

# **The Urgency Of Legal Protection For Public Appraisal Service On Land Acquisition Projects**

**By**

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## **Abstract**

This study aims to provide legal protection and legal certainty for Public Appraisal Services carrying out their duties in valuing assets. This research is an empirical or non-doctrinal legal research, the data sources are obtained from the field through interviews with several people who are considered relevant to this research. This study reveals that although the existence of Public Appraisal Services in Indonesia has been regulated in the Minister of Finance Regulation No. 228/PMK.01/2019 concerning Public Appraisers, however, it turns out that the regulation is not sufficient and its position is not as strong as the legislation. It can be concluded that the existence of a Public Appraisal Service is not yet strong even though it has been regulated in the Minister of Finance Regulation. In order to guarantee legal protection and certainty, the Regulation of the Minister of Finance should be refined and upgraded to become a comprehensive legislation. Therefore, the government or state officials should give an immediate respond and make a special legislation on Public Appraisal Services.

**Keywords:** Protection, Public Appraisal Services, Land Acquisition.

## **Introduction**

The Indonesian government is currently actively undertaking development in all fields, both physical and non-physical. Development in general is essentially a process of continuous change towards a better state (Pricilia Dwi, 2020), in realizing social justice as mandated by the opening of the 1945 Constitution of Republic Indonesia (hereinafter referred to as the 1945 Constitution) as well as in the 5th principle of Pancasila (Al Sentot Sudarwanto, 2018). In the reality of implementing national development in Indonesia, the government often opens new land or uses people's land for the public interest (Mudakir Iskandar Syah, 2018).

In land acquisition which involves people's rights to land and what is on it, it can be done as long as it does not harm the people, so the government is obliged to provide compensation (Nabila Kamal, 2021). The government often uses legal Public Appraisal Services which will assess the price of people's land objectively and transparently (Abraham Samuel, et al, 2020). The results of the appraisal carried out by the Public Appraisal Service will be used as the basis for providing compensation to the people in which the results of the appraisal must obtain legal certainty and protection as a second opinion (Siti Ruqoyah, 2022).

In several cases, Public Appraisal Services are often made suspects or defendants, whereas in carrying out their duties they have been performed as well as possible, professionally, transparently, and accountable according to the Indonesian Valuation Standards

(SPI) and the Code of Conduct of Indonesian Appraiser (KEPI) (Elisabet Sri, et al. all, 2021). Actually, the results of the appraisal carried out by the Public Appraisal Service are submitted to the government or land acquisition committee in accordance with the existing contract agreement, which then the results are used as the basis for deliberation between the government/land acquisition committee and the people. The facts in the reality, the results of the appraisal carried out by the Public Appraisal Services mentioned above, have dragged the Public Appraisal Services into the realm of law, both civil and criminal.

## Methods

This research is an empirical legal research or non-doctrinal research that is conducting interviews with Mr. Drs. H. Sih Wiryadi, M.Ec. Dev, a Public Appraisal Service and the Office Owner of Sih Wiryadi & Partners and also with Mr. Erlangga Bagus Sadewa, S.akun, M.Ec. Dev, an Appraiser.

## Result

The results of this study obtained data from a Public Appraisal Service who has competence/is an Appraiser and also the owner of a Public Appraisal Service office, the data of respondents involved in this result are as follows:

No.	Name	Office Name	Operating Time	Location
1.	Mr. Drs. H. Si Wiryadi, M.Ec. Dev	KJPP Sih Wiryadi & Partners	30 years	Jl. Ki Mangun Sarkoro, No.55, Nusukan
2.	Mr. Erlangga Bagus Sadewa, S.akun, M.Ec. Dev	KJPP Dwi Haryatnto Agustinus Tamba	30 Years	Jl. Basuki Rahmat, No. 24, Jakarta Timur

From the table the results of interviews conducted by the researcher with Mr. Drs. H. Sih Wiryadi, M.Ec. Dev as the appraiser and also the owner of the Public Appraisal Service Office Sih wiryadi & Partners who can provide explanations regarding information about Public Appraisal Services. From the table it also appears that the Public Appraisal Services Office Sih wiryadi & Partners has been operating for a long time, is experienced, professional, and has had a complete license/permit. However, some appraisal work done by them is always indicated to be blamed.

The results of the next interviews conducted by the researcher with Mr. Erlangga Bagus Sadewa, S.akun, M.Ec. Dev as an appraiser at the Public Appraisal Services Office of Dwi Haryatnto Agustinus Tamba who provided an explanation of information about Public Appraisal Services. From the results of this interview, Mr. Erlangga Bagus Sadewa, S.akun, M.Ec. Dev explained that there were appraisers who were indicated to be blamed, even though the appraiser already had a license/permission from the Minister of Finance.

## Discuss

Case issues that often arise in today's society are that many Public Appraisal Services are dragged into the realm of law, both criminal and civil. In criminal law cases, the results of the appraisals are considered as a second opinion, so there are many markups on land value that result in members of the Public Appraisal Service being accused of committing a crime of

corruption because the results of the appraisals are detrimental to the state's finances. In civil law cases, the beginning of the work of the Public Appraisal Service begins with a work agreement contract between the Public Appraisal Service and an agency that requires land based on Article 1320 of the Criminal Code, that are the existence of an agreement, certain objects, halal clauses, and the person making the agreement is capable of acting. If there is a legal issue between the Public Appraisal Service and the agency that requires land, it is actually a civil law domain, where if one of the parties defaults or does not fulfill the agreement, it is considered as a civil damage.

Some of these studies have been conducted in Indonesia such as research conducted by (Abraham, 2020) in his research explaining that the Regulation of the Minister of Finance is deemed not ideal because it only regulates administrative sanctions, while research (Dahmir, 2020) provides the essence of the Regulation of the Minister of Finance that does not regulate provisions criminal. This kind of research needs to be done because the existence of Public Appraisal Services is very much needed by the government and the people. So that in carrying out their duties and obligations, they get a legal certainty and legal protection which was previously only based on the Regulation of the Minister of Finance, namely the Regulation of the Minister of Finance No. 228/PMK.01/2019 concerning Public Appraisers, it is recommended that the Minister of Finance Regulation should be refined and upgraded to become a legislation.

The existence of Public Appraisal Services in Indonesia is very much needed by the government to provide an appraisal of assets, it is proven that every time there is land acquisition involving people's property rights, they are always involved in providing an appraisal of land assets that will be freed with the receipt of fair compensation (Yuniar Rachma, 2015), however, the existence of Public Appraisal Services has not yet been regulated in a special legislation and is only regulated by Minister of Finance Regulation Number 228/PMK.01/2019 which has until now been used as the legal basis for Public Appraisal Services to carry out asset appraisal tasks. The legal basis for Regulation of the Minister of Finance Number 228/PMK.01/2019 is actually not sufficient and not as strong as the legislation.

Based on the results of interviews with Mr. Drs. H Sih Wiryadi, M.Ec. Dev, there is one of the staff who made a contract agreement with the Park and Cemetery Office (DKPP) of Balikpapan as stated in the work agreement No. 816/418/SPK/X/2013 on October 11, 2013, the case is as follows: The DKPP of Balikpapan requires land to be used for Final Disposal Sites. The DKPP Office will make payments, so it requires assistance from the Ir. DH's Appraisal Service with an agreement signed jointly between the DKPP of Balikpapan Office and the Publik Appraisal Service Office of Ir. DH. The Appraisal Service conducted an appraisal in the field with a location that has been determined by the DKPP Office, as well as a list of the names of the land owners with several lists of Ownership Certificates (SHM). Then, after the appraisal was done by the Appraisal Service, the appraisal results were submitted to the DKPP Office. The results of the appraiser are then submitted to the land acquisition committee by the DKPP Office to be used as a guideline for making payments to the community or residents who own the land. This was done in consultation with the community for 3 times, then the price was agreed at Rp. 145,000/m<sup>2</sup>. It was agreed to make payments at the Regency Office by inviting residents who would receive it and the banking institution. The payment system was carried out by transfer according to the price of the land area of each party. However, after the official payment had been made, there were several committee members, Mrs. RSDN and Mr. AWLL, who approached the residents to return half per meter of the price of the land which the committee said they would use to take care of the documents. The actions

of these individuals made those who did not have willingness to return the payment report to the Balikpapan Prosecutor's Office. (The interviews with Mr. Drs. H Sih Wiryadi, M.Ec. Dev, as the appraiser and owner of the Public Appraisal Service Office of Sih wiryadi & Partners).

Mr. SS and Mr. AN also experienced a similar case, where they entered into a work contract agreement with the DKPP of Bontang, East Kalimantan, as stated in the SPK contract agreement No. 190/20/SPK/XI/2015 on July 15, 2015. The cases are as follows: The District Government of Bontang Regency, East Kalimantan, in this case. The Department of Youth and Sports (Dispora) requires land that will be used for football fields and the expansion of the local District Dispora Office. To obtain new land, a land acquisition was carried out, which used 5 hectares of land owned by local residents. In order to acquire the land, the Bontang Regency government requested the assistance of an Appraisal Service from the SW Office for land acquisition, so an appraisal was required to be carried out by an Appraisal Service. There was a cooperation contract between the Bontang Dispora Office, East Kalimantan and the SW Public Appraisal Service Office. Then, from the cooperation contract, the SW Public Appraisal Service Office carried out field appraisal tasks done by the Public Appraiser staff, Mr. SS and Mr. AN. In carrying out the appraisal, the Appraiser from the SW Public Appraisal Service Office has carried out procedurally in accordance with the rules made by KEPI and SPI, including field work, a checklist, evidence of citizen property rights certificates, and a nominative list. From the results of the appraisal, a fair value had been found with a price of Rp. 125,000/m<sup>2</sup>, the results of this appraisal were then submitted to the land acquisition committee at the Bontang Dispora Office, East Kalimantan. The results of this appraisal by the committee were used as a reference for assimilation to the residents who own the land. However, in the deliberations between the land acquisition committee and residents, there were residents who did not want to accept it. Nevertheless, because there was a mutual agreement between the committee and most of the residents, the payment was made by opening a savings account and transferring the money to the residents according to the land area. For residents who did not want to receive payment, the compensation is deposited in the local District Court by the land acquisition committee to prevent legal case. It turned out that later on, one of the residents reported it to the local District Attorney, so that it became a legal case that dragged the member of the Public Appraisal Service. (Mr. Erlangga Bagus Sadewa, S.akun, M.Ec. Dev as appraiser at the Public Appraisal Service Office Dwi Haryatnto Agustinus Tamba).

From this description above, it can be analyzed that the existence of a Public Appraisal Service is legal because it has official permission from the Minister of Finance and the Minister of Agrarian Affairs, so that in carrying out the appraisal task, they have a strong legal basis. The appraisal tasks carried out by the Public Appraisal Service when viewed from the Regulation of the Minister of Finance Number 228/PMK.01/2019 and Law No. 2 of 2012 concerning Land Procurement for Development in the Public Interest is the task of carrying out the orders of the Law which in fact cannot be made into legal cases, both civil and criminal.

Seeing the facts above, the task of the Public Appraisal Service begins with a civil legal agreement, which is by being signed with a Work Agreement. This is truly a civil law domain. If there is a default, the matter will be returned to the contents of the mutually agreed agreement. Moreover, in carrying out its appraisal tasks, the Public Appraisal Service is in accordance with the provisions outlined by the Indonesian Valuation Standards (SPI) and the Code of Conduct of Indonesian Appraiser (KEPI). It is can be concluded that what is done by the Public Appraisal Service is in accordance with the applicable legal provisions.

The results of the appraisal from the Public Appraisal Service are the results of an

opinion as a second opinion based on opinions according to the rules that have been outlined by the Code of Conduct of Indonesian Appraiser (KEPI) and the Indonesian Valuation Standard (SPI). The results of the appraisal are the final results that will be used as the basis for providing reasonable compensation by the government to the community, therefore it must receive legal protection. This is because the results of the appraisal obtained from the Public Appraisal Service are the result of a truly professional, objective, and accountable job. Described in KEPI & SPI 103. 5.3 a). 6 the purpose and objective of the appraisal is to provide an opinion on the Fair Replacement Value which will be used for the purpose of land acquisition for development in the public interest.

In addition to obtaining legal protection, the results of the appraisal carried out by the Public Appraisal Service must obtain legal certainty, because the results of the appraisal of the Public Appraisal Service are a second opinion produced by an expert that must be protected surely. The second opinion makes a definite and accurate appraisal result because it is carried out using a legal method that has been determined by KEPI & SPI 103.5. It is explained that the second opinion produced by the Public Appraisal Service goes through stages starting with a work agreement contract, which is signed by both parties, the appraiser and assignor. The results of the appraisal obtained from the Public Appraisal Service are then submitted to the party who gave the task as stated in the contract/agreement.

The legal protection of the appraisal results obtained by the Public Appraisal Service is expected to provide legal protection for the Appraisal Service, the government, and also the community (Al Sentot Sudarwanto, *et all*, 2022). According to Satjipto Raharjo, legal protection is that law is created not in a vacuum, but from the existing community in society, and in order to protect the rights of the community (Diya Ul Akmal, 2022). Legal certainty is one of the goals of law and can be said as an effort to provide a sense of justice to all parties, because the results carried out by the Public Appraisal Service are very beneficial to all parties, either for the government, the community, or the Appraisal Service itself.

## **Conclusion**

The existence of Public Appraisal Services in Indonesia has a legal basis, the Minister of Finance Regulation Number 228/PMK.01/2019 and Law No. 2 of 2012. The Public Appraisal Service carried out the appraisal tasks professionally, transparently, and objectively in accordance with the Indonesian Valuation Standard (SPI) and Code of Conduct of Indonesian Appraiser (KEPI). Hence, they have received guarantees and legal protection. However, these regulations need to be improved and refined in a special legislation for Public Appraisal Services which can provide strong legal guarantees and protection. Therefore, the government is expected to immediately make a special legislation for Public Appraisal Services.

## **Bibliography**

- Al Sentot Sudarwanto, Dona Budi. 2022. Comparative Study of Personal Data Protection Regulations in Indonesia, Hongkong and Malaysia. *Journal of Financial Crime*, Vol. 29, No. 4, 2022. Page 1443
- Pricilia Dwi Anggreni. 2020. "Juridical Review of Public Appraiser Service Company Henricus Judi Adrianto" *Jurnal Lex Et Societaris*, Vol.VIII, No.2, April-June 2020. Page 162
- Al Sentot Sudarwanto. 2018. "Environmental Impact Analysis Report (AMDAL) and

- Compilation Process (Based on the Regulation of the Minister of Environment Number 16 of 2012 concerning Guidelines for Preparing Environmental Documents). Publisher: UNS Press. Page 1
- Mudakir Iskandar Syah. 2018. "Land Acquisition and Reclamation for the Development of Public Interests". Jakarta: Jala Permata Aksara. Page 6
- Nabila Kamal. 2021. "Legal Protection of Land Rights Holders Against Irregularities in the Implementation of Land Acquisition for Public Interests with Borrowing Instruments". *Journal of Notary Law*. Vol. 3, No. 1. January 2018. Page 83-84
- Abraham Samuel Amanupunjo. 2020. "Public Appraiser Professional Protection Guarantee in the Constructor Regulation of the Minister of Finance No. 56/PMK.01/2017 concerning Amendments to Minister of Finance Regulation No. 101/PMK.01/2014 concerning Public Appraiser". *Journal of Law*, Vol. 3, No. 2. December 2020. Page 178
- Siti Ruqoyah. "Public Appraisal Services Have a Role in Helping the Government Realize Indonesia Emas". [https://www.viva.co.id/berita/nasional/1416571-jasa-penilai-punya-peran-bantu-pemerintah-wujudkan-indonesia-emas?page=1&utm\\_medium=page-1](https://www.viva.co.id/berita/nasional/1416571-jasa-penilai-punya-peran-bantu-pemerintah-wujudkan-indonesia-emas?page=1&utm_medium=page-1), accessed on April 7, 2022, at 21.34 WIB
- Elysabet Sri,dkk. 2021. "Independence of Determining the Amount of Collateral Value in the Credit Agreement Conducted by Appraisal Banks". *Journal of Reusam Law*. Vol IX, No.1. April 2021. Page 7
- Yuniar Rachma. 2015. "Malpractice of Appraisal Services at Bank regarding Results of Reports which Value Exceeds Market Prices". *Journal of Law Business*, Vol. 1, No. 1. April 2015.
- Diyah Ul Akmal. 2022. "Legal Ideals: A Primary Objective of Law is to Benefit Society." *Academia Letters*. Article 5037
- Dahmir. 2020. "The Role of the Office of Public Appraisal Services in Land Acquisition Action for Public Interest (Between Professionalism and Tort/Criminal Acts of Corruption)". A Thesis of Universitas Sumatra Utara. 2020