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The Effectiveness of the Implementation of the Regulation of the Minister of ATR/BPN No. 18 of 2021 in the Process of Increasing the Use Rights to the Building Rights (Study at the Cirebon City Land Office)

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Abstract

Land administration reform through the Ministerial Regulation of ATR/BPN Number 18 of 2021 is directed to build a

mechanism for determining and changing land rights that is integrated, efficient, and guarantees legal certainty. One form of strategic change of rights is the increase of the Right of Use to the Right to Use (HGB), which has significant implications for the optimization of the economic value of land assets. This study aims to examine the effectiveness of the implementation of the Minister of ATR/BPN Regulation No. 18 of 2021 in the process of increasing the Right of Use to become HGB at the Cirebon City Land Office. The method used is empirical juridical with descriptive-analytical specifications through interviews, document studies, and the study of laws and regulations and scientific literature. The results of the study show that normatively and procedurally, regulations have been implemented in accordance with the applicable legal framework, reflecting the effectiveness of the substance and implementation structure aspects. Simultaneous mechanisms, physical and juridical data research, and service operational standards run consistently without administrative irregularities. Although one of the applications for the increase of procedural rights did not reach the finalization stage, this condition reflects more the dynamics of fulfilling continued administrative obligations than the weaknesses of the regulations. Thus, the Minister of ATR/BPN Regulation No. 18 of 2021 can be considered effective in its normative and administrative scope, while the effectiveness of its practice is still influenced by external factors that are outside the boundaries of land regulation regulation.

Keywords

Implementation Effectiveness; Land; Improvement of Rights; Right of Use; Building Use Rights

A. Introduction

Land has a very fundamental role in national economic development and the provision of legal certainty for all legal subjects, both individuals and business entities.¹ Within the framework of Indonesian agrarian law, the State provides a guarantee of certainty of land rights through Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA).² Along with the dynamics of development and the spirit of increasing the *Ease of Doing Business* index mandated in Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation, which has now been stipulated as Law Number 6 of 2023, the government is trying to transform the land administration system to create a more competitive investment climate.

As part of the regulatory reform, the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 18 of 2021 concerning Procedures for the Determination of Management Rights and Land Rights was issued. This regulation is a strategic instrument because it technically regulates the mechanism for changing land rights, including the procedure for upgrading the status from Hak Pakai (HP) to Hak Guna Bangunan (HGB). The urgency of increasing the status of this right is strongly felt by legal subjects such as business entities and State-Owned Enterprises (SOEs) that have assets in dense urban areas such as Cirebon City. Economically, HGB offers *higher asset value* ownership in the property market³, as well as more acceptable for the banking sector to

¹ Sihaloho, Antonius Ade Yunus. "LAND CERTIFICATION AS AN INSTRUMENT OF LEGAL PROTECTION AND INVESTMENT GUARANTEE TO SUPPORT ECONOMIC ACTIVITIES OF LAND ASSET USE." *JEBIMAN: Journal of Economics, Business, Management and Accounting* 3, no. 5 (2025): 390-399.

² Fakhurrozi, Muhammad, Yuniar Rahmatiar, and Muhamad Abas. "A Study of Constitutional Law on the Protection of Land Rights in the Context of Law No. 5 of 1960." (2025): 148-157.

³ Suhardiman, Cecep, Gunawan Widjaja, and Khalimi Khalimi. "ECONOMIC IMPLICATIONS OF HGU AND HGB EXTENSION FOR LONG-TERM INVESTMENT: A LITERATURE REVIEW ON THE LEGALITY AND SAFETY OF DOING BUSINESS IN INDONESIA." *BOURGEOIS: JOURNAL OF ECONOMICS* 2, no. 4 (2025): 188-198.

be used as collateral through the imposition of Dependent Rights to support business capital liquidity.

Table 1. Juridical Differences in Use Rights and Building Rights

Aspects	Right to Use	Building Use Rights
Nature of Rights	Authority to use/collect results. Non-Commercial	Authority to erect buildings. Commercial.
Term	granted for a maximum of 30 years, renewable for 20 years, and renewed for 30 years (80 years total)	granted for a maximum of 30 years, renewable for 20 years, and renewed for 30 years (80 years total)
Collateral	Limited (generally not accepted by the Bank)	Can be burdened with Dependent Rights
Subject	Indonesian citizens, foreigners, foreign legal entities that have representatives in Indonesia, Government Agencies	Indonesian Citizens and Legal Entities

Source: Researcher Analysis, 2026

In the dynamics of increasingly competitive economic development, land is no longer just a production factor, but a strategic asset that supports investment certainty and ease of doing business. In line with the Job Creation Law and the Minister of ATR/BPN No. 18 of 2021, land regulation reform is directed to provide asset management flexibility for business entities, including SOEs. In urban areas such as Cirebon City, the improvement of the status of land rights from Right of Use to Building Rights (HGB) is important not only in terms of administrative legality, but also as a strategy to increase the value and liquidity of assets.

As a manifestation of *das sollen* in land law reform, the Minister of ATR/BPN No. 18 of 2021 is strategically designed to cut bureaucratic inefficiencies by setting measurable and integrative procedural standards. Furthermore, procedural certainty is realized through a mechanism of simultaneous

change of rights, where the determination of new rights and the elimination of old rights are carried out in a single administrative series that effectively eliminates the risk of legal vacuums (*rechtsvacuum*) and provides an absolute guarantee of legality security for the subject of rights in accelerating the economic value of his assets. Although normatively the Ministerial Regulation of ATR/BPN No. 18 of 2021 has designed a simultaneous and efficient rights change scheme to cut bureaucracy, at an empirical level, the potential implementation gap is still a real challenge.

The effectiveness of law enforcement cannot actually rely only on the advantages of the substance of the regulation alone, but is highly determinant of the sociological and economic factors that support it. The availability of adequate technological facilities at the regional Land Office, the capacity and understanding of implementing human resources, and the burden of operational costs that must be borne by the applicant, are crucial non-legal variables. Without the support of conducive facilities and legal culture, this regulatory reform risks becoming just a paper tiger that fails to realize the goal of *Ease of Doing Business* substantively.

Previous research with research by Henny Maulina (2020) entitled "Changes in the Status of Land Right of Use During Use as Used to Build Right as an Asset at PT. PLN (Persero) West Sumatra Regional Main Unit" which focuses on changing the status of the Right to Use during use as it becomes a Building Use Right in the context of SOE assets and its legal consequences on the recording of company assets. This study focuses on analyzing the effectiveness of the implementation of Ministerial Regulation of ATR/BPN No. 18 of 2021 in the process of increasing the Use Rights to Building Rights in the practice of land services. This research presents a novelty in the form of an implementive evaluation

of the latest regulations, by examining the administrative, juridical, technical, and institutional factors that affect the success or failure of the rights improvement process, thereby contributing to the strengthening of effective and legal certainty-oriented land service governance.⁴

A concrete illustration of the problem that occurred in the application to increase the status of land rights occurred in the case of the application to increase the Right of Use to a Building Use Rights (HGB) by PT Pelabuhan Indonesia (Pelindo) on a plot of land covering an area of ±2,510 m² located in Kesambi Village, Kesambi District, Cirebon City. This application was submitted in the context of legalizing assets and optimizing land use for the company's commercial activities. Although administratively the application has been submitted to the Cirebon City Land Office, the process of increasing the rights does not continue to the final stage or has abortive status. The main factors that hinder the continuation of the process are the payment time and the high cost burden to complete the administration, especially related to the Land and Building Rights Acquisition Fee (BPHTB).

⁴ Henny, Maulina. "THE CHANGE IN THE STATUS OF THE LAND OF THE RIGHT TO USE DURING USE AS AN ASSET IN PT. PLN (PERSERO) THE MAIN UNIT OF THE WEST SUMATRA REGION." PhD diss., Andalas University, 2020.

Figure 1. Front view of the land owned by PT Pelabuhan Indonesia



Source: Google Earth

From the analysis of the case of the application for an increase in the Right of Use by PT Pelabuhan Indonesia Cirebon City, it can be identified that the burden of administrative costs is the main cause of the inhibition of the continuation of the procedure, even though substantively the regulation has provided legal certainty and a clear procedural path. The two main cost components that become a burden in the process of increasing rights are Non-Tax State Revenue (PNBP) for the granting of new rights or increased rights and the Land and Building Rights Acquisition Duty (BPHTB) which must be paid to local governments. At this point, the procedures that are legally available in the Ministerial Regulation of ATR/BPN No. 18 of 2021 cannot be utilized optimally, because financial constraints make the administrative process not continue (abortive).

This situation reflects the inequality between the ease of procedure and the cost-effectiveness in the field. When the cost of upgrading the right is judged to be disproportionate to the economic benefits of the land, the applicant is likely to delay or cancel the application. Therefore, an evaluation of the structure and flexibility of land costs is needed so as not to hinder the goal of deregulation and legalization of land assets.

Based on the previous background description, it can be

seen that improving the status of land rights is an integral part of the government's efforts to ensure legal certainty and support the economic function of land in urban areas. Ministerial Regulation of ATR/BPN No. 18 of 2021 has been designed as a form of regulatory reform to simplify land procedures, including in the process of increasing rights from Right of Use to Right of Use (HGB). However, in practice, not all applications can be completed according to applicable regulations.

One example that reflects this problem is the case of an application for an increase in rights by PT Pelabuhan Indonesia (Pelindo) for land in Cirebon City, which ended abortively. This raises questions about the extent to which the implementation of the Minister of ATR/BPN No. 18 of 2021 has been running effectively at the level of the Cirebon City Land Office, as well as what are the factors that hinder the success of the procedure for increasing rights. This problem is important to study further, considering the incompatibility between legal norms that have been simplified nationally and the administrative and economic obstacles faced by applicants in the field.

This study aims to analyze the implementation of the Ministerial Regulation of ATR/BPN Number 18 of 2021 in the process of increasing the status of the Right to Use to a Building Use Rights (HGB) at the Cirebon City Land Office, as well as identify factors that affect the effectiveness of its implementation. Specifically, this study is focused on describing the service procedures applied by the Cirebon City Land Office in handling the application for an increase in rights, as well as uncovering the obstacles that cause the ineffective implementation of the regulation, by taking a case study on the application for an increase in the Use Rights of land submitted by PT Pelabuhan Indonesia Cirebon but did

not reach finalization due to administrative cost constraints. Through this approach, the research is expected to provide an empirical picture of the gap between the normative aspects of regulation and the socio-economic reality in the field, especially in the context of land in urban areas that have high complexity and economic value such as Cirebon City.

This research uses an empirical juridical method, which is an approach that focuses on the study of the implementation or work of law in society.⁵ The research specification is descriptive and analytical, which aims to provide a systematic, factual, and accurate picture of the implementation of the Ministerial Regulation of ATR/BPN No. 18 of 2021 at the Cirebon City Land Office, as well as analyze the factors that hinder its effectiveness. The location of the research was determined purposively at the Cirebon City Land Office with consideration of the phenomenon of cases of applications for increasing rights that did not reach finalization. The research data source consists of primary data obtained through in-depth interviews with related parties⁶, including officers of the Cirebon City Land Office and applicants from PT Pelabuhan Indonesia Cirebon. Secondary data was collected through literature studies and documentation of primary legal materials such as the Ministerial Regulation of ATR/BPN No. 18 of 2021, the Basic Agrarian Law, the Job Creation Law, as well as regulations related to PNPB and BPHTB, and secondary legal materials in the form of books, scientific journals, and relevant previous research results.

⁵ Benuf, Kornelius, and Muhammad Azhar. 2020. "Legal research methodology as an instrument for unraveling contemporary legal problems." *Echoes of Justice* 7 (1): 20-30.

⁶ Haifa, Nurul Melani, Indah Nabilla, Virda Rahmatika, Rully Hidayatullah, and Harmonedi Harmonedi. "Identification of Research Variables, Types of Data Sources in Educational Research." *Learning Dynamics: Journal of Education and Language* 2, no. 2 (2025): 256-270.

The data collection technique was carried out through semi-structured interviews using interview guidelines that have been prepared and prepared by the researcher based on the focus of the research, as well as the study of documents on application files and other supporting documents relevant to the case being studied.⁷ Data analysis was carried out qualitatively with an interactive model that included data reduction, data presentation, and conclusion drawn.⁸ The validity of the data was tested through the source triangulation technique, which is by comparing information obtained from various different sources⁹, as well as triangulation methods by comparing interview data with documentation data.¹⁰ Through this method, the research is expected to comprehensively reveal the dynamics of the implementation of land regulations at the local level and the socio-economic factors that influence them.

B. Implementation of Ministerial Regulation of Atr/BPN No. 18 of 2021 in the Process of Increasing the Right to Use to Become HGB at the Cirebon City Land Office

1. Procedures and Requirements for Upgrading the Right of Use to HGB

Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for the Determination of Management Rights and Land Rights is a technical regulation that regulates the mechanism for granting, extending,

⁷ Roesadhi, Allya Nur Aini, Annisa Deli Saputri Pasaribu, and Najwa Fahraini Nasution. "Data Collection Instruments and Qualitative Research Data Collection Techniques." *Journal of Intellectual and Scholars of the Archipelago* 2, no. 6 (2025): 14330-14344.

⁸ Rifa'i, M. Anwar. "Data Reduction, Data Presentation, and Conclusion Drawing in Qualitative Research." *South Sumatra Stadium* (2024).

⁹ Sugiyono, *Qualitative Quantitative Research Methods and R&D* (Bandung: Alfabeta, 2013), 270-275

¹⁰ Rahardjo, Mudjia. "Triangulation in qualitative research." (2010).

renewing, and changing land rights. In the context of this study, the increase of the Use Rights to the Building Rights (HGB) is included in the category of changes or grants of land rights carried out through structured and simultaneous administrative procedures.

Hierarchically, the regulation regarding the increase of rights in the Minister of ATR/BPN Number 18 of 2021 is a further implementation of the provisions in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration. Thus, the mechanism of increasing the Right of Use to HGB has a clear basis of authority in the national land law system. It is important to ensure that every administrative action taken by the Land Office is based on the principle of legality in the country's administrative law.

Normatively, the process of increasing rights begins with the submission of an application by the Right of Use holder to the local Land Office. The application must be completed with administrative and juridical requirements specified in laws and regulations, including the identity of the applicant, proof of ownership or control of land rights in the form of a valid Right to Use certificate, as well as other supporting documents such as Taxpayer Identification Number, power of attorney if authorized, and land use planning documents in accordance with applicable spatial planning provisions.

This initial stage reflects the application of the principle of administrative order, where each application must meet certain standards of completeness before being further processed. The examination of the completeness of the file by the counter officer or authorized official aims to ensure that the documents submitted have met the formal requirements, thereby minimizing the potential for disputes or administrative obstacles at the next stage.

After the application is declared administratively complete, the Land Office conducts research on physical data and juridical data on the land parcel requested. Physical data research is carried out to ensure the suitability of the location, boundaries, area, and factual condition of the land with the

data listed in the certificate and registration map. Meanwhile, juridical data research aims to ensure the legal status of land, the validity of inherent rights, the absence of disputes, and the conformity of the subject and object of rights with the provisions of laws and regulations.

In the event that there is no change in the physical data of the land plot, re-measurement is not required. This provision reflects the principle of efficiency and simplification of procedures that is the spirit of land administration reform. However, if there is a change in the area or boundaries of the land plot, the remeasurement is carried out in accordance with the technical provisions of land measurement and mapping. This arrangement shows that regulations maintain a balance between efficiency and administrative rigor. Furthermore, if the results of the physical data and juridical data research show that the application has met the requirements, the announcement of physical data and juridical data is made in accordance with applicable regulations. This announcement mechanism is a form of application of the principle of openness and protection of third parties. Through the announcement, other parties who feel they have an interest or objection to the land plot are given the opportunity to submit claims or rebuttals within a certain period of time.

If within the announcement period there are no objections, or the objection has been resolved according to the applicable mechanism, then the Head of the Land Office issues a decision to grant the Building Use Rights. This decision became the legal basis for the birth of new rights to land that were previously Hak Pakai status.

One of the important characteristics of the mechanism regulated in the Minister of ATR/BPN Number 18 of 2021 is the application of a simultaneous system in the change of rights. The abolition of the Right of Use that was previously attached to the land plot was carried out simultaneously with the granting of the Right to Use of Buildings. Thus, there is no legal vacuum (*rechtsvacuum*) between the expiration of the old right and the birth of the new right.

This simultaneous mechanism has an important meaning in ensuring continuity of control and legal certainty

for the applicant. In an unintegrated administrative system, changes in rights have the potential to cause administrative pauses that can trigger uncertainty about the legal status of land. With simultaneous construction, the Minister of ATR/BPN Number 18 of 2021 has anticipated the potential for these problems and ensured that the process of changing rights takes place in a complete series of administrative decisions.

After the decision to grant the Building Use Rights is issued, the applicant is required to fulfill further administrative obligations, including the payment of Non-Tax State Revenue in accordance with applicable regulations. The fulfillment of these obligations is a condition for the registration of rights and the issuance of a Building Rights certificate as proof of legal rights. The registration of rights and the issuance of certificates are the final stage that affirms the existence of rights juridically and administratively. The HGB certificate issued is a strong evidence of physical data and juridical data as recorded in land books and survey letters. Thus, the process of increasing the Right of Use to HGB not only results in a change in the status of rights, but also strengthens the legal position of rights holders in the national land registration system.

When analyzed from the perspective of the general principles of good governance, the procedure for increasing rights as stipulated in the Ministerial Regulation of ATR/BPN Number 18 of 2021 reflects several fundamental principles. First, the principle of legal certainty is reflected in the existence of clear, structured, and documented stages. Second, the principle of openness is realized through an announcement mechanism that provides space for participation for third parties. Third, the principle of efficiency and effectiveness is reflected in the arrangement that allows no re-measurement to be carried out if there is no change in physical data.

In addition to the administrative stages as explained in the procedure for upgrading the Right of Use to a Building Use Right (HGB), the aspects of the subject and object requirements of the right also determine whether or not the application can be processed up to the stage of issuing a

decision. In the land law literature, it is distinguished that the subject of HGB is more limited than the subject of Hak Pause. The research confirms that HGB can in principle only be owned by Indonesian Citizens and legal entities established under Indonesian law and domiciled in Indonesia; This subject restriction is understood as a consequence of the construction of the UUPA which places HGB as a material right intended for the subject of national law, so that a foreign legal entity is not qualified as an HGB holder.¹¹

If the previous Right of Use is on a subject that legally does not meet the qualifications of the HGB holder (e.g. a foreign citizen or a foreign legal entity), an increase in rights is not possible, and the Land Office is obliged to reject or not proceed with the application based on the results of judicial data research.

In terms of object, other journal articles explain that the grant/determination of HGB is normatively possible on state land and on land under management (e.g. land with Management Rights) through certain administrative requirements¹²; As a result, research on the basic status of land becomes a stage that cannot be ignored, because the status of land determines the form of administrative action that land officials can take. Furthermore, the aspect of "dispute clean" is also an important requirement in land services. The land administration process (including changes/enhancements of rights status) should be preceded by careful juridical data research and a publishing/announcement mechanism to give room for third-party objections; If there is a dispute or well-founded objection, the application should be postponed in order to maintain legal certainty and prevent the birth of new rights over the object that is still in dispute.

¹¹ Harris, Abd, Faradila Yulistari Sitepu, and Syarifa Lisa Andriati. "Juridical Analysis of the Dualism of Ownership of Building Use Rights over Management Rights as Assets of the Medan City Government (Land Disputes in Medan Petisah District)." *De Lega Lata: Journal of Legal Studies* 6, no. 2 (2021): 339-351.

¹² Hutagalung, Maltus. "Juridical Review of the Extension of HGB Without Approval on HPL After the Job Creation Law." *All Fields of Science Journal Liaison Academia and Society* 5, no. 1 (2025): 135-143.

In addition to the subject, the object of rights must also meet certain conditions. The increase of the Right of Use to HGB can only be done on land that is juridically possible to be granted HGB, both sourced from State Land and land under Management Rights (HPL). In the context of the Ministerial Regulation of ATR/BPN No. 18 of 2021, this juridical data research is in line with Article 157 of the Ministerial Regulation of ATR/BPN No. 18 of 2021, where officers are obliged to examine the validity of land tenure. If the land is above the HPL, then referring to Article 80, the grant of HGB must be based on a valid land use agreement. Without the suitability of juridical data and spatial planning as stipulated in Article 4, the increase in rights cannot be implemented automatically.

If the status of the land does not allow to be given HGB, for example because the period of the parent HPL has expired or the allocation is not in accordance with the Land Use Agreement (SPPT) from the HPL holder, then the increase of the right cannot be implemented¹³. This emphasizes that the procedure for increasing rights in this latest Ministerial Regulation is not an automatic administrative action, but a form of Accuracy of Rights Determination based on the validity of the Physical Data and Juridical Data of the land object applied for

Another aspect that determines the continuation of the process of increasing the Use Rights to Building Rights is the status of the land parcel which must be in a non-disputed condition. In the practice of land administration, "dispute free" is not just a formal requirement, but a juridical prerequisite to ensure that the action of determining rights carried out by the Land Office does not give birth to new conflicts in the future. Therefore, the Minister of ATR/BPN Number 18 of 2021 requires juridical data research and a mechanism for announcing physical data and juridical data before the issuance of a decision granting rights.

¹³ NM, Resy Kahfian, and Achmad Fitriani. "Legal Protection of Priority Rights Holders for Building Use Rights on Land Management Rights Related to the Rejection of the Extension of HGB." *Scientific Journal of Education Forum* 11, no. 11. D (2025): 128-140.

The announcement stage functions as a form of social control that provides an opportunity for interested third parties to file objections, as well as a means of public verification of the history and status of the land parcel requested. In the study of land registration, the announcement of physical data and juridical data is understood as an important stage that functions to prevent the emergence of overlapping claims, because at this stage potential disputes often arise when the community or related parties know of the process of registration/change of rights to a land plot.¹⁴

In the context of the effectiveness of the implementation of the Ministerial Regulation of ATR/BPN No. 18 of 2021, this dispute-free requirement also makes it clear that the measure of procedural effectiveness does not solely lie in accelerating services, but also in procedural accuracy in ensuring the validity of land status. A fast procedure but ignoring verification of juridical status has the potential to result in unstable decisions and lower legal certainty. On the contrary, the thoroughness of the juridical data research and the functioning of the announcement mechanism strengthen the quality of land administration because it guarantees that new rights are granted to land parcels that are juridically unproblematic and recognized in the land registration system.¹⁵

The increase of the Right of Use to HGB also requires that the Right of Use which is the basis of the application is still legally valid. Conceptually, the increase in rights is the act of changing the status of existing rights to other types of rights through land administration decisions; Therefore, the enactment of the initial right is the basis for the legitimacy of the administrative action. If the Right of Use has expired and

¹⁴ Situmorang, Swandi. "The Process of Customary Land Registration Through the Complete Systematic Land Registration Program in the Working Area of the Toba Regency Land Office." PhD diss., University of North Sumatra, 2022.

¹⁵ Safitri, Fina Ayu, Lita Tyestas Alw, and Anggita Doramia Lumbanraja. "The legal consequences of the use of the negative publication system have positive elements in land registration in the city of Semarang." *Notary* 13, no. 2 (2020): 788-802.

there is no extension or renewal in accordance with the provisions, then juridically there are no more "rights" that can be increased, so the appropriate action is not an increase in rights, but the submission of new rights through the mechanism of granting land rights. This difference is important because it increases the right to demand the continuity of the applicant's legal relationship with the land, while the granting of new rights puts the applicant in the position of the applicant for land rights from the beginning (*fresh application*) with different administrative consequences.

The administrative implications of this validity period condition can be seen in the obligation of the Land Office to examine the validity period of the Right to Use through the land book/certificate and its administrative history. The research is part of a juridical data research that determines whether the application can be continued to the next stage. Practically, if the validity period of the Right to Use is about to end, the applicant usually needs to ensure the right administrative steps, such as rearranging the application strategy whether it is preceded by an extension/renewal or directly changing the right if it meets the requirements, because negligence in the aspect of the validity period has the potential to make the process stop or must be repeated as an application for a new right. In the literature related to the extension of the term of land rights, the issue of validity is understood as a crucial element because it determines the certainty of control and sustainability of land use, both for individuals and legal entities, so that the design of procedures that demand compliance with the validity period of rights is part of the orderly land administration.¹⁶

From the perspective of administrative effectiveness, the provisions regarding the validity period of the Right to Use also show that the Minister of ATR/BPN Regulation No. 18 of 2021 encourages an orderly and data-based process of changing rights. Effectiveness is measured not only by the

¹⁶ Tambuno, Arpa Syura. "Reconstruction of Regulations on the Transfer of Land Rights in the Indonesian Legal System Based on the Value of Dignity Justice." PhD diss., SULTAN AGUNG ISLAMIC UNIVERSITY, 2023.

"process in progress", but also by the certainty that the decision to increase rights is issued based on a valid object and basis of the right. When the validity aspects are met and carefully verified, the final result in the form of a registered HGB will be stronger because it is born from a procedure that is consistent with the principle of land registration: juridical data must be accurate, up-to-date, and accountable as the basis for granting new rights.

In order to comprehensively understand the economic factors that affect the sustainability of the process of increasing the Right of Use to the Right of Use to the Building Right, it is necessary to identify the cost components that arise in each stage of administration. These components not only differ in terms of the legal basis and the recipient, but also have different implications for the continuity of the process.

Table 2. Comparative Analysis of Costs and Administrative Impacts

Cost Component	Legal Basis	Recipient Party	Impact on Rights Enhancement Proc
PNBP (Non-Tax State Revenue)	Government Regulation No. 128 of 2015 jo. Ministerial Regulation of ATR/BPN No. 18/2021	State (Ministry of ATR/BPN)	Administrative prerequisites; If it is not paid, the process cannot proceed to the certificate issuance stage
BPHTB (Land and Building Rights Acquisition Duty)	Law No. 1 of 2022 concerning HKPD	Cirebon City Regional Government	Being a significant financial burden; late payment causes the decree to be lost because it exceeds the deadline
Measurement & Inspection Fees	Ministerial Regulation of ATR/BPN No. 18/2021	Country	Relatively affordable and not a major obstacle

Other Administration Fees	As per local regulations	Related agencies	Minor, does not affect the continuation of the process
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Source: Researcher Analysis, 2026

Based on the table above, it can be seen that not all cost components have the same impact on the sustainability of the rights improvement process. PNPB and other technical costs are administrative and relatively do not pose significant obstacles. However, BPHTB as a regional fiscal obligation has greater financial implications and in this case study is a factor that affects the non-completion of the process up to the certificate issuance stage. This shows that the financing dimension in the implementation of land regulations is differential and influenced by different authorities.

Thus, normatively and conceptually, the Minister of ATR/BPN Number 18 of 2021 has designed a mechanism to increase the Right of Use to a Building Use Right that is integrated, efficient, and oriented towards legal certainty. Structured procedures, transparent announcement mechanisms, and simultaneous systems for changing rights show that these regulations meet the basic prerequisites for effectiveness in terms of legal substance.

2. Service Implementation Practices at the Cirebon City Land Office

The Cirebon City Land Office is a technical implementation unit within the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) which is under and responsible to the Head of the BPN Regional Office of West Java Province. Institutionally, the position and duties of the Land Office are part of the organizational structure of the Ministry of ATR/BPN as stipulated in the regulations regarding the organization and work procedures of the Ministry of ATR/BPN.¹⁷ As a vertical agency at the district/city

¹⁷ Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2020 concerning the Organization and Work Procedures of

level, the Land Office carries out some of the duties and functions of the ministry in the field of land in accordance with the provisions of laws and regulations.¹⁸

Within the framework of national agrarian law, the duties of the Land Office are based on the UUPA, which affirms that the state controls the earth, water, and space and organizes its designation, use, and maintenance for the greatest prosperity of the people.¹⁹ The implementation of this authority is further elaborated through the land registration system which aims to provide legal certainty and legal protection to land rights holders.

As a technical implementer of land registration, the Land Office has a strategic function in conducting research on physical data and juridical data, recording data changes in the land book, and issuing certificates as proof of legal rights.²⁰ Provisions regarding land registration and maintenance of land registration data are regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration.²¹ In the regulation, it is emphasized that every change in physical data and juridical data on a land plot must be recorded in the general register of land registration to ensure administrative order and accuracy of land data.²²

In the context of public services, the Cirebon City Land

the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency.

¹⁸ Rahmi, Rahmi. "FUNCTIONS AND DUTIES OF THE HEAD OF THE LAND OFFICE AS A SPECIAL PPAT IN BUTON REGENCY, SOUTHEAST SULAWESI PROVINCE = Function and Duties of the Head of the Land Office as a Special PPAT in Buton Regency." PhD diss., Hasanuddin University Makassar, 2024.

¹⁹ Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, Statute Book of the Republic of Indonesia No. 104 of 1960

²⁰ Ardani, Mira Novana, Yusriyadi Yusriyadi, and Ana Silviana. "The Problem of Orderly Land Administration through Fair Land Registration Activities." *Journal of Indonesian Legal Development* 4, no. 3 (2022): 494-512.

²¹ Government Regulation of the Republic of Indonesia Number 18 of 2021 Number 28.

²² *Ibid*

Office organizes various types of services, including land registration for the first time, transfer of rights, imposition of rights, extension and renewal of rights, as well as changes or improvements in the status of land rights. One form of change in rights implemented is the increase of the Right to Use to the Right to Use as stipulated in the Minister of ATR/BPN Number 18 of 2021 concerning Procedures for the Determination of Management Rights and Land Rights.²³ In this case, the Cirebon City Land Office acts as a direct implementer of the normative provisions that have been set by the central government, especially in processing applications for increased rights in accordance with predetermined administrative procedures.

As part of the national bureaucratic system, the Cirebon City Land Office in carrying out its services is guided by the standard operating procedures that apply nationally within the Ministry of ATR/BPN. The standardization of procedures aims to ensure uniformity of services, certainty of time, and procedural certainty in the implementation of land administration. Thus, the implementation of increasing the Right of Use to the Right to Use in Cirebon City cannot be separated from the national regulatory framework that regulates the land administration system in an integrated manner.

In the context of urban areas such as Cirebon City which has relatively high land use dynamics, the role of the Land Office has become increasingly strategic in ensuring orderly land administration and ensuring legal certainty for any change in the status of rights. Therefore, the analysis of the practice of implementing rights improvement at the Cirebon City Land Office needs to be understood as part of the implementation of administrative authority sourced from laws and regulations at the national level. The implementation of the service of increasing the Right of Use to the Building Use Rights (HGB) at the Cirebon City Land Office has basically been carried out in accordance with the provisions of the Regulation of the Minister of ATR/BPN

²³ Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021.

Number 18 of 2021. Technically and administratively, the procedures implemented follow the standard operating procedures (SOPs) that apply nationally, starting from submitting applications, checking the completeness of files, researching juridical data and physical data, to issuing decisions to improve rights.

Table 3. Data on the Procedure for Increasing the Right of Use to HGB at the Cirebon Land Office

FLOW OF INCREASING THE RIGHT OF USE TO HGB AT THE CIREBON CITY LAND OFFICE		
1.	File Preparation	PT Pelabuhan Indonesia prepares juridical and physical documents (original certificate, SPPT PBB, Power of Attorney, NPWP, KKPR)
2.	Registration at the Land Office counter	Inspection of the completeness of the file by the officer.
3.	PNBP Payment	PT Pelabuhan Indonesia pays the predetermined PNBP nominal.
4.	Measurement and Consolidation	Officers took measurements at the location. Committee A and the constabulary committee examine the boundaries and history of the land.
5.	Issuance of Decree	The Head of the Cirebon City Land Office issued a decree granting building use rights.
6.	Deletion of old rights and issuance of new rights	After the requirements are met, the removal of the previously attached Rights is carried out simultaneously with the issuance of Building Use Rights on the same land plot.

Source: Researcher Analysis, 2026

Based on the facts on the ground at the Cirebon Land Office, there are no additional procedures or special service innovations developed independently by the Cirebon City Land Office. Thus, the implementation of the regulation runs

normatively in accordance with the legal framework that has been set by the Ministry of ATR/BPN. The absence of this additional procedure shows that there is consistency in the implementation of regulations and uniformity of land service standards.

In the implementation of the improvement of rights, the role of officials and technical committees has an important significance in ensuring the validity of the procedure. The process of increasing rights is not solely administrative formal, but involves substantive research that requires coordination between various technical elements at the Land Office. Counter officers act as the first line of service that ensures the administrative completeness of the application. This role is important to maintain the quality of the files processed at a later stage. Errors in the early stages can have an impact on delays or cancellations of the process.

Committee A has the function of conducting juridical data research and giving consideration to the application of rights²⁴. In the context of increasing the Right to Use to HGB, this committee ensures that the subject and object of the right meet the requirements in accordance with the applicable legal provisions. Meanwhile, the constabulary officer conducted a field inspection to ensure the suitability of physical data and land boundaries.

The official authorized to issue the Decree has the final responsibility in ensuring that all procedures have been fulfilled before determining the granting of rights. The decision is a product of state administration that has significant legal consequences, so it must be based on careful and documented research. The involvement of these various elements shows that the implementation of regulations is not carried out individually, but through a collective and layered mechanism that aims to ensure legal accuracy and certainty.

²⁴ Kurniawan, Hadi Alan. "THE ROLE OF THE LAND INSPECTION COMMITTEE A IN THE PROCESS OF ENSURING LEGAL CERTAINTY IN THE LAND OFFICE OF BENGKULU CITY, BENGKULU PROVINCE." PhD diss., National College of Land, 2021.

Table 4. Comparison of Normative Aspects Vs Empirical Implementation

Aspects	Normative Provisions (Ministerial Regulation of ATR/BPN No. 18/2021)	Implementation at the Cirebon Land Office	Findings/ Gap
Application Procedure	The application is submitted with administrative and juridical completeness	Implemented in accordance with national SOP	Conform
Physical & Juridical Data Research	Must be done before the issuance of the decree	Carried out by Committee A and the constabulary officer	Conform
Simultaneous Mechanism	Removal of old rights & granting of new rights in a network	Applied in the issuance of the HGB Decree	Conform
Financial Obligations (PNBP/BPHTB)	Used as a prerequisite for the issuance of a certificate	Becoming a major obstacle due to the amount of costs and time limits	Not Optimal
Term Flexibility	Not adaptively regulated in regulation	There is no automatic renewal mechanism when there is a problem with payment	Stiff
Cross-Sector Coordination	Not explicitly regulated	Coordination with local governments (BPHTB) is a challenge	Weak

Source: Researcher Analysis, 2026

When compared to the normative provisions in the Minister of ATR/BPN Number 18 of 2021, the practice of implementing the increase in rights at the Cirebon City Land Office shows a high level of conformity. All stages carried out,

starting from submitting applications, researching physical and juridical data, announcements, to issuing decisions, run in accordance with the established regulatory framework. No additional procedures were found outside the regulatory provisions, nor administrative irregularities in implementation. This shows that implementation at the local level is carried out consistently and follows the standard operating procedures that apply nationally.

When viewed from the perspective of state administrative law, the exercise of authority by the Cirebon City Land Office in processing applications for the upgrade of the Right of Use to a Building Use Right reflects the application of the principle *of rechmatigheid van bestuur* (legitimate government/legality). According to Van Wijk/Konijnenbelt, the concept *of rechmatigheid* in administrative law means that government actions must be based on legitimate authority, correct procedures, and substance in accordance with applicable laws and regulations.²⁵

In the case study of the application of PT Pelabuhan Indonesia Cirebon, three elements were fulfilled *Lawfulness* can be identified as follows:

First, from the aspect of authority (*Jurisdiction*), the Head of the Cirebon City Land Office issued a Decree granting Building Use Rights based on the attribution of authority granted by laws and regulations, especially Law Number 5 of 1960 concerning UUPA in conjunction with Government Regulation Number 18 of 2021 in conjunction with the Minister of ATR/BPN Number 18 of 2021. In the doctrine of administrative law, the authority derived from attribution is the original authority inherent in the position and is exercised according to the limits specified in the regulations of its formation.²⁶

²⁵ Van Wijk/Konijnenbelt in Ridwan HR, *State Administrative Law*, (Jakarta: Rajawali Pers, 2018), pp. 98-99.

²⁶ Indroharto, *Efforts to Understand the Law on State Administrative*

Second, from the procedural aspect, all stages carried out starting from the receipt of applications, checking the completeness of files, physical and juridical data research by Committee A and the station officers, re-measurement, to the issuance of decisions have followed the standard procedures set out in the national standard operating procedures (SOP). No procedural or action irregularities were found *Misuse of power* (abuse of authority) in its implementation.

Third, from the substantive (material) aspect, the decision issued has been in accordance with the legal provisions that govern the conditions for granting the Building Use Right, both in terms of the legal subject (PT Pelabuhan Indonesia as a qualified Indonesian legal entity), the object of the right (land parcels that are not in dispute), and the required supporting documents.

The obstacle that caused the incompleteness of the process of increasing rights in this case is the non-fulfillment of BPHTB's payment obligations within the specified period of time that does not stem from the exercise of unauthorized authority (*unlawful*) by the Land Office. Instead, the Land Office has acted in a *lawful* by issuing a decree containing the period of fulfillment of obligations as a constitutive requirement, in accordance with the provisions of Articles 156-157 of the Ministerial Regulation of ATR/BPN Number 18 of 2021. Thus, the ineffectiveness that occurs is not the result of legally defective administrative actions, but rather caused by external factors that are beyond the direct control of the land agency.

This analysis also strengthens the research findings that the implementation of the Minister of ATR/BPN Number 18 of 2021 at the Cirebon City Land Office has met the principles of *Lawfulness*, so that juridically-formally there is no violation of administrative law in the process carried out.

Courts, (Jakarta: Pustaka Sinar Harapan, 1993), p. 98.

The conformity between norms and practices is an important indicator in assessing the effectiveness of regulatory implementation. In this case, the Cirebon City Land Office can be said to have implemented the provisions of the Minister of ATR/BPN No. 18 of 2021 normatively and procedurally without significant deviations. The service of increasing rights is considered relatively fast and in accordance with a period of approximately 70 working days, right after the file is entered at the Cirebon City Land Office. The officer provides clear information to the applicant and is responsive in following up on the completeness of the file and administrative obstacles. This indicates the commitment of the institution in realizing the principle of legal certainty, the principle of utility, and the principle of good service as the goal of regulating the improvement of rights.

Thus, empirically, it can be said that the practice of implementing the service of increasing the Right of Use to HGB at the Cirebon City Land Office has been effective in terms of procedural conformity and service quality, although it has not been accompanied by progressive service innovations.

3. Case Study Analysis of PT Pelabuhan Indonesia Cirebon Application

The application for an increase in rights submitted by PT Pelabuhan Indonesia (Persero) Cirebon originated from the company's need to optimize and commercialize land that was previously Right of Use status on a plot of land covering an area of ±2,510 m² located in Kesambi Village, Kesambi District, Cirebon City.

administrative obstacles were found. The process of researching physical data and juridical data runs according to the procedure. Furthermore, PT Pelabuhan Indonesia Cirebon City also submitted an application for measurement of the land in question. The Cirebon City Land Office then sent the authorized officers in re-measurement and consolidation, namely Committee A who checked the juridical data of the land and the constabulary officer who physically inspected starting from the boundaries of the land and matching the land area.

Officers from the Cirebon City Land Office conducted a re-measurement to ensure the suitability of physical data as part of the rights improvement stage. After all technical and administrative stages were met, the Head of the Cirebon City Land Office issued a Decree (SK) granting Building Use Rights. This Decision Letter (SK) contains the granting of new rights, namely HGB and its requirements, in which there is also a BPHTB payment period that must be repaid before the issuance of HGB. With the issuance of the decree, procedurally the process of increasing rights has reached the final stage before the issuance of the HGB certificate.

However, at the next stage, the obligation to pay the Land and Building Rights Acquisition Fee (BPHTB) arises through the Regional Financial Management Agency. The amount of costs that must be paid causes PT Pelabuhan Indonesia to take a long time to complete these financial obligations. On the other hand, in the decree issued there is a certain period of time to complete the continuing administrative obligations as a condition for the issuance of the HGB certificate. Because the payment and settlement of the administration were not made within the specified period of time, the decree became void

As a result, the Building Use Rights certificate cannot be issued and the process of increasing rights is declared unsuccessfully completed or the process stops completely (abortive). However, PT Pelabuhan Indonesia itself will still consider submitting an application for an increase in the use rights of the same land in the future with the aim of obtaining the Building Use Rights so that the land can be commercialized, but with consideration and preparation of all

complete administrative requirements including the fulfillment of fiscal obligations as a formal requirement.

When analyzed from a normative aspect, the procedure carried out in the application for the upgrade of the Right of Use to a Building Use Right by PT Pelabuhan Indonesia (Persero) Cirebon is in accordance with the provisions stipulated in the Minister of ATR/BPN Regulation Number 18 of 2021. All stages carried out, starting from submitting an application, checking administrative completeness, research on juridical data and physical data, re-measurement, to the issuance of a Decree on the granting of HGB, are carried out based on the procedural framework that has been set out in the regulation. The conformity between this practice and normative provisions reflects the application of the principle of legality in the implementation of land administration.

In state administrative law, every action of a government official must have a clear basis of authority in the laws and regulations. The issuance of the Decree granting Building Use Rights by the Head of the Cirebon City Land Office is carried out based on attribution authority sourced from laws and regulations in the land sector. Thus, the administrative action has valid legal legitimacy and does not fall under the category of actions beyond the authority (*ultra vires*).²⁷

In addition, the stages of physical data research and juridical data conducted before the issuance of the decision show the application of the principle of prudence in land administration.²⁸ The research is not just an administrative formality, but a verification mechanism to ensure that the land applied for is qualified as an object of rights and is not in

²⁷ Suhendi, Muhammad Pradikta, Sri Astutik, and Ernu Widodo. "The Validity of Agreements Made Without Authority: A Juridical Study on the Principle of Legitimacy in Civil Law." *International Journal on Advanced Science, Education, and Religion* 8, no. 1 (2025): 509-515.

²⁸ Tay, Hendrikus Krisanto Mario Djawa, Agustinus Hedewata, and Yossie MY Jacob. "Application of the Principle of Prudence and Legal Certainty in the Issuance of Land Rights Certificates by the Nagekeo Regency Land Office." *Prosecutor: Journal of Legal and Political Studies* 2, no. 1 (2024): 38-49.

a problematic condition. In various land law studies, orderly procedures and accuracy of data research are the main prerequisites to ensure legal certainty in the land registration system. An accurate land registration system can only be realized if any changes in juridical data are based on legitimate and well-documented research.

Furthermore, the absence of procedural irregularities or maladministration in the process of increasing rights shows that the exercise of administrative authority is carried out professionally and in accordance with the applicable operational standards of procedures. The standardization of procedures within the Land Office is part of efforts to maintain uniformity of services nationally, so that implementation at the regional level remains within the framework of central regulations. In terms of the form of decision, the Decree granting Building Rights issued in this case fulfills the character of an administrative decision that is concrete, individual, and final. The decision is addressed to a specific subject, regarding a certain object, and causes legal consequences in the form of a change in the status of land rights.

Thus, when viewed from the conformity between the procedures taken with the provisions of the Minister of ATR/BPN Number 18 of 2021 and the basic principles of state administration, there was no normative violation in the process of increasing the Right of Use to the Right of Use by PT Pelabuhan Indonesia Cirebon. The process has been carried out in accordance with the provisions of the applicable law and meets the administrative standards required in the national land registration system.

In the perspective of the *rechtmatigheid van bestuur* theory, the action of the Cirebon City Land Office in issuing a Decree granting the Building Use Rights has met the required elements of legality. According to Philipus M. Hadjon, in administrative law, a government action is categorized as legitimate (*rechtmatig*) if it fulfills four principles²⁹:

²⁹ Hadjon, Philipus M., and Titiek Sri Djatmayati. "Introduction to Indonesian Administrative Law. Yogyakarta." *Preprint, Gadjah Mada*

- a. It is based on legitimate authority, namely decisions issued by officials who have authority based on the hierarchy and main duties and functions within the Land Office.
- b. In accordance with the established procedures, which can be seen from all stages of the process of increasing rights starting from submitting an application, checking the completeness of files, researching physical and juridical data, to the issuance of a Decree (SK) that has been implemented in accordance with the specified administrative flow.
- c. The substance of the decision does not contradict the laws and regulations, because the content of the decision regarding the granting of the Building Use Rights has complied with the provisions of Article 25 of the Basic Agrarian Law jo. Article 38 of Government Regulation Number 18 of 2021 which regulates the subject and object of the Building Use Right.
- d. There was no abuse of authority, which was shown by the absence of any indication that the decision was issued for purposes other than the purposes specified by the laws and regulations.

Paulus Effendie Lotulung (2001) emphasized that the validity of an administrative action is not always synonymous with the success of achieving the final result, but is determined by the fulfillment of formal and material elements as stated above. Thus, even if the process does not reach finalization, the administrative actions carried out are still legally valid.³⁰

University Press (2002).

³⁰ Help, Paulus Effendie. 2001. *Some Systems on Legal Control of the Government*. Bandung: Citra Aditya Bakti.

Figure 3. Overview of the Flow of the Process of Increasing the Use Rights to HGB in the case study of PT Pelabuhan Indonesia Regional 2 Cirebon



Source: *Researcher Analysis, 2026*

Based on the results of the analysis of the stages of the application for the upgrade of the Right of Use to the Building Use Rights by PT Pelabuhan Indonesia (Persero) Cirebon, it can be affirmed that the entire administrative process from the document preparation stage to the issuance of the Decree (SK) for the granting of HGB ran smoothly. The examination of the completeness of the file was carried out according to the provisions, the research of juridical data and physical data showed that there were no problems with the status of the land, the re-measurement was carried out properly, and the decree was issued by the authorized official. Thus, procedurally no technical or administrative obstacles were found within the scope of authority of the Cirebon City Land Office.

The critical point actually appears in the post-issuance stage of the decree, namely in the fulfillment of advanced administrative obligations which are a prerequisite for the issuance of a Building Use Rights certificate. In the practice of land administration, the issuance of a decree granting

rights has not been immediately followed by the issuance of a certificate if there are still obligations that must be fulfilled by the applicant. These obligations include the payment of Land and Building Rights Acquisition Duty (BPHTB) and other administrative settlements specified in the decision.

In this case, the amount of BPHTB that must be paid to the local government is the main factor that affects the continuation of the process. Although normatively the decree has been issued, the decision contains a certain time limit for the applicant to fulfill the obligations set. The provisions regarding the period are aimed at maintaining administrative certainty and preventing decisions that are suspended without follow-up. If within the specified period of time the obligation is not fulfilled, then the decision to grant rights cannot be followed up and is declared null and void.

From the perspective of Indonesian administrative law, the characteristics of the Decree granting Building Rights issued in this case can be categorized as *conditioneel besluit* (conditional decision). This concept refers to an administrative decision whose effectiveness and implementation depend on the fulfillment of certain conditions by the party receiving the decision.

Philipus M. Hadjon explained that state administrative decisions (*beschikking*) can be conditional, where the further implementation of the decision requires the fulfillment of certain obligations by the intended party. If the conditions are not met within the specified time frame, the decision loses its applicability without the need to be explicitly revoked.³¹

In the context of the case study of PT Pelabuhan Indonesia Cirebon, the Decree (SK) on the Granting of HGB issued by the Head of the Cirebon City Land Office can be constructively qualified as *Conditional decision*. This juridical qualification is based on the argument that even if the decision has been issued legally, binding, and free from

³¹ Hadjon, Philipus M., et al. (2011). *Introduction to Indonesian Administrative Law*. Yogyakarta: Gadjah Mada University Press.

procedural or substantial defects within the authority of the office, its executory effectiveness is still suspended by a constitutive condition. This condition is in the form of an obligation to pay the Land and Building Rights Acquisition Fee (BPHTB) which acts as a *Condition absolute* for HGB certificate printing. Furthermore, the decree inherently contains a time limitation clause that functions as a *Period of expiry* (expiry deadline). This construction provides legal firmness that if the applicant fails to complete its fiscal obligations by the specified deadline, then the land administration decision will be null and void and lose its legal validity automatically (*lapse by operation of law*).³²

Using this theoretical framework, it can be understood that the cessation of the process of increasing rights in this case is not due to the fault or negligence of the Land Office, but is a logical consequence of the legal character of the conditional decision itself. When the applicant (PT Pelabuhan Indonesia) does not meet the requirements for BPHTB payment within the specified period, then legally the decision cannot produce further legal consequences in the form of the issuance of a certificate. This condition is known in administrative law as *Lapse of duty* (loss of rights) arising from the non-fulfillment of the conditions attached to the decision.³³

This analysis also answers the question of why the process, which has been running smoothly until the stage of issuance of the decree, did not reach finalization in the end. The answer lies in the character *Conditional decision* that the effectiveness of the decree is not automatic, but depends on the fulfillment of the conditions by the applicant. In other words, *Lawfulness* (Legality) The decree is not questioned, but its effectiveness is delayed or even failed because it is

³² Utrecht, E., Introduction to Indonesian State Administrative Law, (Jakarta: Ichtiar, 1960), p. 178.

³³ Prajudi Atmosudirdjo, State Administrative Law, (Jakarta: Ghalia Indonesia, 1988), p. 215.

not fulfilled *Condition* that has been determined.

The implication of this understanding is that future land regulation reforms can consider flexibility in setting the post-decree deadline, for example by providing a proportionate extension mechanism for applicants experiencing financial constraints, without having to sacrifice the principle of legal certainty. However, within the current legal framework, the *Conditional decision* It is still necessary to maintain administrative order and prevent the occurrence of pending decisions without certainty of completion.³⁴

In this context, the failure to complete the process is not caused by a procedural defect or deviation of authority by the Land Office, but by the non-fulfillment of further administrative requirements within the set time limit. The decree granting of HGB in land administration practice is conditional, in the sense that its effectiveness depends on the fulfillment of certain obligations by the applicant. Without the fulfillment of these obligations, the decision cannot produce a final legal result in the form of the issuance of a certificate.

Administratively, this condition indicates that the process of increasing rights consists of two important phases:

1. the phase of determining rights through the issuance of a decree
2. Administrative improvement phase through the fulfillment of obligations and the issuance of certificates.

In this case study, the first phase has been completed well, but the second phase cannot be completed due to late payment of financial obligations. The delay caused the time period in the decree to be exceeded, so that the decision lost its validity and the process had to be stopped.

This critical point is significant because it shows that the success of the process of increasing rights is determined

³⁴ Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, (Surabaya: Bina Ilmu, 1987), pp. 145-146.

not only by the smooth procedures at the Land Office, but also by the readiness of the applicant to fulfill further administrative obligations. In the context of business entities, the amount of BPHTB value can require internal consideration and managerial decision-making, which in practice takes time. If the time required exceeds the period specified in the decree, then administratively the process cannot be continued.

Thus, objectively it can be stated that the cessation of the process of increasing rights in the case of PT Pelabuhan Indonesia Cirebon is not due to regulatory obstacles or weaknesses in implementation at the Cirebon City Land Office. The procedure has been carried out according to the provisions, the authority has been legally exercised, and the decision has been issued. The determining factor for the cessation of the process is at the stage of fulfilling obligations by the applicant, especially related to financing aspects and timeliness in fulfilling further administrative requirements.

This situation also shows that in land administration practice, the dimension of time and compliance with administrative requirements has an important role in determining the sustainability of a decision. A decree that is not followed up within the specified time limit cannot produce legal consequences in the form of the issuance of a certificate, so administratively the process is considered incomplete. Therefore, the critical point in this case lies not in the procedure for determining rights, but in the post-determination phase that requires compliance and readiness of the applicant to complete all obligations attached to the decision.

C. Factors Affecting the Ineffectiveness of the Implementation of the Ministerial Regulation of Atr/BPN No. 18 of 2021

1. Analysis Based on Soerjono Soekanto's Theory of Legal Effectiveness

To analyze the ineffectiveness of the implementation of the Ministerial Regulation of ATR/BPN Number 18 of 2021,

this study uses the theoretical framework of legal effectiveness according to Soerjono Soekanto, According to Soerjono Soekanto, The theory of legal effectiveness that is effective is the extent to which a group can achieve its goals. The effectiveness of the law is reflected in the positive influence on people's behavior, where the law plays a role in guiding, regulating, or changing individual behavior to be in line with applicable legal norms. In other words, the law becomes effective if it succeeds in creating compliance and order in accordance with the purpose of its formation.³⁵ The effectiveness or not of a law according to Soerjono Soekanto's theory of legal effectiveness is determined by 5 (five) factors³⁶, namely:

a. Legal Factors (Legal Substance)

In terms of substance, the Minister of ATR/BPN Regulation No. 18 of 2021 has clearly regulated the procedures for upgrading the Right of Use to a Building Use Right, including administrative requirements, examination stages, and the issuance of decisions granting rights. The norms contained in the regulation are systematic and do not cause ambiguity in their application at the Cirebon City Land Office. In practice, there are no legal vacancies or conflicts of norms that hinder the implementation of rights improvement. Thus, from the aspect of legal substance, this regulation can be said to be adequate and not a factor causing ineffectiveness.

b. Law Enforcement Factors (Legal Structure)

The legal structure in this context refers to the Cirebon City Land Office as the executor of land administration authority. Based on the results of the research, the implementing apparatus has carried out procedures in accordance with applicable regulations. The administrative process, measurement, research of juridical and physical data, and the issuance of the decree runs without procedural obstacles. Services are also considered responsive and in

³⁵ Soekanto, Soerjono. "Legal effectiveness and the application of sanctions." *Bandung: CV. Ramadja Karya* 80 (1988).

³⁶ Soekanto, Soerjono. "Legal effectiveness and the application of sanctions." *Bandung: CV. Ramadja Karya* 80 (1988).

accordance with standard operating procedures (SOP). Therefore, the law enforcement factor is not the cause of the halt of the process of increasing rights in this case study.

c. Facilities or Facilities Factor (Main Focus)

The factors of facilities and facilities in Soerjono Soekanto's theory are not only limited to technical aspects such as equipment or administrative systems, but also include supporting devices that allow legal norms to be implemented effectively, including the financing aspects and fiscal mechanisms inherent in the process. In this case study, administratively and technically, the facilities at the Cirebon City Land Office are quite adequate. However, obstacles arise from the financing aspect that is a constitutive prerequisite in the issuance of HGB certificates, namely the obligation to pay Non-Tax State Revenue (PNBP) and Land and Building Rights Acquisition Duty (BPHTB). The magnitude of the cost burden is a factor that significantly hinders the completion of the process of increasing rights. Thus, it can be said that the facility/facility factor in a broad sense, especially the financial aspect as an instrument to support the implementation of norms is the dominant factor that affects the ineffectiveness of the implementation of this regulation.

d. Community Factors

Community factors are related to the readiness and ability of legal subjects to fulfill the obligations determined by laws and regulations. In the case of PT Pelabuhan Indonesia Cirebon, all procedural stages have run smoothly until the stage of issuance of the decree. However, the delay in fulfilling the obligation to pay fees caused the decree to be lost because it exceeded the specified time period. This shows that the effectiveness of the law is not only determined by the smooth running of the bureaucracy, but also by the economic and managerial ability of the applicant to fulfill the financial obligations arising from the legal process.

e. Legal Cultural Factors

In terms of legal culture, land officials show a professional attitude and comply with normative provisions. Meanwhile, from the applicant's side, there is no indication of rejection of legal norms. The obstacles that occur are more

economic than cultural.

Table 5. Analysis of the Effectiveness of the Implementation of Ministerial Regulation ATR/BPN Number 18 of 2021 in the Case of PT Pelabuhan Indonesia

Legal Effectiveness Factors	Empirical Findings at the Cirebon City Land Office	Impact on the Process	Effectiveness Status
Legal Factors (Substance)	The substance of the Ministerial Regulation of ATR/BPN No. 18 of 2021 is regulated clearly, systematically, and unambiguously.	The administrative process has normative certainty and there is no legal vacuum.	Effective
Law Enforcement Factors (Structure)	The Land Office apparatus carries out procedures according to SOPs, responsive, and professional.	The service runs according to procedures without maladministration or deviation of authority.	Effective
Facilities or Facilities Factor	The technical facilities are adequate, but there is a high fiscal cost burden (BPHTB & PNPB) as a prerequisite.	There were obstacles in the finalization (issuance of certificates) due to financing constraints and deadlines.	Ineffective (Dominant)
Community Factors (Applicant)	The Applicant (PT Pelindo) has the legal will, but is constrained by internal financial management for timely payment.	The decree became void because the financial obligations were not fulfilled within the specified period of time.	Ineffective (Conditional)

Legal Culture Factors	Apparatus compliant with norms; The applicant did not show any objection to the regulation.	The obstacles that occur are economic and administrative, not due to the rejection of the legal culture.	Effective
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Source: *Researcher Analysis, 2026*

When correlated with the variable "community factor" in the optics of Soerjono Soekanto's theory of legal effectiveness, the construction of *Conditional decision* in the Decree (SK) on the Granting of HGB further affirms that the ineffectiveness of administrative settlement in this case study is purely rooted in the limitation of the applicant's capacity, rather than originating from regulatory distortions and the incapacity of land officials. This characteristic of conditional decisions functionally positions the applicant not solely as an object of passive beneficiary, but as a subject who bears a constitutive obligation in order to realize the practicability of the decision itself. Sjachran Basah explained that in the concept of conditional decision, the responsibility to qualify lies with the party who receives the decision.³⁷

PT Pelabuhan Indonesia is unable to fulfill its BPHTB payment obligations within the specified period, so legally the responsibility for the ineffective implementation lies with the applicant. This is in line with Soerjono Soekanto's theory of legal effectiveness which places the community factor as one of the determinants of effectiveness, where the readiness and ability of legal subjects in fulfilling the obligations determined by law are a prerequisite for achieving regulatory goals.

³⁷ Wet, Sjachran. *Legal protection of state administrative actions*. Alumni, 1992.

The Minister of ATR/BPN Regulation No. 18 of 2021 basically regulates the constitutive conditions for increasing rights, including the obligation to pay fees as a prerequisite for the issuance of certificates. However, this regulation does not explicitly accommodate conditions where financial obligations are a major obstacle to the completion of the process. Regulations are normative and administrative, placing the payment of fees as obligations that must be fulfilled within a certain period of time. If these obligations are not fulfilled, the decision to grant rights can be dropped. However, there are no flexibility mechanisms, such as adaptive term extensions or specific schemes for specific legal subjects facing financing constraints.

Thus, normatively this regulation has met the principle of legal certainty, but has not fully considered the economic dimension as a determining factor in implementation. This shows that the effectiveness of the law is not only determined by the clarity of norms and procedural adherence, but also by the ability of regulasi to accommodate the social and economic realities of legal subjects.

2. The Ineffectiveness of the Implementation of the Minister of ATR/BPN No. 18 of 2021 in the Case Study of PT Pelabuhan Indonesia Cirebon

The ineffectiveness of the implementation of the Minister of ATR/BPN No. 18 of 2021 in the case study of PT Pelabuhan Indonesia Cirebon does not stem from the weakness of the substance of the norm or from the performance of the implementing apparatus. Regulations have regulated procedures clearly and systematically, and the Cirebon City Land Office has carried out its authority professionally and in accordance with applicable operational standards. The Minister of ATR/BPN Number 18 of 2021 is basically an administrative-procedural regulation, which regulates the procedures for determining and changing land

rights within the scope of the authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. The focus of the regulation lies in the application stage, research of physical data and juridical data, issuance of decisions granting rights, and registration of rights as part of the national land administration system. Thus, the normative scope of this regulation is expressly on the technical and administrative aspects of land, not on the regulation of fiscal obligations that arise as a consequence of the acquisition or change of land rights.

Table 6. Matrix Barriers and Policy Recommendations

Types of Barriers	Description	Impact on Effectiveness	Recommendations
Financial Barriers	High BPHTB amount and no payment flexibility	The process becomes abortive even though the administrative procedure has been completed	Consider installment schemes, reliefs, or synchronization of local fiscal policies with land deregulation programs
Coordination Barriers	There is no integrated mechanism between the Land Office and the Regional Revenue Office	Applicants are confused in fulfilling their obligations across agencies	Form a permanent coordination forum or integrated information system for monitoring land-related fiscal obligations
Regulatory Barriers	The Minister of ATR/BPN Regulation No. 18/2021 does not regulate the flexibility of the time for fulfilling post-decree	The decree is automatically disqualified without consideration of the applicant's real condition	Revision of the regulations to add a time-extension clause based on a case-by-case evaluation

	obligations		
Applicant Capacity Constraints	Internal managerial limitations in financial decision-making	Delay in fulfilling further administrative obligations	Proactive socialization by the Land Office regarding the consequences of time and cost from the beginning of the process

Source: Researcher Analysis, 2026

In the context of the obligation of the Land and Building Rights Acquisition Duty (BPHTB), it should be emphasized that BPHTB is a regional tax whose regulation is in the regional tax legal regime and is the authority of the local government in accordance with the regulations of Law No. 1 of 2022 in the field of central and regional financial relations.³⁸ Therefore, the obligation to pay BPHTB is not regulated substantively in the Minister of ATR/BPN Regulation No. 18 of 2021, because it is outside the limits of the land regulation regulation. The Ministerial Regulation of ATR/BPN No. 18 of 2021 only requires the fulfillment of administrative obligations as a prerequisite for the issuance of certificates, without having the authority to regulate the mechanism for relief, postponement, or adjustment of regional fiscal obligations.

In the case study of PT Pelabuhan Indonesia Cirebon, the halt of the process of increasing rights was not caused by errors or unclear norms in the Minister of ATR/BPN No. 18 of 2021, but by the dynamics of fulfilling fiscal obligations that are outside the direct authority of the Land Office. This condition shows that there is a cross-authority interaction between land administration and regional tax administration. Thus, the limitations of process completion are more accurately understood as a consequence of cross-sector coordination in government practice, rather than as a form of

³⁸ Law No.1 of 2022 concerning Financial Relations between the Central Government and Regional Governments

weakness in land regulation itself. Regulations have functioned according to their normative scope, but the final success of the process is still influenced by the fulfillment of obligations that are in the policy domain of other sectors.

D. Conclusion

The Minister of ATR/BPN Number 18 of 2021 has normatively designed a mechanism for increasing the Use Rights to Building Rights that is structured, simultaneous, and oriented towards legal certainty. Procedures that include physical and judicial data research, announcement mechanisms, and the issuance of decisions granting rights simultaneously with the abolition of old rights show that this regulation meets the principles of legality, openness, efficiency, and orderly land administration. The implementation at the Cirebon City Land Office runs in accordance with the operational standards of national procedures without administrative irregularities. The case study of the application of PT Pelabuhan Indonesia Cirebon shows that all procedural stages have been carried out in accordance with the provisions of laws and regulations. Thus, from the aspect of legal substance and the implementing structure, the implementation of regulations can be considered procedurally and administratively effective.

However, the effectiveness of implementation was not fully achieved at the finalization stage due to the halt of the process in the post-determination phase due to the non-fulfillment of financial obligations, especially the payment of BPHTB within the specified period of time. The Minister of ATR/BPN Regulation No. 18 of 2021 has functioned according to its normative scope as an administrative regulation, but it does not regulate fiscal aspects that are outside the limits of its regulation. Therefore, ineffectiveness in this case study is more accurately understood as a limitation at the stage of administrative improvement due to the dynamics of the term in financing, not as a failure of the substance of regulations or implementation by the Cirebon City Land Office. Based on the findings of the research, it is necessary to strengthen administrative coordination between

land agencies and local governments in supporting the smooth process of increasing land rights. In addition, it is possible to consider the existence of a more adaptive mechanism related to financial obligations, such as the possibility of providing fee waivers or flexibility in the period of fulfillment of advanced administrative obligations, without compromising the principle of legal certainty. With this step, the implementation of land regulations can run more optimally and in line with the goals of land administration reform.

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