

**GOVERNMENT POLICY ON THE CONSTRUCTION
OF SHOP HOUSE WHICH USES FOR
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Telp./Fax: +62-411-585035 E-mail: zulkifliaspan@gmail.com*Submitted: May 11, 2022; Reviewed: Dec 15, 2022; Accepted: Dec 16, 2022***Abstract**

The research objective to (1) analyze the Palu City government's policy on the development of a swiftlet farm to prevent environmental impacts and (2) analyze the legal implications of the construction of a shop house whose utilization is used for a Swiftlet's breeding business. The research used normative-empirical legal research is a type of normative legal research that is supported and equipped with empirical data and cases. Data sources were obtained through primary, secondary, and tertiary sources as well as interviews with the Head of the Palu City Spatial Planning and Land Office, the Head of the Palu City Environment Service, and Swiftlet nest entrepreneurs in Palu City. This research is then analyzed qualitatively after the data analysis is complete, the results are presented descriptively. The research result indicates that (1) the local government policy of Palu City in the management and utilization of swiftlet nests currently does not have specific rules in the form of Regional Regulations or in the form of Major Regulations, causing spatial violations and indications of not having a building permit so that the local government of Palu City takes supervisory actions, and (2) misuse of IMB that is not in accordance with its designation is used for the management and utilization of the swiftlet business that occurs in Palu City can be categorized as an unlawful act due to the actions of business actors who own shop houses while converting the building's function. with the management and utilization of the Swiftlet business in Palu City, it has fulfilled the elements of an unlawful act and violated the provisions of Article 1365 BW. As well as the obstacles faced by the local government of Palu City, there is currently a legal vacuum in terms of building construction for the use and management of Swiftlet.

Keywords: *Building Permit; Government Policy; House of Swiftlet***INTRODUCTION**

Development is a process of change

towards better conditions through planned

efforts. Development and the environment

are a unified whole that cannot be separated two (Fadli et al, 2016). In the implementation of development, a policy is needed in the form of a planning instrument made by the government and has coercive power so that the course of development can be followed by all stakeholders. Construction activities of a building certainly require a building permit, hereinafter referred to as IMB, with the decentralization of the government which gives responsibility for policies, and authorities, from the central government to local governments..

The Palu City Government stipulates regulatory policies on development through Regional Regulation Number 10 of 2012 concerning IMB. Article 1 number 10 of Regional Regulation Number 10 of 2012 concerning IMB contains rules that: permits granted by the Regional Government to applicants to build new, rehabilitate/renovate, and/or restore to preserve the building following the administrative requirements and applicable technical requirements.

The construction of a building must also pay attention to the spatial arrangement of the area that has been determined by the local government to create order and harmonization in the spatial planning of an area. Following

Article 3 of Law Number 26 of 2007 concerning Spatial Planning, hereinafter referred to as the Spatial Planning Law, it contains rules that: "The implementation of spatial planning aims to create a safe, comfortable, productive, and sustainable national space based on the Archipelago Insight and National Resilience. with: a. The realization of harmony between the natural environment and the artificial environment, b. The realization of integration in the use of natural resources and artificial resources with due regard to human resources; and The realization of the protection of the function of space and the prevention of negative impacts on the environment due to the use of space".

Development activities are not only about residential houses but also cannot be separated from Shophouse. Shophouse is a term for buildings in Indonesia that are generally made of two to five floors, which function as residential and commercial (Andie A, 2017). Ideally, in the issuance of IMB, of course, the function of the building itself cannot be separated from the classification of its functions, which are divided into buildings with residential functions, religious functions, business functions, and social and cultural functions, and dual or mixed functions. The construction of shophouses requires the

suitability of space utilization activities for business activities with the location-allocation in this case the Palu City RTRW, which is regulated in Regional Regulation Number 2 of 2021 concerning RTRW of 2021 – 2041. Based on Article 72 paragraphs (1), (2).

One of the business opportunities that is developing and becoming an alternative business for traders in Palu City is the use of Swiftlet by building shop houses, or in other words, these traders add a building above the shop with a Swiftlet house building. Shop house is a choice for traders because it is a means of a business that provides additional economic aspects. The situation in which the use of the shop house business is carried out by businesses, in this case, has not been supported by clear legal arrangements, because it only refers to the construction regulations. Due to the absence of clear rules regarding the swiftlet farming business in Palu City, several aspects have not been fulfilled, including the legal aspects, For example, the traders as business actors in Palu City are only concerned with the aspect of economic value, but do not pay attention to and ignore the legal aspects. The legal aspect is that there is no permit for changes or additions to buildings in the IMB document which has an impact on indications of

unlawful acts, negative impacts on environmental functions and does not yet have a role for Regional Original Revenue, hereinafter referred to as PAD, Palu City. This creates a tendency for behavioral deviations and consequently leads to irregularities in the RTRW in Palu City.

RESEARCH METHODS

Types of research

This study uses a normative-empirical research method. This normative-empirical legal research is a type of normative legal research that is supported and equipped with empirical data.

Research sites

To obtain data and information related to the problems discussed, this research was carried out in Palu City, namely at the Palu City Spatial Planning and Land Office as well as at the Palu City Environmental Service and Swiftlet Entrepreneurs in South Palu District and in Mantikulore District with consideration being a sub-district area. Palu City, which is the area with the most violations, is not following the designation of space/area and is an indication that it does not have an IMB for the construction of wallet buildings.

Sample Population

The population in this study were officials or employees at the Palu City Spatial Planning and Land Office, the Palu City Environmental Service and Swiftlet businessmen in Palu City. Of the 8 sub-districts in Palu City, the researchers determined 2 sub-districts, namely in South Palu District and Mantikulore District, Palu City.

Furthermore, the researchers set 10 samples from 118 Swiftlet businessmen located in the South Palu and Mantikulore sub-districts. The Swiftlet businessmen who were the sample were determined based on the criteria previously determined by the researcher, namely based on the classification of spatial violations and not having a Swiftlet house permit above the shop house.

Data Collection

In order to carry out the research, the researchers conducted data collection as follows:

1. Literature Research (*Research Library*)

The research will be carried out by collecting data by reading and reviewing several literatures, books, laws and regulations related to the problem under study to obtain secondary data to make it easier to analyze existing problems.

2. Field Research (*Field Research*)

In field research, the research was carried out through interviews (interviews),

namely by conducting questions and answers directly to the resource persons, namely the Head of the Palu City Spatial Planning and Land Office, the Head of the Palu City Environment Service and Swiftlet businessmen, especially in South Palu and South Palu Districts. Palu City Mantikulore

Data analysis

Data analysis, namely primary data and secondary data in this study were analyzed qualitatively, namely describing and systematically compiling data obtained from interviews and questionnaires, to achieve clarity of the problems discussed. After the data analysis was completed, the results were presented descriptively, namely by describing in detail the legal implications of the construction of a Swiftlet's house above a shop house in order to provide a clear and focused understanding of the research results. From these results, a conclusion is then drawn which is the answer to the problems studied in this study.

RESULT AND DISCUSSION

The Palu City government's policy towards the swiftlet farming business in preventing environmental impacts

The Palu City government's policy towards the construction of shop houses whose utilization is for swiftlet breeding business, to the regulatory instruments

until now has not been regulated legally or technically, the management and utilization of Swiftlet in Palu City does not yet have specific rules in the form of regional regulations or mayoral regulations governing Swiftlet, for now it only refers to the three rules. Local regulation Palu City Number 6 of 2011 concerning Buildings, local regulation Palu City Number 10 of 2012 concerning Building Permits and local regulation Palu City Number 2 of 2021 concerning Regional Spatial Plans for 2021-2041.

Swiftlet bird cultivation in Palu City is increasingly being carried out. The construction of the shophouse which was later converted into a Swiftlet cultivation business caused environmental pollution, especially around the shophouse location. Water quality around Swiftlet cultivation is getting worse due to bird droppings, air pollution at the Swiftlet cultivation location which comes from methane gas causes an unpleasant odor to the surrounding environment.

Juridical Review Swiftlet Business Control requires approval at the Palu City Environmental Service in the management and use of Swiftlet, environmental approvals such as UKL-UPL documents are needed to synchronize the balance of building construction and the environment,

therefore a role is needed for regional environmental management institutions even though regulations regarding the management and utilization of Swiftlet in Palu City has not yet been published, so this has an impact on environmental permit documents that cannot be implemented

In the management and utilization of swiftlet cultivation in Palu City, there are indications that it does not have an IMB and is not in accordance with the allotment of space/area. Based on the data obtained in the Mantikulore sub-district and the South Palu sub-district, it shows that there are 4 reports from the Spatial Planning and Land Office with the intention of terminating work, of which 3 of the four letters do not have an IMB and there is 1 letter that does not fit the space designation.

The violation of the non-compliance with the allocation of space/area occurred in the Mantikulore sub-district, Palu City, where the Palu City government gave sanctions to immediately stop its activities. If you look at the latest rules for the Palu City RTRW, namely the Palu City Regional Regulation Number 2 of 2021 concerning the 2021-2041 Regional Spatial Plan, so if the perpetrator does not heed the warning letter that has been submitted by the Spatial Planning and Land Office, the local government can take further action in the form

of closing the location to demolition of the building.

It was recorded that in 2020 there were 2 warning letters issued by the Land and Spatial Planning Office; First, on Jalan Merdeka, Petobo sub-district, South Palu sub-district with the classification of violations in the form of an indication of violating the building boundary line (GSB)/Fence (GSP)/river (GSS) and an indication of not having an IMB. Second, on Veteran's Road, Tanamodindi Sub-district, Mantikulore Sub-district with a classification of violations in the form of an indication that it does not have an IMB and is not in accordance with the allotment of space/area. Furthermore, in 2021 there will also be 2 warning letters; First, on Jalan Dayo Dara 2, Poboja sub-district, Mantikulore sub-district, the classification of violations in the form of Swiftlet indications. Second, on the rainbow alley in the South Tatura village

If the owner of the Swiftlet business is unable to fulfill its obligations within the specified time period, the Palu City Regional Government through the Palu City SATPOL PP on the basis of an order given by the Palu Mayor can take decisive action in the form of closing the hole that is the entry way for the Swiftlet into the Swiftlet house. given a warning letter

Legal Implications for the Construction of Shophouses whose Utilization is Used as a Swiftlet Farming Business

Facts on the ground show that shophouse buildings are widely used for the use and management of Swiftlet in Palu City without permits for changes and additions to buildings in the previous IMB document, so that this shows a tendency for behavioral deviations and consequently leads to spatial irregularities that are not in accordance with its designation in Palu City

Based on the findings about the number of Swiftlet businesses in South Palu District, there are 6 Swiftlet businesses in North Tatura Village, 7 swiftlet businesses in South Tatura Village, 10 swiftlet businesses in Petobo Village and 20 swiftlet businesses in South Birobuli Village so that the total number of Swiftlet businesses in South Palu Subdistrict has 43 Swiftlet business. Furthermore, the number of Swiftlet businesses in Mantikulore District are in the Tondo Village with 20 Swiftlet businesses, Tanamodindi Village 9 Swiftlet businesses, Taliase Village 13 Swiftlet businesses, Poboja Village 3 Swiftlet businesses, Layana Village 3 Swiftlet businesses, Lasoani Village 15 Swiftlet businesses and Kawatuna Village 12 Swiftlet business so that the total Swiftlet business in Mantikulore District has 75 Swiftlet businesses.

The findings show that the number of Swiftlet businesses in Mantikulore sub-district is more targeted by entrepreneurs to build buildings that are functioned for the utilization and management of Swiftlet cultivation, either through the conversion of shop houses or the conversion of residential houses by means of building renovations by adding floors as a place/container for Swiftlet, because Mantikulore District covers plantation areas which are basically intended for animal husbandry in accordance with the RTRW of Palu City in 2021-2041. In accordance with Article 62 paragraph (3) Local regulation Palu City Number 2 of 2021 concerning RTRW 2021-2041

Furthermore, the conversion of shophouse buildings and residential houses that occurred in South Palu and Mantikulore sub-districts towards the utilization and management of Swiftlet nest cultivation was carried out by adding buildings/floors that were used as Swiftlet breeding places.

Shop houses can be found in various areas of Palu City, especially at research sites in South Palu District and Mantikulore District and are not infrequently used for the utilization and management of Swiftlet's nest businesses. Based on the results of the research findings, the number

of shophouses that were converted for swiftlet cultivation in South Palu District were in North Tatura Village 3 Shop house, Tatura Selatan Village 3 Shophouses, and South Birobuli Village 3 Shophouses so that the total number of shophouses converted for swiftlet cultivation in Palu District South has 9 shop houses.

Then the results of the researchers' findings regarding the number of shophouses that were converted for swiftlet cultivation in Mantikulore District were located in Tondo 7 Shop house Village, Tanamodindi 2 Shop house Village, Talise 1 Shop house Village, and Lasoani Village 12 Shophouses so that the total number of shophouses converted for Swiftlet cultivation in the District Mantikulore has 22 shophouses

In the Palu City Regional Regulation Number 6 of 2011 concerning Buildings, there is no explanation about shop houses or houses with shops, categorized as buildings with more than one function with the main function being a combination of more than one function. So that in making the IMB, it must meet the administrative requirements and technical requirements and the use of Swiftlet that occur in South Palu District is not in sync between the mandates of the Minister of Home Affairs Decree Number 71 of 1999 concerning

Guidelines for the Management and Concession of Swiftlet's Nests with Palu City Regional Regulation Number 6 of 1999. 2011 concerning Buildings and Palu City Regional Regulation Number 10 of 2012 concerning Building Permits

CONCLUSION

The Palu City Government's policy in the management and utilization of Swiftlet's nests, which in fact has occurred, does not yet have specific regulations in the form of a Regional Regulation or in the form of a Mayor's Regulation, causing violations of the inappropriate use of space and area and indications of not having an IMB on the management and utilization of birds. Swiftlet that occurred in Palu City. Misuse of IMB that is not in accordance with its designation is used for the management and utilization of the Swiftlet business that occurs in Palu City can be categorized as an unlawful act because it fulfills the elements of an unlawful act and violates the provisions of Article 1365 BW

Before controlling the regulation on the management and utilization of the swiftlet business that occurred in Palu City, it is better for the stakeholders together with environmental experts to conduct an analysis of the Swiftlet house based on the

environment first. As well as providing guidance, monitoring and supervision of Swiftlet's nest business actors so that business actors can run their business in an orderly and orderly manner.

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