

A Review of Public Participation in Housing Renovation Guidelines in Malaysia

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ABSTRACT

Illegal building renovation is an increasing urban problem in Malaysia. This situation has created a lot of problems and has caused unnecessary burden on the Local Authorities. This study seeks to explore the role of public participation in developing building renovation guidelines to solve the problem of illegal building renovations in Malaysia. Ampang Jaya Town Council (MPAJ), the eighth most developed town council in Malaysia (Jaafar 2004) will be set as an experimental test bed in developing a public participation model for a house renovation policy.

Keywords: Building guideline, housing policy, illegal renovation, public participation

INTRODUCTION

Housing renovation work without approval is one of the most critical building construction problems faced in Malaysia. There have been many attempts on the

part of local authorities to encourage house owners, building draftsmen and architects to submit building renovation plans. This study will focus on a terrace housing scheme in Malaysia (NAPIC, 2016).

As defined by the Uniform Building By-laws of Malaysia 1984 (UBBL), terrace house means “any residential building designed as a single dwelling unit and forming part of a row or terrace of not less than three such residential buildings”. UBBL defines building line as “the line prescribed by the planning authority or local authority beyond which no part of a building may project, except as otherwise permitted by this By-laws.”

ARTICLE INFO

Article history:

Received: 15 September 2016

Accepted: 30 January 2017

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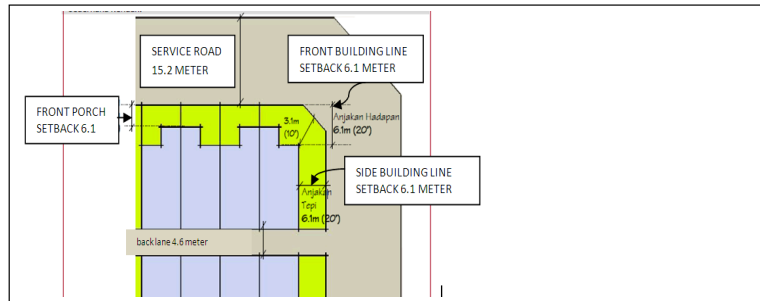


Figure 1. Typical layout of terrace houses
 Source: Selangor State Planning Guideline Manual, October 2010

As stated in the Selangor planning guideline (Figure 1), the building line setback from the road reserve to the building wall is 6.1 meter and to the column of the building porch is 3.0 meter. Local authority's renovation guidelines allow for the extension work on the porch.

WHY HOUSE OWNERS COMMIT ILLEGAL RENOVATIONS?

House renovations are so common in Malaysia that The Ministry of Housing and Local Government has regarded house renovations as a local culture. House renovations in Malaysia are carried out for many reasons. Some house owners feel that the terrace houses built by developers do not provide sufficient privacy, while others do so to keep up with building trends and materials (Ali & Zakaria, 2011).

There have been many initiatives taken by local government to create awareness among house owners on the need to apply for building renovation permits before carrying out renovation works (Pail, 2015). However, the number of illegal renovations remains high; for example, in Kajang

Municipality of Selangor as reported in Selangor Times, 3,864 houses out of 22,913 houses do not have renovation permits (Yap, 2012). This has caused concern regarding safety of the structures and the public. Interviews with some local council officers suggest that house owners have expressed their frustrations over the guidelines saying that they are too stringent and impractical. Knowing the possibility that approval maybe withheld when guidelines are not followed, some owners do not bother with seeking approval for renovation works.

EXISTING HOUSING RENOVATION GUIDELINES IN MALAYSIA

Background of Housing Renovation Guidelines

In designing a housing scheme, housing developers have to abide by the act and regulations set in Malaysia, namely National Land Code 1965 (Act 56), Housing Development (Control and Licensing) Act 1966 (Act 118), Town and Country Planning Act 1974 (Act 172), Road, Drainage and Building Act 1974 (Act 133), Uniform

Building By-Laws 1984 (UBBL), and in case of Selangor, the “Manual Guideline and Selangor State Planning Standards” (October 2010), set by the state government to be used by all of its local authorities in their town planning system. Act 56 is the law that govern the registration and administration of lands in Peninsular Malaysia. Act 118 is set by The Ministry of Housing and Local Government of Malaysia to protect the interest of the house purchasers through the controls and licensing of housing development companies. Act 172 governs the broader aspect of planning control and regulation such as planning policy, development plans including structure plan and local plan, planning layout and development charges. Act 133 regulates the technical requirements in the construction of the road, drainage and building in Malaysia. Meanwhile, the UBBL is the By-Laws under the Act 133 that provides more detail information on the do’s and don’ts of building designs. It sets the standard for the minimum building setbacks, the minimum height of rooms, the minimum open space in each lot, fire prevention requirements and structural requirements among others. The Selangor State Planning Standards set the guideline for new development planning applications in Selangor and for building renovations, the application by the owners should follow the guidelines set by the local authorities of respective areas. However, a survey in several local authorities in Selangor found out that the renovation guidelines varies from one local authority to another due to

localized situations. These decisions are based on a sanction provided in the Act 171 and the consensus resolution of the Mayor (*Yang Dipertua*), the technical staffs and the local councillors of each local authorities in the state. As stated in clause 101(v) of the Act 171, a local authority has the privileges to decide on certain local rules for security, fitness and ease of the public in its area.

Adding to this point, clause 74 of the Act 133 mentions that a local authority has the prerogative to approve certain building plans without following the by-Laws when it is satisfied that the building is safe. The local authority will seek the consent of adjoining neighbours only if it regards as necessary and if the council decides to approve the plan contrary to the neighbour’s consent, the local authority has to bring the case to the State Planning Committee to decide and the decision of the local authority is deemed to be approved if there is no revision from the state after 30 days. The rights given in the acts however create nonuniformity of renovation guidelines among the local authorities which leads to the difficulty to architects or registered building draftsmen in submitting building renovation plans. This circumstance causes delays in building plan approval that becomes the reason that some house owners give for not submitting building plan for approval (Ali & Zakaria, 2012).

Renovation guidelines are not included in the preparation of the Local Plan as well as Structure Plan. According to Act 172, Structure Plan is a general scheme of the state authority in respect of the development and

land usage throughout the state. Meanwhile, Local Plan is proposed by a local authority in conjunction with the Structure Plan containing more detail descriptions of the development and land usage, protection and enhancement of physical environment such as building, infrastructure, amenities and open space in the local authority area. In preparing the Structure and Local Plans, public participation is sought although not for renovation guidelines.

Design Considerations In Renovation Guidelines

Architects generally prefer renovated facade design to be in harmony with the design of adjacent lots. This notwithstanding renovations which change the façade design are common in Malaysia Saji (2012). As far as the existing renovation guidelines are concerned they are mostly concerned with building setback and building height.

A house owner intending to renovate or extend his house must submit the renovation plan directly to the building department of the local authority. Act 172 states that it is not necessary to obtain approval from the town planning department of the local authority for extension and renovation works that do not implicate changes of building usage, material or substantial changes of building façade, addition to building height or area and any work that does not conflict with the Local Plan. However, should it include effects of changes in colour, material and design style of the facades as well. Clause 19(2)(ii) of Act 172 states no

planning permission is required only if the renovation that does not “materially affect the external appearance of the building”.

PUBLIC PARTICIPATION MODELS

Public participation in Malaysian Town Planning

While there have been many studies on the role of public participation in establishing building standards (Saruwono, Mohd and Omar, 2012; Alnsour & Meaton, 2009; Saji, 2012), those on illegal renovations are scarce (Yau & Chiu, 2015). Through the policy Delphi method, Yau and Chiu (2015) tried to identify a suitable method for minimising the problems of illegal buildings and renovations in Hong Kong. Their study concluded that increasing penalties and better enforcement is preferable. It is suggested that by involving the public in the early stages of setting up renovation guidelines can produce better rules in the public interest (Alnsour & Meaton, 2009).

All local government authorities in Malaysia has its own set of standard guidelines for building renovation and extension. These guidelines are in accordance with the Town and Country Planning Act (Act 172), the Street, Drainage and Building Act (Act 133) and the Uniform Building Bylaws 1984 (UBBL) albeit with some local rules and modification. Even though renovation guideline is not incorporated in the setting up of the Structure and Local Plan of the Planning Act, the use of public participation in the Planning Act (Act 172) really merits an insight. Public participation

has been in the planning Act of Malaysia since 1927. Back then, it was called the Town Planning Enactment (TPE) of the Federated Malay States (before Malaysia's Independence). It was then amended in 1972 to become Town and Country Planning Act, Act 172. However, the type of public participation employed in the act has not changed significantly (Maidin, 2011). The public involvement is limited to giving comments and feedbacks only during the final stages of the decision making process.

Act 172 also limits those who can participate in the process of planning approval. If there is no existing Local Plan in a new development scheme the local authority has to consult the neighbour of the proposed land for comments. The issue here is the definition of the neighbours. According to Section 21(8) of Act 172, "neighbouring lands" means:

- a) Lands adjoining the land to which an application relates,
- b) Lands separated from the land to which an application made under this section relate by any road, lane, drain or reserved land the width of which does not exceed 20 meters and which would be adjoining the land to which the application relates had they not been separated by such road land, drain or reserved land,
- c) Lands located within 200 metres from the boundary of the land to which an application under this section relates if the access road to

the land to which the application relates is a cul-de-sac used by the owner of the lands and owners of the land to which the application relates."

Maidin (2011) pointed out that only the registered land owners of the neighbouring lands as specified in the act have the right to object which limit other concerned neighbours to participate such as the tenants, squatters or non-governmental organisations (NGO). Strict adherence of Act 172 can be time consuming involving the building department, local authority, public notice, public hearing as well as the consent of adjacent neighbours. Thus, many local councillors have taken steps to reduce red tape process by developing their own sets of renovation and extension guidelines as per clause 74 of Act 133. The problem lies in the lack of direct public input, therefore, a revised method of public input in the form of direct public participation is desirable.

Comparative Public Participation Models

As cited by Shipley and Utz (2012), Innes and Booher suggest that the "traditional method" of public participations evolved for 40 years until the year 2000's are not on the right track for the following reasons:

- 1) The proposition or agreement achieved does not involve real cooperation among the relevant parties.

- 2) The decision or understanding of the government personnel have not been essentially affected by the input of the public participation.
- 3) The public are sceptical whether their opinions are really taken into account in the decision made.
- 4) The outcome of the public participation does not enhance the resolution achieved by the government.
- 5) The decision of the public participation does not express the opinion of the wider cross section of the community.

Weaknesses in the consultation process could result in the failure to take into consideration factors that can impact on the home and its immediate environment (Duhr, 2005).

Currently, there are many public participation models that local authorities can learn from. Shipley and Utz (2012), state that there are general guidelines that can provide guidance on ranking the

levels of involvement of the community participation from merely informing or self-management to total empowerment of the public. Looking at the current scenario of public participation employed in Act 172 the Malaysian public is by and large located at ladder 4,5 or 6 in figure 2. This research will further investigate the type of public participation methods that local authorities will agree to draw on in relation to rationalizing building renovation guidelines in Selangor. Shipley and Utz (2012) also raised several points from previous studies to be considered. They are:

- 1) The maturity of public participation in planning process is still progressing.
- 2) We should reassess the method of “consultation” in public participation since it has become very commonly preferred by public officials that other methods may lose ground.
- 3) Proper trainings should be conducted to public officials about public participations to ensure better effectiveness of the decision.

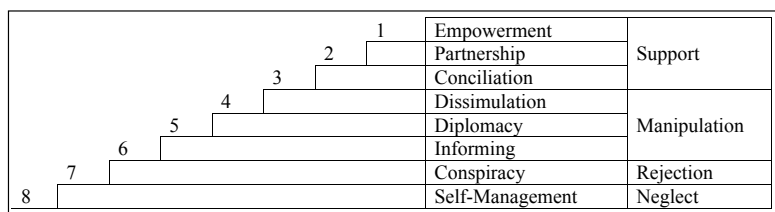


Figure 2. The participation ladder to relate to developing countries (Shipley & Utz, 2012)

Meanwhile, Innes, Judith and Booher (2004) believed that the collaborative participation method to achieve the desired result for all parties is ideal as it involves all stakeholders as the nucleus of a dialogue which can create well informed participants. Omar and Ling (2007) suggested organising a series of workshops and exhibition at the beginning, middle and end of the process can promote the stakeholders to be actively involved in the preparation of plans. In addition they recommend employing focus group to aid the public and stakeholders in understanding the issues concerned.

The objectives of this study are to initiate a building renovation guideline feedback from the public, analyse public opinion from professionals and authorities, and come up with new building renovation guidelines.

CONCLUSION

This paper is part of an ongoing research to evaluate the effectiveness of public participation in framing the building renovation guidelines for terrace houses in Malaysia. It contends that feedback from the public is crucial to help reduce gray areas in the enforcement practices to produce a sounder set of renovation guidelines and reduce unnecessary waste of manpower spent on enforcement.

ACKNOWLEDGEMENT

This research is made possible via a grant provided by the Ministry of

Education Malaysia through Research Acculturation Grant Scheme (RAGS) ref. no.:RAGS/1/2015/TKO/UITM/02/4.

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