Pegawai Bicara (*hearing officer*) adalah seragam antara satu sama lain yang mana akhirnya dapat memberi kepuasan kepada tuan-tuan punya tanah atau bangunan sebagai pelanggan. Panduan ini hanya melibatkan bangunan, pagar, kemudahan-kemudahan, kos perpindahan, penyewaan premis semasa perpindahan dan sebagainya.

2.0 PRINSIP YANG DIGUNAKAN DALAM PENENTUAN PAMPASAN

Tujuan undang-undang digubal dalam aktiviti pengambilan tanah adalah untuk membayar pampasan kepada pihak yang terlibat mengenai kerugian yang mereka alami. Prinsip yang digunakan diberi nama "*Principle of Equivalence*" sebagaimana yang dipetik dari kes Horn melawan Sunderland, L.J. Scot mengatakan "*The right to be put, so far as money can do it in the same position as if his land has not be taken from him, in other words, he gains the right to receive a money payment not less than the loss imposed on him in the public interest, but on the hand, no greater*".

3.0 NILAI PASARAN

Di dalam Akta Pengambilan Tanah (APT) 1960 tidak didefinisikan secara jelas, walau bagaimanapun perkara ini telah ditafsirkan oleh hakim yang boleh dijadikan panduan. Hakim Buhagiar dalam kes Nanyang Manufacturing Co. Ltd melawan Pemungut Hasil Tanah Johor menyatakan "*the market value of land may be roughly described as the price that an owner willing and not obliged to sell might reasonably expect to obtained from a willing purchaser which whom he was bargaining for the sale and purchase of the land*".

JADUAL 2

UNIT METRIK TERPILIH UNTUK KEGUNAAN SEKTOR TANAH

Unit Ukuran	Simbol	Penggunaannya	Persamaan	
			Metrik	Imperial
Panjang				
Kilometer	km	Jarak, Panjang	1000 m	0.62 batu
Meter	m	Ukuran Tanah	1 m	1.1 ela 3.2808399 kaki 4.970965 ling
			20 m	1 rantai
Sentimeter	sm	Ukuran atau Pelan	0.01 m	0.39 inci
Luas				
Hektar	ha	Kawasan luas plot tanah	0.01 km ² 10,000 m ² 0.404686 ha	2.47105 ekar 1 ekar 43,560 ka ²
Meter	m ²	Kawasan kecil, plot tanah	1 m ²	1.2 ela ² 10.76391 ka ² 24.710538 ling ²
Depa	d	Kawasan sederhana, plot tanah	4.04686 m ²	10.76391 ka ²
500 Depa	-	-	-	0.5 ekar
Ekar		Kawasan luas plot tanah	4046.856 m ²	1 ekar
Isi padu				
meter isipadu (sukatan Pejal)	m ³	Isipadu tanah tambun	1 m ³	35.32 ka ³

JADUAL PENUKARAN KASAR

Isipadu	kaki padu	X	$1/35 =$	meter padu
	meter padu	X	$35 =$	kaki padu
Luas	ekar	X	$4/10 =$	hektar
	hektar	X	$25/10 =$	ekar
	kaki persegi	X	$1/11 =$	meter persegi
	meter persegi	X	$11 =$	kaki persegi
	meter persegi	X	$1/400 =$	rantai persegi
	rantai persegi	X	$400 =$	meter persegi
Panjang	batu	X	$10/6 =$	kilometer
	sentimeter	X	$4/10 =$	inci
	inci	X	$25/10 =$	sentimeter
	kaki	X	$3/10 =$	meter
	kilometer	X	$6/10 =$	batu
	meter	X	$10/3 =$	kaki
	meter	X	$1/20 =$	rantai
	rantai	X	$20 =$	meter

3. LANTAI TURAP

Jenis	RM
Upah dan Bahan	RM 30.00 smp
Lantai turap simen	
Lantai turap tar	RM 40.00 smp
Lantai turap tar (upah sahaja)	RM 1.00 / ka ²

4. STOR

Jenis (Upah dan Bahan)		RM smp
Lantai	: tanah	RM 50.00
Bumbung	: zink	
Dinding	: tiada	
Lantai	: tanah	RM 70.00
Bumbung	: bata	
Dinding	: papan	
Lantai	: tanah	RM 80.00
Bumbung	: zink	
Dinding	: papan	
Lantai	: tanah/papan	RM 100.00
Bumbung	: zink	
Dinding	: zink	
Lantai	: konkrit	RM 120.00
Bumbung	: zink	
Dinding	: konkrit dan zink/papan	

B. Berdasarkan kuantiti

Bagi menambun keluasan 1 ekar dan kedalaman satu (1) kaki memerlukan 350 lori maka kaedah kadar terus boleh digunakan

$$\begin{aligned}
 &1000 \text{ Depa (1 ekar)} \longrightarrow 350 \text{ lori} \\
 &X \text{ Depa} \longrightarrow \frac{X \text{ Depa} \times 350 \text{ Lori}}{1,000 \text{ Depa}} \\
 &= Y \text{ lori bagi kedalaman 1 kaki}
 \end{aligned}$$

$$Z \text{ (kaki Dalam)} \times Y \text{ (Lori)} = \text{Jumlah lori Mengikut kedalaman}$$

$$\text{Kos Tambun} = \text{Harga / Lori} \times Y \text{ (Lori)}$$

Nota : Harga satu (1) Lori Tanah / Pasir = RM 60.00 - RM 80.00 / lori (lori 10 roda)

6. LAIN-LAIN KOS (MISCELENOUS)

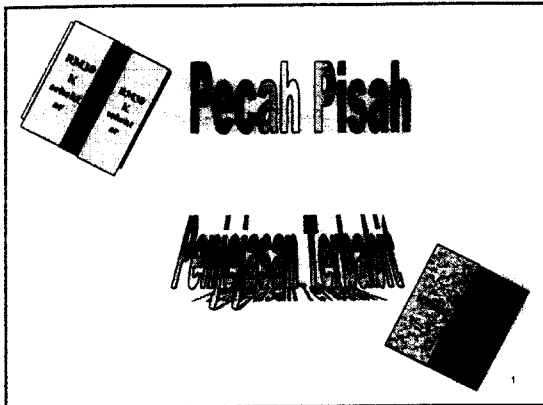
Perigi (upah dan Bahan)	RM 60.00 sekeret
Pancang air (upah sahaja)	RM 12.00/ka
Rumah Asap Tembakau	
Sesebuah	RM 16,000 (maklumat dari penduduk)
Berkembar	RM 32,000 (maklumat dari penduduk)
Pendawaian eletrik (upah dan bahan)	RM 35.00 / 1 point Plug RM40.00
Pindah / pemasangan meter air Julat Upah pemasangan siap	RM 1,000.00 - RM 1,200.00

TERHAD

6.0 PENUTUP

Harga-harga yang dikemukakan dalam Panduan Ringkas Penentuan Pampasan Pengambilan Tanah ini adalah sebagai garis panduan kepada Pegawai Siasatan bagi memudah serta membantu mereka membuat tawaran pampasan yang mencukupi dan seragam antara satu sama lain. Di samping itu juga, ianya amat berguna kepada para pegawai baru yang ditugaskan untuk mengendalikan kes-kes siasatan pengambilan tanah. Harga yang dikemukakan ini juga berubah-ubah mengikut keadaan semasa. Oleh yang demikian ianya hendaklah dikaji dari masa ke semasa.

Adalah diharapkan dengan adanya panduan ringkas ini yang pertama kali didokumentasikan secara bertulis dapat memudahkan dan melicinkan kerja-kerja siasatan pada masa depan dan penulis sangat berbesar hati sekiranya ada teguran-teguran yang membina bagi memperbaiki dan memperkemas lagi panduan ini.



Pecah Pisah (Severance)

Pecah-pisah bermakna satu penurunan nilai terhadap tanah-tanah atau baki tanah pemunyaanya akibat pengambilan tanah tersebut.

Misalan pengambilan tanah untuk jalan yang akan memisahkan sebahagian estet dari yang lain. Pengambilan yang menyebabkan baki berbentuk tidak sekata atau luas terlalu kecil.



Severance/Injurious affection

- there is a direct physical relationship between the property taken and the property remaining (interdependence between the two lots)
- unity of use (acquisition of 0.5 hectare for petrol station in the same 30 hectare parcel)(ACTUAL and not PLANNED, remote or speculative)
- unity of ownership (portion/lot remaining must belong to the same owner and not just relatives/friends)

Situasi

- Pengambilan sebahagian lot
- Pengambilan lot lot yang 'contiguous' di mana terdapat lot baki
- Lot berkenaan mesti terlibat dengan Pengambilan Tanah

UJIAN – tanah milik

- Adakah pemilikan dan kawalan setiap lot (termasuk lot yang diambil) memberi satu peningkatan nilai kepada seluruh.
- *Test is whether possession & control of each piece of land including the piece taken gives an enhanced value to the whole*

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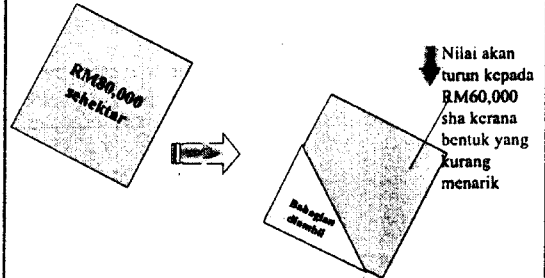
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Pecah Pisah Berlaku

- Terdapat penurunan intensiti kegunaan tanah (*reduce the intensity of land use* (*highest and best use reverting to a lower use*))
- Rupabentuk yang tidak sekata (*uneconomic shape and irregular shape increases costs of construction and fencing, with certain areas remaining unusable*)
- Perubahan curun di mana tanah baki berada di bawah atau di atas – contoh laluan lebuh raya yang bertingkat.

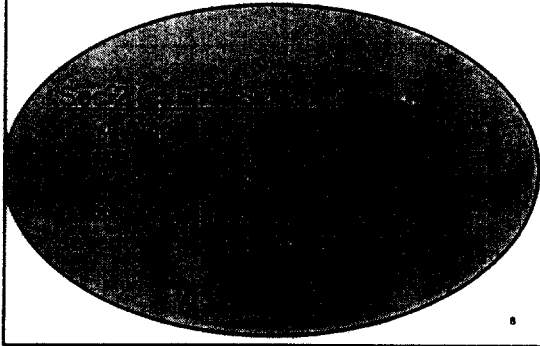
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Pecah Pisah (Mengubah Rupabentuk)

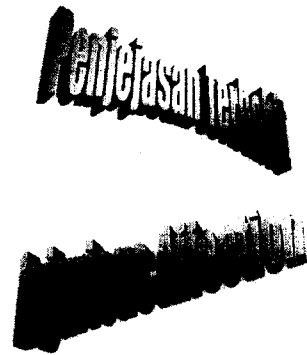


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Pecah-Pisah (Severance)

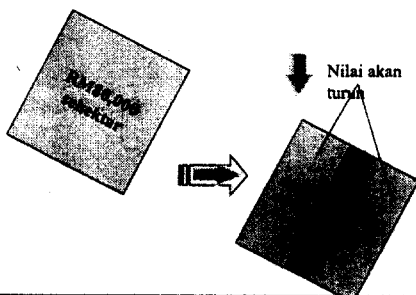


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11

Pecah Pisah (Memisahkan tanah)



9

Penjelmaan Tanahabit (Injurious affection)

Ini adalah penurunan nilai tanah atau baki tanah pemunya akibat KEGUNAAN ke atas tanah yang diambil balik. Misalan pengambilan tanah bagi tapak perkuburan

12

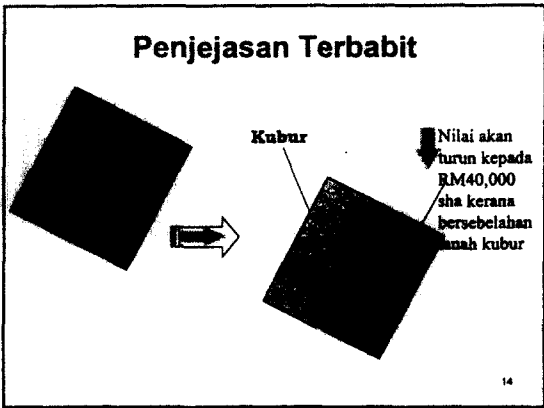
Penurunan mungkin secara sementara atau tetap. Sementara – semasa pembinaan dan tetap semasa kegunaan dilaksanakan atau akan dilaksanakan (actual or intended use).

- Penggunaan mesti sah (sejajar) dengan maksud Pengambilan - Looi Lam

13

COMPUTATIONS OF SEVERANCE & INJURIOUS AFFECTON

16



14

COMPUTATION

- *"Before and After Method"*
"Where a claim is made involving a diminution in value it is essential to have two valuations relating to the appellant's other land, namely, one, the market value immediately prior to the acquisition of the land and the other immediately after the acquisition. The difference between the two valuations may be taken as representing the extent of the injurious affection relating to diminution in value of land taken." Datuk Murugesu Sockalingam
- REMAINING LAND – NOT NECESSARY WHOLE
- Cost to rectify the damage (Looi Lam)

17

Penilaian Terbabit (Injurious Affection)

- **Sec 2(d) First Schedule**
the damage, if any, sustained or likely to be sustained by the person interested at the time of the Collectors' taking possession of the land by reason of the acquisition injuriously affecting his other property, whether moveable or immovable, in any other manner

15

BEFORE & AFTER METHOD

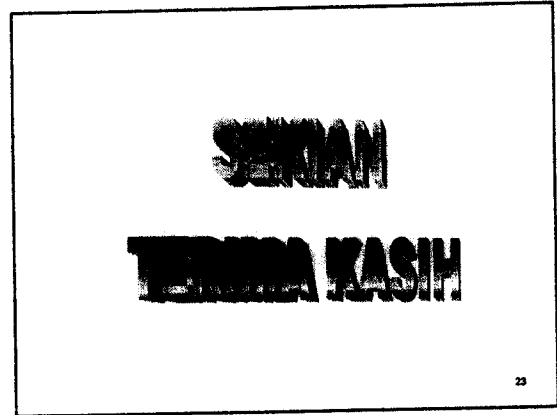
• Before	
• Value of the whole unit	X
• LESS	
• After	
• Value of the remaining portion	Y
• Compensation for land taken and severance.	X - Y
• LESS	
• Value of land taken based upon value on the "Before" basis	M
• Compensation for severance	X - Y - M

18

SOME INSTANCE OF COURT'S AWARD	
M/S Semantan Estate Ltd (1952) vs VLR, KL (C.Application 6/70)	15% nilai tanah
Consolidated Plantations Bhd v CLR Lower Perak	Nilai pecah pisah dan penjejasan terbabit – 50% nilai tanah baki

1	Lim Foo Yong v CLR	Severance awarded based on loss of rental. Supreme Court awarded but the claim of severance was rejected by the Privy Council.
		By reason of the acquisition the owners Lim Foo Yong are permanently disabled from providing Collector of Land for the Hotel a swimming pool and Revenue KL recreational facilities which they would have done. Therefore the appellants had suffered substantial financial loss from the reduction of the rental value of their hotel
		Use of land for industry preventing or reducing the supply of water to an oil mill affecting the oil mill operation. There is a need to cut the area to prevent contamination of water supply to the mill.

CASES	DECISIONS
1	Collector Of Land Revenue v. Looi Lam (Federal Court Civil Appeal No. 238/79)
	High Court (J. Veerah) awarded on damages likely to be sustained by th house due to road deviation. Federal Court upheld the High Court's decision. The Federal Court upheld the High Court judgement that compensation for the damage to the house can be paid inspite of the fact that the damage was subsequent to the physical possession by the Collector.
	Tan Siffian quoting the Indian case of Collector of Chandernagore v Girdji Nath Roy and others has said, "A proprietor is entitled to compensation for depreciation of the value of his other land in so far as such depreciation is due to the anticipated but use of adjacent land." The land
2	Consolidated Plantations Bhd v. Pannangut Hala Tanah Kelang (KL Federal Court Civil Appeal No. 84 of 1983)



3	M/S Semantan Estate Ltd (1952) vs VLR, KL (C.Application 6/70)	
4	Anglo Java Rubber Co Ltd V CLR JB (LR 4 of 1955)	Land acquired is severed from the main estate, any loss of earnings caused to the objectors is by such severance and does not come under injurious affection. "I think a claim under the heading "injurious affection" can only be put forward when damage is caused to the objectors by the use to which the land is put, in other words, by reason of the acquisition, and not by reason of the severance.... Severance given as anticipatory as the CLR has not taken possession
5	Consolidated Plantations Bhd v CLR Lower Perak	Razak J. : contiguous lot must mean as including a lot adjoining and separated by a road

**LAND ACQUISITION IN
malaysia**

By
MANI USILAPPAN
DEPUTY DIRECTOR GENERAL
JPPH

THE CHANGE BEGINS

- FROM AGRICULTURE TO INDUSTRIES
- VISION 2020
- EDUCATION AND TRAINING
- PRIVATISATION
- HEAVY INDUSTRIES

THE CHANGE CONTINUES

- NEW TOWNSHIPS
- NEW HIGHWAYS
- NEW INDUSTRIAL AREAS.
- PUTRAJAYA
- CYBERJAYA

**NEED FOR COMPULSORY
ACQUISITION**

- "SOVEREIGN POWER OF EVERY STATE TO APPROPRIATE INDIVIDUAL'S LAND FOR PUBLIC UTILITIES"
- "SALUS POPULI SUPREMA LEX"

**COMPULSORY ACQUISITION
LAND ACQUISITION**

- COMPENSATION PRINCIPLES
 - COMMON LAW PRINCIPLES
 - CONSTITUTIONAL PRINCIPLE

PRINCIPLE OF COMPENSATION

"the right to be put, so far as money can do it in the same position as if his land has not been taken from him. In other words, he gains the right to receive a money payment not less than the loss imposed on him in the public interest, but, on the other hand, no greater".

This is called the *principle of equivalence* by Lord Scott in *Horn V Sunderland Corporation*

SAFEGUARDS FOR THE LANDOWNER

FEDERAL CONSTITUTION

13(1) *No person shall be deprived of property save in accordance with law*

13(2) *No law shall provide for the compulsory acquisition or use of property without adequate compensation.*

- LAND ACQUISITION ACT
- ADEQUATE COMPENSATION
- MARKET VALUE
- OTHER COMPENSATION ITEMS

PURPOSE OF ACQUISITION

ACQUISITION UNDER SECTION 3(1)(a)

PUBLIC PURPOSE

ACQUISITION UNDER SECTION 3(1)(b)

ECONOMIC DEVELOPMENT

ACQUISITION UNDER SECTION 3(1)(c)

PUBLIC SECTOR DEVELOPMENT
CORPORATIONS

FOR 3(1)(b) and (c)

APPLICANT SENDS APPLICATION TO PTD

PTD SENDS APPLICATION TO SEPU- fulfill requirements IF NO DEVELOPMENT PLANS ARE AVAILABLE

SEPU CONSIDERS APPLICATION

NEGOTIATE ONLY IF ACQUISITION IS FOR PUBLIC UTILITIES AND LAND HAS DEVELOPMENT APPROVAL

ISSUES

LAND WITH DEVELOPMENT APPROVAL

WANTED FOR PUBLIC UTILITY

DIRECT THAT NEGOTIATION TAKES PLACE

OBTAIN FEEDBACK

OTHER CASES AT THE DISCRETION OF THE SEPU'S WHETHER TO NEGOTIATE OR NOT

ACTION BY SEPU

SEPU MAKES RECOMMENDATIONS

STATE COMMITTEE EVALUATES RECOMMENDATIONS

STATE AUTHORITY ACCEPTS OR REJECTS THE EVALUATION

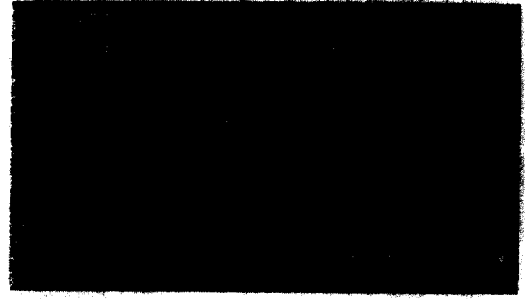
IF ACCEPTED LAND IS SEND FOR ACQUISITION

**SAFEGUARDS FOR THE
LANDOWNER**

ISSUES

PROCEDURES
BENEFITS TO LANDOWNER
PREVENTS UNILATERAL ACTION BY
AGENCIES OR CORPORATIONS
DELAYS
COSTS

**SAFEGUARDS FOR THE
LANDOWNER**



OBJECTIONS AND APPEALS

JUDGE AND TWO ASSESSORS
ONE PRIVATE AND ANOTHER PUBLIC SECTOR
ASSESSOR
QUALIFIED AND COMPETENT VALUERS
WRITTEN DECISION
JUDGE TO CONCUR
DECISION ON COMPENSATION FINAL
APPEAL ONLY ON POINTS OF LAW

MARKET VALUE

WILLING BUYER
WILLING SELLER
BARGAINING
REASONABLY EXPECTED TO REALISE

DATE OF VALUATION
SECTION 4
SECTION 8

MARKET VALUE

POTENTIALITIES

EXPRESS CONDITION
NEW SECTION 2(BA)
PLANNING CERTIFICATE
BY TOWN AND COUNTRY PLANNING
DEPARTMENT
OTHER CASES

INTERESTS TO BE VALUED

EXPRESS AND IMPLIED CONDITIONS OF TITLE

LEASEHOLD LAND
SCHEDULED LAND
MALAY RESERVATION LAND

LAND OF RESERVE PURPOSES

REINSTATEMENT
ER BOON YAN
ANTIQUITIES ACT
AGRICULTURE LANDS
SECTION 214A OF THE NLC
SUA BETONG OVER-RULED
ENCUMBERED LANDS
MINING LANDS

METHODS OF VALUATION

VALUER MAY USE ANY APPROPRIATE METHOD
COMMON METHODS ARE
COMPARISON METHOD
INVESTMENT METHOD
COST METHOD
RESIDUAL METHOD
PROFITS METHOD
DISCOUNTED CASHFLOW METHOD

COMPARISON METHOD

SALES OF SIMILAR LANDS IN THE VICINITY
PREVIOUS SALE OF THE LAND WITHIN TWO YEARS
EXCLUDE POST-NOTIFICATION SALES

OTHER CLAIMS

- SEVERANCE
- INJURIOUS AFFECTION
- COSTS OF REMOVAL
- ACCOMMODATION WORKS
- BETTERMENT

AMENDMENT TO FIRST SCHEDULE

SUBPARAGRAPH 1(1)(a)
AMENDED TO EXTEND THE PERIOD FOR SEC 4
NOTICE TO 12 MONTHS.
PREVIOUSLY 6 MONTHS.

SUBPARAGRAPH 1(1A)
IS INTRODUCED TO PROVIDE THAT IN ASSESSING
THE MARKET VALUE OF LAND, VALUER MAY USE
ANY SUITABLE METHOD OF VALUATION REGARD
TO BE HAD TO THE RECENT SALES OF LAND WITH
SIMILAR CHARACTERISTICS SITUATED WITHIN
SAME VICINITY.
LAST TRANSACTION ON THE SCHEDULED LAND
WITHIN TWO YEARS FROM THE DATE OF THE
GAZETTE IS TO BE CONSIDERED

SUBPARAGRAPH 1(1B)

~~INTRODUCED WHEREBY ONLY A PART OF LAND TO BE ACQUIRED, THE MARKET VALUE SHALL BE DETERMINED BY REFERENCE TO THE WHOLE LAND AS SHOWN IN THE DOCUMENT OF TITLE, AFTER HAVING REGARD TO THE PARTICULAR FEATURES OF THAT PART.~~

SUBPARAGRAPH 1(1C)

INTRODUCED TO PERMIT ONLY THE SALES OF LAND ON OR BEFORE THE DATE OF ACQUISITION, TO BE TAKEN INTO CONSIDERATION IN DETERMINING THE MARKET VALUE

SUBPARAGRAPH 1(1D)

INTRODUCED WHEREBY IN ASSESSING THE MARKET VALUE OF LAND HELD UNDER LEASE REGARD IS TO BE MADE TO THE EXPIRY DATE AND NOT TO THE LIKELIHOOD OF SUBSEQUENT ALIENATION TO THE SAME PROPRIETOR.

SUBPARAGRAPH 9(2A)

~~AMENDED WHEREBY THE FACT THAT A SCHEDULED LAND TO BE ACQUIRED IS A MALAY RESERVATION LAND, MALAY HOLDING OR CUSTOMARY LAND SHALL NOT BE TAKEN INTO ACCOUNT IN ASSESSING THE MARKET VALUE EXCEPT WHERE THE SCHEDULED LAND IS TO BE DEVOTED AFTER THE ACQUISITION, SOLELY TO A PRUPOSE FOR THE BENEFIT OF PERSONS WHO ARE ELIGIBLE TO HOLD SUCH LAND UNDER THE RELEVANT WRITTEN LAW.~~

SUBPARAGRAPH 1(2B)

DELETED AS IT IS NO LONGER NECESSARY IN VIEW OF THE OTHER AMENDMENTS MADE TO THE ACT.

SUBPARAGRAPH 1(2BA)

INTRODUCED WHEREBY IF INFORMATION SUBMITTED BY STATE DIRECTOR OF TOWN AND COUNTRY PLANNING OR COMMISSIONER OF THE CITY OF KL, INDICATED THAT SCHEDULED LAND IS WITHIN LOCAL PLANNING AUTHORITY AREA, THE LAND SHALL BE ASSESSED ACCORDING TO THE SPECIFIC LAND USE INDICATED IN THE DEVELOPMENT PLAN.

SUBPRAGRAPH 1(2D)

~~INTRODUCED WHEREBY IN ASSESSING ANY ESTATE LAND, THE MARKET VALUE SHALL NOT BE AFFECTED BY THE FACT THAT IT CAN BE SOLD TO ONE PERSON.~~

SUBPARAGRAPH 1(3A)

INTRODUCED TO PROVIDE THAT THE VALUE OF ANY BUILDING ON LAND TO BE ACQUIRED SHALL BE DISREGARDED IF THAT BUILDING IS NOT PERMITTED FOR THAT CATEGORY OF LAND USE, OR BY AN EXPRESS OR IMPLIED CONDITION OR RESTRICTION, TO WHICH THE LAND IS SUBJECT TO OR DEEMED TO BE SUBJECT TO, UNDER THE STATE LAND LAW.

SUBPARAGRAPH 2(b)

~~AMENDED TO INSERT THE WORDS "WHICH SHALL BE DEDUCTED FROM THE TOTAL COMPENSATION".~~

TO MAKE IT CONSISTENT WITH THE PROVISIONS OF PARAGRAPH 47(2)(b) OF THE ACT.

SUBPARAGRAPH 2(d)

AMENDED TO DELETE THE WORDS "OR HIS ACTUAL EARNINGS" SINCE THESE WORDS ARE UNNECESSARY CONSIDERING THAT THE MATTER IS ALREADY COVERED BY THE EXISTING SUBPARAGRAPH 2(e).

AMENDMENT TO OTHER SECTIONS

SECTION 5

AMENDED BY SUBSTITUTING THE WORD "COMMISSIONER" WITH "STATE DIRECTOR"

SECTION 8

NEW SUBSECTION (5) TO EMPOWER THE LAND ADMINISTRATOR TO PAY COMPENSATION IN THE CASE OF THE DECLARATION UNDER SUBSECTION (1) HAS LAPSED

SECTION 9

IS AMENDED BY DELETING THE WORDS "IN STATES OTHER THAN THE STATES OF PENANG AND MALACCA"

SECTION 9A

NEW SECTION TO ENABLE THE LAND ADMINISTRATOR TO OBTAIN INFORMATION FROM THE STATE DIRECTOR OF TOWN AND COUNTRY PLANNING OR THE COMMISSIONER OF THE CITY OF KL

WHETHER THE SCHEDULED LAND:

IS WITHIN A LOCAL PLANNING AUTHORITY AREA;

HAS A DEVELOPMENT APPROVAL;

LAND USE INDICATED IN THE DEVELOPMENT PLAN

SECTION 12

NEW PROVISO TO PROVIDE LAND ADMINISTRATOR TO OBTAIN WRITTEN OPINION FROM VALUER BEFORE MAKING AWARD UNDER SECTION 14

SECTION 14

HAS INCLUDED VALUATION FEES AS PART OF THE COSTS INCURRED FOR THE PROCEEDINGS BEFORE THE LAND ADMINISTRATOR

SECTION 19

IS TO EMPOWER THE LAND ADMINISTRATOR TO ISSUE A CERTIFICATE OF URGENCY IN RESPECT OF ACQUISITION UNDER PARAGRAPH 3(1)(b) WHERE IT IS FOR PUBLIC UTILITY

SECTION 20

IS TO EXCLUDE THE MAIN ACCESS TO A BUILDING ON A SCHEDULED LAND FROM BEING POSSESSED BY LAND ADMINISTRATOR UNDER CERTIFICATE OF URGENCY

SECTION 23 AND 66

IS TO PROVIDE FOR VESTING OF A PARCEL OF A SUBDIVIDED BUILDING IN THE PERSON OR CORPORATION ON WHOSE BEHALF THE PARCEL HAS BEEN ACQUIRED

SECTION 24 AND 27

IS TO DELETE ALL REFERENCES TO A "DEED" OR "DEED EVIDENCING TITLE" SINCE IT IS NO LONGER APPLICABLE

SECTION 29A, 32 AND 48

ARE TO SUBSTITUTE THE WORD "INTEREST" WITH "LATE PAYMENT CHARGES"

SECTION 32A

IS TO PROVIDE THE MEANING OF "PAYMENT" FOR THE PURPOSES OF SECTION 29A, 32 AND 48

SECTION 35

PROVIDES THAT EVERY WITHDRAWAL FROM ACQUISITION SHALL BE GAZETTED.

NEW SUBSECTION (5) IS INTRODUCED TO ALLOW THE LAND ADMINISTRATOR TO FORFEIT FROM THE DEPOSIT, WHERE THERE IS ANY WITHDRAWAL MADE UNDER THE SECTION, AN AMOUNT WHICH IS SUFFICIENT TO DEFRAY THE AMOUNT OF COSTS AND DAMAGES INCURRED BY ANY PERSON INTERESTED

SECTION 37

IS TO PRECLUDE AN OBJECTION BEING MADE TO THE COURT WHERE THE TOTAL AMOUNT OF COMPENSATION AWARDED DOES NOT EXCEED THREE THOUSAND RINGGIT

SECTION 38

IS TO EXTEND THE TIME LIMIT FROM THREE MONTHS TO SIX MONTHS FOR THE LAND ADMINISTRATOR TO REFER ANY OBJECTION TO COURT

SECTION 39

IS TO INCREASE THE AMOUNT OF DEPOSIT REQUIRED BY THE LAND ADMINISTRATOR IN A REFERENCE TO COURT, TO A SUM OF THREE THOUSAND RINGGIT OR TEN PERCENT OF THE AMOUNT CLAIMED, WHICHEVER IS THE LESS PREVIOUSLY RM1,500 THE LA'S AWARD WHICHEVER IS THE LESS

SECTION 40A

OBJECTION PROCEEDINGS IN REGARD TO COMPENSATION TO BE HEARD BY A COURT CONSISTING OF THE JUDGE AND TWO ASSESSORS.

THE ASSESSORS SHALL BE APPOINTED BY THE COURT FROM A LIST OF:

REGISTERED VALUERS AND APPRAISERS; AND GOVERNMENT VALUATION OFFICERS

SECTION 40B

LEGAL DUTY OF THE TWO ASSESSORS TO ATTEND COURT.

AN ASSESSOR WHO IS NOT A VALUATION OFFICER EMPLOYED BY GOVERNMENT WILL BE PAID A FEE NOT EXCEEDING FIVE HUNDRED RINGGIT A DAY

DISCIPLINARY PROCEEDINGS WILL BE TAKEN AGAINST ANY ASSESSOR WHO FAILS TO

SECTION 40C

OPINION OF EACH OF THE TWO ASSESSORS ON THE VARIOUS HEAD OF COMPENSATION SHALL BE IN WRITING AND SHALL BE RECORDED BY THE JUDGE.

SECTION 40D

DECISION OF THE COURT ON THE AMOUNT OF COMPENSATION TO BE AWARDED SHALL BE THE AMOUNT DECIDED UPON BY THE TWO ASSESSORS.

WHERE OPINION OF ASSESSORS DIFFER, JUDGE WILL HAVE TO CHOOSE THE DECISION OF EITHER ONE OF THE ASSESSORS.

DECISION MADE BY THE JUDGE IS FINAL AND NO APPEAL THEREFROM.

SECTION 45

TO INTRODUCE NEW SUBSECTION (1A) TO PROVIDE FOR THE PROVISIONS OF THE THIRD SCHEDULE TO APPLY TO EVERY PROCEEDINGS UNDER THE ACT

NEW SUBSECTION (1B) SEEKS TO EMPOWER THE RULES COMMITTEE TO AMEND THE PROVISIONS OF THIRD SCHEDULE

PRACTICE DIRECTION 11 OF 1987 BECOMES PART OF THE ACT

SECTION 47

PROVIDES THAT THE DECISION OF THE COURT SHALL ALSO BE SIGNED BY THE TWO ASSESSORS IN ADDITION TO THE EXISTING REQUIREMENT THAT IT SHOULD BE SIGNED BY THE JUDGE

SECTION 49

IS TO SUBSTITUTE THE WORDS "SUPREME COURT" WITH "COURT OF APPEAL AND TO THE FEDERAL COURT"

SECTION 54

IS TO INTRODUCE A NEW PARAGRAPH (c) TO ALLOW THE LAND ADMINISTRATOR TO PUBLISH A NOTICE UNDER THE ACT IN SUCH LOCAL NEWSPAPER AS HE THINKS FIT

SECTION 64

IS TO INSERT A NEW PARAGRAPH (a) AND TO INCREASE THE PENALTY FOR OBSTRUCTION TO IMPRISONMENT NOT EXCEEDING SIX MONTHS OR FINE NOT EXCEEDING FIVE THOUSAND RINGGIT OR BOTH

PREVIOUSLY < 1 MONTHS OR > RM200.00 OR BOTH

SECTION 69

IS TO INSERT A NEW PARAGRAPH (d) TO EMPOWER THE MINISTER TO MAKE RULES, ON PRESCRIPTION OF FORM, FEE AND DEPOSIT REGARDING ACQUISITION UNDER PARAGRAPH 3(1)(b) OR (c)

SOME OBSERVATIONS

1976 AND 1984 AMENDMENTS

SINGAPORE LAND ACQUISITION ACT

INJURIOUS AFFECTION WHERE NO LAND IS ACQUIRED

PAYMENT FOR PROFESSIONAL SERVICES

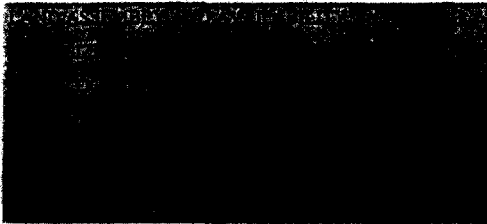
ROLE OF A VALUER

ROLE OF A PLANNER

RENT CONTROLLED PREMISES

OTHER METHODS OF VALUATION

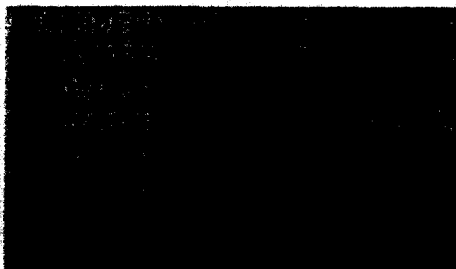
MAJOR CONCERNS



MAJOR CONCERNS



MAJOR CONCERNS



MAJOR CONCERNS



MAJOR CONCERNS



OTHER CONCERNS



Conclusion

Land acquisition is a complex area. The compulsory taking of one's possession, especially land, causes unknown hardships. Hence, the legislation legal provision used to be sensitive, adequate and beneficial to the affected parties. Wherever possible land developments should be carried through the process of normal economic involving supply and demand. The use of police powers to compel the compulsory acquisition of land to further the economic pursuit of some, against others, will causes difficulties and hardships. A more sensitive and generous treatment of affected persons will make acquisition proceeding's easier. However, this might increase development costs and makes the project uneconomical. In every land acquisition, people suffer more than they benefit. Hence, there is a need to deal with land acquisition more pragmatically.

LAND ACQUISITION

By
DATO' MANI USILAPPAN
DEPUTY DIRECTOR GENERAL
JPPH

Land Acquisition & Nation Building

- What is land acquisition
- why we need legal powers
- why land acquisition is needed
- role of valuers
- government valuers
- private sector valuers
- valuer and government servant

THE CHANGE BEGINS

- FROM AGRICULTURE TO INDUSTRIES
- VISION 2020
- EDUCATION AND TRAINING
- PRIVATISATION
- HEAVY INDUSTRIES

THE CHANGE BEGINS

- NEW TOWNSHIPS
- NEW HIGHWAYS
- NEW INDUSTRIAL AREAS
- PUTRAJAYA
- CYBERJAYA

LAND ACQUISITION

- "SOVEREIGN POWER OF EVERY STATE TO APPROPRIATE INDIVIDUAL'S LAND FOR PUBLIC UTILITIES"
- "SALUS POPULI SUPREMA LEX"

Land Acquisition & Nation Building

- Role as government valuer
- role as government servant
- knowledge & skills
- knowledge of valuation
- knowledge of law
- writing skills

Land Acquisition & Nation Building

- Presentation skills
- listening skills
- analytical skills
- numeracy
- negotiation skills

SAFEGUARDS FOR THE LANDOWNER

FEDERAL CONSTITUTION

13(1) No person shall be deprived of property save in accordance with law

13(2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

LAND ACQUISITION

TERMS USED IN COMPENSATION

TERMS	LAND ACQUISITION
ADEQUATE COMPENSATION	EXPROPRIATION
FAIR COMPENSATION	RESUMPTION
JUST COMPENSATION	CONDEMNATION
	COMPULSORY PURCHASE
	EMINENT DOMAIN

LAND ACQUISITION

BASIC RIGHTS IN COMPENSATION

NATURAL JUSTICE
RIGHT TO BE HEARD
RIGHT TO CLAIM
DUE PROCESS
DUE DILIGENCE
EQUIVALENCE

LAND ACQUISITION

HEADS OF CLAIMS

MARKET VALUE OF LAND TAKEN
INJURY FOR SEVERANCE
INJURY FOR INJURIOUS AFFECTION
CONSEQUENTIAL LOSS
EQUIVALENT REINSTATEMENT
BETTERMENT

LAND ACQUISITION

GENERAL RULES

NATURAL AND DIRECT CONSEQUENCE
OF ACQUISITION TO BE
COMPENSATED
ILLEGALITY
CONSISTENCY
DUTY TO MITIGATE
INCREASE OR DECREASE IN VALUE
IGNORED

LAND ACQUISITION

GENERAL RULES

DISINCLINATION TO PART WITH LAND
URGENCY IN THE ACQUISITION
INCREASE OR DECREASE OWING TO
THE PROJECT

Federal Constitution

- Deprived
- accordance with law
- (due process)
- natural justice
- fair-play
- right to be heard
- enacted law

Federal Constitution

- compulsory acquisition
- compulsory use
- adequate compensation
- fair compensation
- just compensation
- nature of land alienation & use
- national land code and all other laws

Federal Constitution

- Article 13 a
 - no person shall be deprived of land
 - safe in accordance with law
- Article 13 b
 - no law shall provide for the compulsory acquisition and use of land without adequate compensation

COMPULSORY ACQUISITION OF LAND

- COMPENSATION PRINCIPLES
 - COMMON LAW PRINCIPLES
 - CONSTITUTIONAL PRINCIPLE

LAND ACQUISITION

MARKET VALUE CONSIDERATIONS

PURPOSE OF ALIENATION
SPECIFICALLY ALLOWED
POTENTIALITIES
HIGHEST AND BEST USE
PLANNED USE
INTERIM USE
PREMATURE SUBDIVISIONS

LAND ACQUISITION

HIGHEST AND BEST USE ANALYSIS

DEFINITION

THE MOST PROBABLE USE OF OF A PROPERTY WHICH IS PHYSICALLY POSSIBLE, APPROPRIATELY JUSTIFIED, LEGALLY PERMISSIBLE, FINANCIALLY FEASIBLE AND WHICH RESULTS IN THE HIGHEST VALUE OF THE PROPERTY BEING VALUED

LAND ACQUISITION

HIGHEST AND BEST USE ANALYSIS

- PHYSICALLY POSSIBLE
- APPROPRIATELY JUSTIFIED
- LEGALLY PERMISSIBLE
- FINANCIALLY FEASIBLE
- HIGHEST VALUE

LAND ACQUISITION

PARTIAL ACQUISITION DAMAGES

DAMAGES RELATED TO PROPERTY

- SEVERANCE
- INJURIOUS AFFECTION
- BETTERMENT
- REMEDIAL WORKS
- ESTATE LAND
- MALAY RESERVATION LANDS

LAND ACQUISITION

PARTIAL ACQUISITION DAMAGES

DAMAGES NOT RELATED TO PROPERTY

- COST OF MOVING
- BUSINESS LOSS
- LOSS OF GOODWILL
- FITTINGS AND FIXTURES
- CONSEQUENTIAL DAMAGES

LAND ACQUISITION

COMPENSATION WHERE NO LAND IS TAKEN

INJURIOUS AFFECTION

MACARTHY RULES

LAND ACQUISITION

MAJOR CONCERNS

LAND ASSEMBLY AND AVAILABILITY

- SIZE
- LOCATION
- NATURE OF OWNERSHIPS
- LEASEHOLD/FREEHOLD
- RIGHTS ON LAND
- RANSOM SITES

LAND ACQUISITION

MAJOR CONCERNS

DUE PROCESS LEGISLATION
JUSTICE
BONA FIDE ACQUISITION
NEW PROCESS
DELAYS

LAND ACQUISITION

MAJOR CONCERNS

FAIR AND JUST COMPENSATION
ADEQUATE COMPENSATION
PLANNED USE VALUE??
EQUITABLE IN LAW AND IN PRACTICE
RELOCATION?
BUSINESS LOSSES
BETTERMENT QUO VADIS?

LAND ACQUISITION

MAJOR CONCERNS

RIGHT TO BE HEARD
PRE- ACQUISITION HEARING
AVOIDING MALA FIDE DISPUTES
REPRESENTATION BY EXPERTS

LAND ACQUISITION

MAJOR CONCERNS

FAIRER COMPENSATION
PAY ALL EXPENSES
FULL TRANSPORT COSTS AND ANY LOSS
MAKING MOVES
LAND TRIBUNAL/LAY TRIBUNAL QUALIFIED
IN PROPERTY MATTERS
ALSO INCLUDE OTHER LAND BASED
DISPUTES

LAND ACQUISITION

MAJOR CONCERNS

GOVERNMENT'S ENABLING ROLE
LAND READJUSTMENT

LAND ACQUISITION

QUESTION AND ANSWER

Learn more at www.mindjet.com

M3

Drag and Drop from Split View

Instant Brainstorming Blue Arrow
Click anywhere on the map to get the 'Blue Arrow'
Start Typing
Hit 'Enter' when you are done to get a 'Floating Topic'

Go to View->Map Overview to bring up a small navigation window

Click and drag to navigate and zoom in and out of your map

Map Overview

Use File->Save As

Save Map As a Bitmap

Choose from multiple formats

JPG
GIF
BMP
PNG

The following float...

- Line Color
- Fill Color
- Font Color
- Export Formatting
- Map Standard Menu

Use Floating Toolbars and Palettes to Manage your Workspace

MindManager X5 Tips n' Tricks

Paste Topic as a Bitmap

Select a Topic
Use the 'Copy' command
Paste as a bitmap into a wide variety of programs

Expand and Collapse Topics using the +/- Symbols

Expand the Topic by hitting the '+' symbol

Collapse the Topic by hitting the '-' symbol

Use the 'Undo' command from the Menu Bar

Click the down arrow and scroll to the 'Undo' level of your choice

Perform Multiple Undo's

Go to File->Properties->Summary tab

Check 'Save Preview Image' box

Save Map Preview Image

Use File->Open to import the following file types...

- Microsoft Word doc
- Microsoft Project project plan
- XML file

Importing Documents

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Multiple Ways to Select

Click and drag to "rubber-band" select multiple topics

- Use CTRL+A to Select All
- Use CTRL+SHIFT+A to Select All Sibling Topics

Turn Subtopic into Floating Topic

Click and drag the Subtopic away from it's Topic

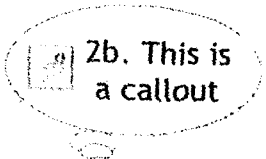
START HERE



Print this map for quick reference when building your first maps

Then read clockwise from step 2 on.

2. This is a main topic



2a. This is a subtopic



1. This is the CENTRAL TOPIC
Type your main idea here

3a. To insert a new main topic

Select the title
Hit ENTER or INSERT

3b. To insert a new subtopic

Select the main topic
Hit INSERT

3c. To put any text in edit mode

Select with a cursor or mouse
Hit F2

3d. To move topics around

Click down on a topic with a mouse
Drag and drop the topic where you want it to be
Release the click

3. Basic rules

6. And more ...

5. Enhance your map

4. Use the Map Marker picker to insert icons:

Insert hyperlinks

For more details, go to Learning Center

or Menu-Help-Learning Center

Select colors for text

Select colors for line

Highlight text



**Benefits and Safeguards for the
Landowner
In
Land Acquisition Cases**

MANI USILAPPAN
DEPUTY DIRECTOR GENERAL
VALUATION AND PROPERTY
SERVICES DEPARTMENT

SAFEGUARDS FOR THE LANDOWNER

PRINCIPLE OF COMPENSATION

"the right to be put, so far as money can do it in the same position as if his land has not been taken from him. In other words, he gains the right to receive a money payment not less than the loss imposed on him in the public interest, but, on the other hand, no greater".

This is called the *principle of equivalence* by Lord Scott in Horn V Sunderland Corporation

SAFEGUARDS FOR THE LANDOWNER

FEDERAL CONSTITUTION

13(1) *No person shall be deprived of property save in accordance with law*

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- LAND ACQUISITION ACT
- ADEQUATE COMPENSATION
- MARKET VALUE
- OTHER COMPENSATION ITEMS

PURPOSE OF ACQUISITION

ACQUISITION UNDER SECTION 3(1)(a)

ACQUISITION UNDER SECTION 3(1)(b)

ACQUISITION UNDER SECTION 3(1)(c)

FOR 3(1)(b) and (c)

APPLICANT SENDS APPLICATION TO SEPU- fulfill requirements

SEPU CONSIDERS APPLICATION

ISSUES

LAND WITH DEVELOPMENT POTENTIAL
WANT TO DEVELOP THE LAND
BUT THE GOVERNMENT WANTS TO ACQUIRE THE LAND FOR PUBLIC USE
HOW TO ACQUIRE THE LAND
HOW TO COMPENSATE THE LANDOWNER
HOW TO DEVELOP THE LAND

ACQUISITION BY SEPU

SEPU MAKES RECOMMENDATIONS
STATE GOVERNMENT APPROVES RECOMMENDATIONS
STATE GOVERNMENT SENDS APPLICATION TO SEPU
IF APPROVED LAND IS SENT FOR ACQUISITION

SAFEGUARDS FOR THE LANDOWNER

ISSUES

PROCEDURES
BENEFITS TO LANDOWNER
PREVENTS UNILATERAL ACTION BY
AGENCIES OR CORPORATIONS
DELAYS
COSTS

SAFEGUARDS FOR THE LANDOWNER

ACQUISITION MALA FIDE
PROCEDURAL REQUIREMENT
DELAY IN ACQUISITIONS PROCEEDINGS
LAPSE IN ACQUISITION AFTER 2 YEARS
PAYMENT OF INTEREST
CERTIFICATE OF URGENCY
WITHDRAWAL AND COMPENSATION
MORE PEOPLE DEEMED PERSONS INTERESTED

OBJECTIONS AND APPEALS

JUDGE AND TWO ASSESSORS
ONE PRIVATE AND ANOTHER PUBLIC SECTOR
ASSESSOR
QUALIFIED AND COMPETENT VALUERS
WRITTEN DECISION
JUDGE TO CONCUR
DECISION ON COMPENSATION FINAL
APPEAL ONLY ON POINTS OF LAW

MARKET VALUE

WILLING BUYER
WILLING SELLER
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SUA BETONG OVER-RULED
ENCUMBERED LANDS
MINING LANDS

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VALUER MAY USE ANY APPROPRIATE METHOD
COMMON METHODS ARE

- COMPARISON METHOD
- INVESTMENT METHOD
- COST METHOD
- RESIDUAL METHOD
- PROFITS METHOD
- DISCOUNTED CASHFLOW METHOD

COMPARISON METHOD

SALES OF SIMILAR LANDS IN THE VICINITY

PREVIOUS SALE OF THE LAND WITHIN TWO YEARS

EXCLUDE POST-NOTIFICATION SALES

OTHER CLAIMS

- COSTS OF REMOVAL
- ACCOMMODATION WORKS
- BETTERMENT

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1976 AND 1984 AMENDMENTS
SINGAPORE LAND ACQUISITION ACT
INJURIOUS AFFECTION WHERE NO LAND IS ACQUIRED
PAYMENT FOR PROFESSIONAL SERVICES
ROLE OF A VALUER
ROLE OF A PLANNER
RENT CONTROLLED PREMISES
OTHER METHODS OF VALUATION

Memo

REPORT WRITING IN GENERAL

Report Writing Technique

1

WHY ARE REPORTS IMPORTANT TO AN ORGANIZATION?

Main communication media by which to communicate authoritative and substantive news

- results of investigations
- latest earnings
- periodic sales figures

An important media by which individuals/teams/committees communicate within the organization

Report Writing Technique

2

WHY IS THE QUALITY OF YOUR REPORT IMPORTANT TO YOU?

It tells readers how well you

- think
- gather, assemble, and analyze data
- draw conclusions and recommendations from data
- support your assertions
- you create messages that meet the needs of your readers

Reports that you create depict your competence.

Report Writing Technique

3

REPORTS Definition

Messages that present a collection of data thoughtfully adapted to the needs of the report readers - to help them make informed decisions within a professional context

4

REPORT WRITING TECHNIQUE

Memo

REPORTS

Definition

A report is one that consolidates facts, observations, findings, opinions, conclusions and recommendations.

WHAT IS A VALUATION REPORT?

- A written document of valuation - MVS
- for a specific purpose
- referring to one or more properties
- and contains
 - relevant information, analysis and findings of the subject property
 - supportive evidences of values and opinions
 - and a recommendation of its capital/rental value

WHAT IS A VALUATION REPORT?

has the purpose of communicating the capital/rental value of the property for a client so as to enable him to make a subsequent decision.
last step in the valuation process.

PURPOSES OF VALUATION REPORTS (Standard 5 of MVS)

- Loan security
- Sale by auction
- Fire insurance
- Company financial accounts
- Sale and purchase
- Valuation for SC

REPORT WRITING TECHNIQUE

Memo

PURPOSES OF VALUATION REPORTS (Standard 5 of MVS)

- Compulsory acquisition
- Statutory valuations – eg. SD, RPTG, rates, premium
- Rental/leases
- Housing loans
- Civil suits

Report Writing Technique

IMPORTANCE OF A VALUATION REPORT

- Acts as a legal document in defending a valuation done
- May be a comparable for future valuations
- As a source of future reference in update valuations
- Adds on as additional data base
- Serves as an advertisement in obtaining other valuation business

Report Writing Technique

QUALITIES OF A GOOD AND COMPLETE VALUATION REPORT (ASP – Chapter 10)

- ❖ All statements must be paragraphed and arranged in a logical order
- ❖ Sentences must be clear, short, concise and simple
- ❖ Sentences must be grammatically correct and with the correct punctuation marks, avoid difficult terminologies, & repetitions

Report Writing Technique

QUALITIES OF A GOOD AND COMPLETE VALUATION REPORT (ASP – Chapter 10)

- ❖ Avoid any misrepresentations, omission of important facts and hearsay evidences
- ❖ Every paragraph is numbered for ease of reference
- ❖ Table of contents for ease of reference
- ❖ Opinions offered must be logical, balanced and supported by sound evidences
- ❖ Reports must carry the appropriate plans

Report Writing Technique

REPORT WRITING TECHNIQUE

Memo

QUALITIES OF A GOOD AND COMPLETE VALUATION REPORT

(ASP – Chapter 10)

- ❖ Reports must carry photos of subject property as well as comparables whenever possible
- ❖ Reports must carry the full name of the Valuer, his professional qualifications, his designation and signature
- ❖ The whole report including the appendices must be similarly orientated

Report Writing Technique

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THE STANDARDS FOR A VALUATION REPORT

- Valuation reports must conform with the requirements of the BOVAEA
- BOVAEA's requirements are spelt out in Standard 7 of the MVS

Report Writing Technique

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CONTENTS OF A VALUATION REPORT

The contents depend on:

- The type of property valued
- The purpose of valuation

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT

(Standard 7 of MVS)

I. Instructions to value

- WHO instruct
- Establish client's needs and requirements
- Confirm services to be provided
 - Scope of work
 - Reporting formats
 - Assumptions to be made
 - Limiting conditions (if any)
- Report is confidential to the client for the specific purpose to which it refers

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

2. Interest to be valued

- WHAT to value
- Where the interest is not found in the title, the Valuer shall state the interest clearly and include the document that grants such an interest

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

3. Purpose of valuation

- Loan security, compulsory acquisition, etc
- Purpose of valuation determines basis of valuation

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

4. Date of valuation

As determined by

- Date of inspection
- Statutes
- Predetermine by clients

Value may vary markedly over time due to

- Economic factor
- Legal factor

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

5. Inspection (in accordance with MVS 6)

WHEN and by WHOM

Procedures in inspection and referencing

- Inspect and identify the property by reference to survey sheet, boundary marks or other identification
- Inspect the neighbourhood
- Details visible from visual inspection are accurately reported
- Use the ISM 'Uniform Method of Measurement of Buildings'

Report Writing Technique

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REPORT WRITING TECHNIQUE

Memo

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

- 6. Title particulars (in accordance with MVS 6)
 - All relevant title details must be stated
 - Title details ascertained from title document
 - Where title document is not available, the source of such detail must be identified
 - Where title is not available, any assumptions to the title details must be disclosed

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

- 6. Title particulars (in accordance with MVS 6)
 - Main title issues that affect value
 - o Tenure
 - Freehold
 - Leasehold
 - o Category of land use
 - Agriculture
 - Building
 - Industry

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

- 6. Title particulars (in accordance with MVS 6)
 - Main title issues that affect value
 - o Restriction in interest
 - Malay reservation
 - Transfer of ownership
 - Lease and charges
 - o Express conditions
 - Type of building
 - Type of cultivation

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

- 6. Title particulars (in accordance with MVS 6)
 - Main title issues that affect value
 - o Encumbrances
 - Caveats
 - Right of way
 - Way leaves
 - o Endorsements
 - Compulsory acquisitions
 - Mortgage/charges

Report Writing Technique

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REPORT WRITING TECHNIQUE

Memo

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

- Neighborhood
- Location
- Physical description of property and its condition
- Available services

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

- I. Neighborhood
 - Public buildings eg. police stations, schools, museums, parks, post offices, etc.
 - Housing schemes
 - Commercial developments

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

- II. Location
 - Access road to the property
 - Nearest town center, town or development center
 - Natural features such as rivers, streams, hills, valleys, etc.
 - Transportation center such as bus, taxi, train terminals, etc.

A location plan is normally attached as an Appendix

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

- III. Physical description of property and its condition
 - Site
 - Shape of land
 - Terrain
 - Condition of field/ cultivation
 - Cultivation

REPORT WRITING TECHNIQUE

Memo

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

III. Physical description of property and its condition

- o Building
 - Type of building
 - Structure
 - State of repairs
 - Accommodation layout and details
 - Built-up area

Site plan, building plans and photos of site and buildings are normally attached as Appendices.

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

7. Description of the property

Should cover

IV. Available services

- o Public utilities
 - Water
 - Electricity
- o Public services
 - Garbage collection
- o Public transportation
 - Bus
 - Train

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

8. Tenancy/ Lease details

Indicate whether

- Owner occupied
- Let out
 - Rent paid (gross or net)
 - Term of tenancy
 - Rent reviews
 - Option to renewals
 - Outgoings

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

9. Planning details

- MV greatly affected by planning provisions
- Ascertain from
 - Local planning authority
 - JPBD
- Where info is obtained verbally, this must be clearly stated

REPORT WRITING TECHNIQUE

Memo

MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

12. Evidences of value (in accordance with MVS 10)

- Recent sale of comparable properties
- Regard to previous transaction of subject property within last 2 Years
- Sale details and comparison plan must be attached as Appendices

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

13. Opinion of value

- Final part of valuation report
- Statement of value must be clear and unambiguous
- Opinion reached after considering all pertinent factors

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

14. Plans

Report should include

- Building plans
- Location plans
- Other plans where appropriate

Report Writing Technique

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MINIMUM CONTENTS OF A VALUATION REPORT (Standard 7 of MVS)

15. Signature of Valuer

- Report must be signed
- Registration number must be stated

Report Writing Technique

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