

The Impact of Increasing Congestion due to License Issuance for Factory Outlets and Cafes in Bandung Reviewed from Legal Framework

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ABSTRACT

As one of the largest cities in Indonesia after Jakarta and Surabaya, Bandung is a major tourist destination in West Java because of its strategic location. Besides having heritage tourism, nature tourism, and culinary tours, Bandung is also known as a shopping town with malls and factory outlets spread throughout the city. Nevertheless, the uncontrolled development of shopping centers and culinary may potentially impact negatively especially congestion in Bandung City. Currently, traffic congestion seems to be a difficult thing to be avoided in Bandung City. Congestion happens apart due to the increased volume of vehicles and due to construction in some areas which are formerly housing that becomes factory outlets and cafes. The impacts are reducing time efficiency of road users because of time spent on the road, air pollution, as well as inconvenience for road users. If it is viewed from legal framework, license issuance for factory outlets and cafes must refer to RUTR Bandung which means that changes in urban planning that is not in accordance with the urban planning will lead to a negative impact; that is more congestion in regions. Therefore, obedience to law, especially law license can certainly solve this problem.

Keywords: Law License, City Spatial, and Congestion

INTRODUCTION

Bandung has turned into a Metropolitan City. Uncontrolled population growth, urbanization, congestion, and flood has become parts of problems had by Bandung City. Although Bandung City has well-known colleges producing best technocrats for this country, but these issues cannot automatically be solved. Bandung is a paradox, sometimes being missed, sometimes being hated. Bandung is preferred because the atmosphere is comfortable and cool but the citizens sputter because of its traffic jam. Most of comers go to Bandung due to the quality of university but it is left due to lack of career opportunities. It is praised for many urban planning experts and architects but it is criticized for lacking of innovation and chaos of the city. *As citizens, we actually carve the most eligible to participate in the city face shape. Like what is proclaimed by city designer Henry S Churchill "The City is The People".*

Knowing Bandung is like crossing a city that is rich with historic architectures with natural environment of reassuring Parahyangan. Bandung is also known as an educational city with a number of universities supported by open and conducive social stability. So that Bandung is the unique context that gives birth to a different global cosmopolitan culture with a strong religious context or a context Balinese-style or an abiding tradition like Yogyakarta.

Managing a densely populated city like Bandung is not an easy task but it is not also an impossible job to do. Cooperative support and the role of citizen participation is certainly necessary.

With the background as an architect who has been well-known in foreign countries with a variety of his works and ability to organize other cities in the world, certainly it is not a coincidence if Ridwan Kamil as the Mayor of Bandung finds a philosophy that '*Hidup Adalah Uduan*' or 'Life is a Mutual Cooperation'. It means that we can resolve all city problems if we want to be together shoulder to shoulder to love Bandung City.

He wants to bring the glory of Bandung back with his slogan "Bandung Juara". Ridwan Kamil wants the townspeople to be proud of famous parks of Bandung, such as Maluku Park (Mollukkenpark), Pramuka Park (Oranjeplein), Citarum Park (Citaroemlein), or Ganeca Park (Ijzermanpark). Then, he revitalizes some other parks with certain themes, such as Centrum Muziek Park, Photography Park, Superhero Park, Lansia Park, Cibeunying Park, Cikapayang Park, City Hall Park, Bandung Park Plaza, Jomblo Park, Gymnastic Park as well as various parks that exist in various spots of Bandung City. Ridwan Kamil wants to restore Bandung becoming a friendly city for its population.

Ridwan Kamil assumes that cosmopolitan and contemporary character is typical of Bandung City. Unique incision and crossing in Bandung produce many opportunities, especially those related to economic strength born of high creativity and innovation of young people. Economy is born from the power of thinking, the power of human capital, or often called as creative economy.

In Bandung, the economic opportunities based creative lifestyle thrive. Factory outlet comes with turnover in billions of rupiah per month. *Distro* (distribution store) Industry in Bandung becomes cosmopolitan mode and style for young people with unique clothing design. It superfast grows and spreads to other cities.

Bandung has many interesting factors to tourists. One of them is Art Deco style tourist attraction so that in 2001, Bandung City was awarded the title of rank 9th of 10th World City of Art Deco as the city whose many collections of vintage building in Art Deco Type. Bandung also has natural tourist attractions. For shopping, it is unsurprising that Bandung City is also known as a shopping city with malls and factory outlets that are widely spread in Bandung City. In addition, at this time, step by step, Bandung is also known as the city with culinary tourism attraction. Until 2007, British Council made Bandung City as the pilot project for the most creative city in the East Asia and in 2013, Bandung became one of the cities that the Ministry of Tourism and Creative Economy proposed in UNESCO as one of creative cities in the world.

As one of the developers of urban tourism, Bandung has to be able to utilize all city's facilities that can be used as tourist attraction that is capable of attracting tourists. One of tourist facilities developed in Bandung is shopping. The sector of fashion becomes one of creative industries that relies on shopping tour in Bandung. The nickname of Paris Van Java was decent to be pinned to Bandung for becoming the center of fashion development in Indonesia. Bandung is assessed being capable of creating a new mode that will be trending in market. This is exactly what makes Bandung become a tourist destination, especially in the field of fashion shopping.

Therefore, to realize one of the tourist destinations in Indonesia, the Government of Bandung City should invest in two ways. The first investment is in the form of instruments that is conducive support and long-term economic policies. These

instruments are to encourage investment flow and creative economy in Bandung. So that, creative and clever people from out of town are willing and interested to move to Bandung by bringing capital, creative ideas, or business innovation.

Secondly, the government should invest to improve infrastructure and city facilities, to reduce congestion, to multiply art space or gallery, to maintain and beautify historic buildings, or to innovate in urban green space by enhancing public space in structuring urban areas. It is due to creativity and innovation are born from inspiring space.

Methods

This research will use a qualitative research design with descriptive method to explain situation, condition, and problem faced by actual research object in order to obtain in-depth meaning comprehension. The aspects that will be elaborated in this research are:

1. Licensing and Spatial Planning Policy. It will review Detailed Spatial Plan (RDTR) of Bandung and aspects of spatial planning and licenses as SIUP/TDP, SITU, and EIA. The aspects analyzed are: (1) compliance with the implementation of regulation, (2) possibility/ease of application, and (3) monitoring and enforcement.
2. Implementation of Licensing includes the analysis of (1) issuance of license, (2) the development of situation after licensing condition, (3) process of issuance of license, (4) monitoring and enforcement, and (5) license update.
3. Analysis of generation congestion at the site and to the location, which discusses (1) the level of congestion, (2) once on congestion, (3) congestion frequency, and (4) the impact of congestion.

Theoretical Background

License (*vergunning*) is an approval from authorities under legislation or government regulation in a certain circumstance that deviates from the provision of prohibition laws. License can also be interpreted as an exemption or waiver from a ban (Adrian, 2011).

The license for constructing shopping centers such as FOs (Factory Outlets) and malls as well as culinary tourism centers like cafes that increasingly establish irregularly in Bandung City will bring major and significant impact to its surrounding environment. The presence of shopping centers and cafes from economic-social-cultural perspective impacts positively because within an increasing number of shopping centers, it brings correlation to the amount of consumers that will certainly influence supply demand factor and increase the number of production that in the end will increase revenue through tax.

However, the construction of shopping centers and cafes that cannot be controlled also potentially causes a negative impact if it is not equipped with infrastructure and sufficient supporting facilities such as road, transportation, or parking lot that can accommodate vehicles in large numbers.

The point is that license has controlling function and regulator function. As controlling function, it is meant to allow to construct business spaces, buildings, and other forms of community activities that do not contradict each other. So the order in every facet of people's lives can be realized. As regulator function, it is an access privilege for government to organize its city so that each policy can be implemented in accordance with its provisions. So, there is no permission abuse that has been granted. In other words, regulator function can also be called as government function.

Government, in doing its tasks, is given the authority in the field of regulation of juridical instrument to organize, allow, and forbid. The instrument is in the form of resolution (*beschikking*). *Beschikking* is the main legal instrument in governance arrangement. One form of arrangements is license issuance. In accordance with the type of *beschikking*, license is included into constitutive statute which is legislation that creates new rights to overcome license matters. Formerly, license is also called as resolution or permit that is not allowed.

One of the principles of rule of law is the rule of legislation. It means that any legal action of government in carrying out regulatory function and service function is based on the authority granted by legislation. Implementation and a positive law enforcement require authority because it can create a juridical instrument. But what needs to be considered by government is that the license issued by certain authority must be obtained from applicable legislation.

Government authority is the authority in issuing free license. It means that the government is authorized to give judgment based on own initiative. The judgment is based on:

1. condition of applicant that is possible to issue a license;
2. consideration for existing condition;
3. juridical consequences that may arise from refusal or restriction related to licensing legislation; and
4. procedures that have to be carried out during and after the decision of license issuance given is accepted or refused.

Regarding the authority to grant license based on the Regulation of Bandung No. 12 of 2009 with referring to the Regulation of Ministry of Home Affairs Number 20 of 2008, the authority to grant license is assigned to the Integrated Licensing Service Agency (BPPT). In addition to the authority in license description by the Decree of Mayor of Bandung No. 503/kep.1172-bag.orpad/2013, BPPT is also given the authority in signing city integrated licensing.

According to the Regulation of Bandung No. 04 of 2013 on Establishment and Organizational Structure of Regional Technical Institute of Bandung, Function, and Governance Performance, this has to be assigned in the Local Regulation of Bandung City No. 300 of 2013 that BPPT has duties and functions written in Article 2 of the Regulation of Bandung District No. 300 of 2013. They are:

- (1) BPPT has the principal task to coordinate and organize administrative services in an integrated license;
- (2) In performing principal tasks as referred to in paragraph (1), BPPT has functions:
 - a. maintaining program from BPPT;
 - b. maintaining administrative services and construction license;
 - c. coordinating the process of licensing services;
 - d. maintaining administrative licensing service and handling complaints; and
 - e. maintaining monitoring and evaluating process of licensing services.

BPPT has a full responsibility for issuing license and it has to submit a report within a period of three months to the Mayor of Bandung. In principle, the establishment of Integrated Licensing Service Agency (BPPT) is based on efficiency and streamlining a structure to cut bureaucratic obstacles in licensing system in order to simplify licensing procedures for integrated one-stop service.

The license of traders in the Regulation of Bandung City No. 02 of 2009 on Traditional Market Organization, Shopping Centers, and Modern Stores states that the application and trading license issuance must be accompanied by a feasibility study including an analysis of the impact of traffic. It is because each change in land usage

will result in the change in transportation system and it can affect the level of service you want. So that, the analysis of the impact of traffic will be one of conditions for entrepreneurs to obtain building license.

The issue of impact in the field of licensing is a very important issue as something given and inherent in a society. One of the issues that is newly emerging is that traffic congestion as a scourge that is difficult to avoid in the construction and development of urban area.

Congestion is a situation or condition where vehicles cannot move or even they are stagnant due to a large number of vehicles exceeding the capacity of road. Congestion happens in many big cities, especially where there is no good or adequate public transportations or there is imbalance between the need of road and the population

The congestion that occurs in Bandung City today is due to increasing traffic volume come from outside the city. This is understandable because the city is one of the cities with high population mobility. Mobility is also marked by a high productivity of people in the area and it also marks the scale of economy that is increasingly widespread. However, the impact caused by the congestion that occurs is negative yet not small. From the economic aspect, congestion can hamper the process of production and distribution of goods which lead to the inhibition of local economy. In addition, congestion also reduces efficiency due to the time of road users spent on the road, air pollution, as well as inconvenience for road users.

The development of shopping centers and cafes is a positive impact on the economy and increase revenue from the growing number of tourists who visit. But on the other hand, the construction of shopping centers and cafes in the city with its infrastructure condition minimally cause discomfort for people in Bandung or tourists visiting Bandung.

Result and Discussion

Today's world competition is no longer between countries but cities. That is why strategies for innovative urban planning have been done in big cities such as London, Glasgow, Taipei, Singapore, Bangalore, and Buenos Aires in responding to the new economy. Responsive creative economy policy and increasing the quality of city facilities are just like two sides of coin. Therefore, the Government of Bandung has to think innovatively beyond standard management norm of cities in Indonesia.

The provision of 1945 legislation, decentralization is held by granting the autonomy to the widest area to manage the affairs of government based on the principle of autonomy and duty of assistance. If it is observed carefully, granting a wide autonomy to an area as stipulated in Legislation No. 32 of 2004 on Local Government; that is to improve the quality and quantity of public services and social welfare; to create efficiency and effectiveness of local/regional resource management to increase the interest in welfare of society; and to empower and create a space for people to participate in the process of governance and development. In other words, the intention of granting a wide autonomy to an area is to accelerate the realization of people's welfare through service improvement, empowerment, and community participation.

In line with this principle, it holds a real principle of autonomy and responsibility which means that the handling of government affairs is carried out by duties, authorities, and obligations that are in accordance with the potential and uniqueness of an area in order to empower the area and to improve the welfare of society. In order for local autonomy can be implemented in line with the objectives to

be achieved, the Government must conduct a supervision over the provision of guidelines, standards, directives, guidance, training, supervision, control, coordination, monitoring, and evaluation.

Local Government is the implementer of public policy tasks and service, protection, and empowerment function. In the Local Regulation No. 21 of 1981 and Regulation No. 24 of 1981, the authority of management in the field of development planning authority of Bandung is under the Regional Development Planning Agency (BAPPEDA) of Bandung. It is a technical agency in the Government of Bandung City that is in charge of implementing the planning function.

Based on the Legislation No. 25 of 2004 on National Development Planning System, Legislation No. 32 of 2004 on Local Governance, Legislation No. 38 of 2007 on the Division of Government Affairs between the Government, Provincial Government, and Mayor Regulation No. 410 of 2010 on the Details of Main Duties, Regional Development Planning Agency of Bandung has several basic tasks as follows:

1. to develop and to conduct Long Term Regional Development Plan (RPJPD), Medium Term Development Plan (RPJMD), and Local Government Work Plan (RKPD);
2. to formulate spatial planning that includes Determination of City Spatial Plan (RTRWK), arrangement, and establishment of Strategic Area Plan;
3. to formulate strategic policy operations of City Spatial Planning (RTRWK) and Strategic City Spatial Planning;
4. to formulate sectorial programs in realizing the structure and pattern of city spatial use and strategic city area;
5. to control the use of city spatial and strategic areas;
6. as well as to be the executor and supervisor in the construction area of Bandung City.

Since the opening of Cipularang Toll Road, Bandung City has been the primary goal of enjoying weekend, especially from people who come from surrounding Jakarta. The emergence of tourist spots and shopping centers makes Bandung become more potential as a shopping destination for tourists. The development of shopping tourism is supported by the government by issuing license and land construction to be used as shopping places such as cafes, malls, and factory outlets in Bandung.

Cafe, factory outlet, and mall are three types of shopping spot that are the most widely owned by Bandung City. They characterize their self as a shopping tourism of Bandung. The amounts are many and they are located in various areas of Bandung. It is for travel to Bandung becomes more easily accessible. The total factory outlet and mall which are pretty much owned by Bandung City indicates that this sector is the sector developed by Bandung City.

Since 2008, the number of restaurants and cafes in the city keep undergoing a significant increase. The data from Department of Culture and Tourism of Bandung in 2013, within three thousands entrepreneurs of restaurant and café, there are only 627 registered and have a business license. The implementation of business licensing regulation for cafes and restaurants potentially damages business competition due to proliferation of the number of illegal businesses. It is normative that many streets in Bandung City, which is not intended for business, are only allowed for settlement. But in fact, many cafes or restaurants that stand in residential areas. Inappropriate land use can damage the surrounding area.

In order to implement the policy of decentralization or regional autonomy, the government has set some policies to improve the public service in the area, including the policy of improving public service in the field of licensing. As stated in the

Government Regulation No. 41 of 2007 concerning the Regional Organization, in Article 47, that in order to improve the coherence of community service in the field of licensing, Multi-sectorial Governor/Regent/Mayor may establish integrated unit service (as Board or Office), which is a combination of elements that perform the function of area licensing services. As the implementation of PP, then being determined by MOHA, Ministerial Regulation No. 20 of 2008 on the Guidelines for Organization and Administration Unit of Integrated Licensing Service in Region, in Article 4, it is stated that the Board or the Office of Integrated Licensing Service has the task of coordinating and organizing administrative services in the field of licensing integrally with the principles of coordination, integration, synchronization, simplification, security, and certainty. The body function or Integrated Licensing Service Office is the provision of licensing service administration, the implementation of administrative licensing service, and monitoring and evaluation of the process of licensing service.

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