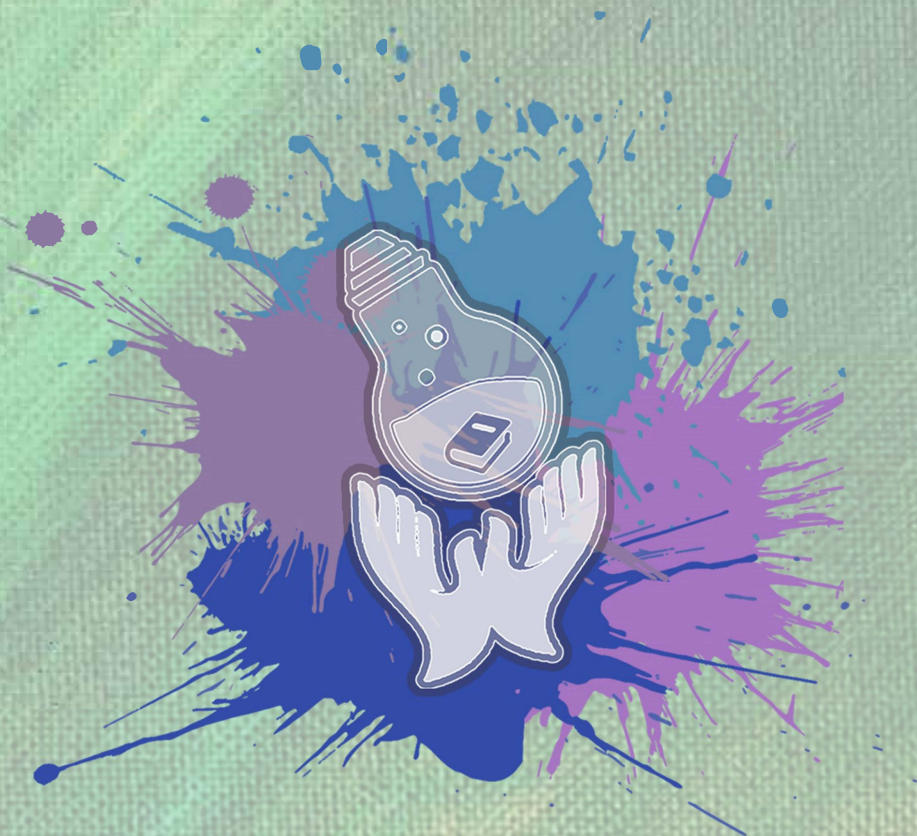




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FACTORS TO BE CONSIDERED IN DETERMINING THE AMOUNT OF COMPENSATION IN LAND ACQUISITION FOR INFRASTRUCTURE PROJECT

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Abstract:

The study determined the amount of compensation in land acquisition for infrastructure project. The main issue in land acquisition is the affected landowners who are not satisfied with the amount of compensation given by the government. The study is supported with two court cases of land acquisition for infrastructure project in Kelantan. The project is the development of road project namely East Coast Economic Region (ECER) from Gua Musang, Kelantan to Kampung Relong, Pahang. The aim of the study is to identify the factors to be considered in determining the amount of compensation in land acquisition for infrastructure project and factors of contributing dissatisfaction to the landowners toward the amount of compensation in land acquisition. Qualitative method is employed through interviews with government and private valuers. The findings show that the factors in determining the compensation in land acquisition in Malaysia follow the first schedule of Land Acquisition Act 1960 namely market value, betterment, severance, injurious affection, disturbance claims and accommodation works. On the other hand, the factors of dissatisfaction to the landowners toward amount of compensation in Malaysia is inadequate amount of compensation.

Keywords:

Land acquisition; Infrastructure project; Amount of compensation; Dissatisfaction; Land Acquisition Act 1960

1.0 INTRODUCTION

Land acquisition is important initial processes for any development project and this include infrastructure. The project could be delayed if some of the landowners are not satisfied with the land acquisition process particularly the compensation. The study highlight some issue especially the current issue of land acquisition in Bota Kanan, Perak where landowners are not satisfied with the land acquisition and amount of the compensation and it also involved inheritance land. Therefore, this study focuses on the factors to be considered in determining the amount of compensation in land acquisition for infrastructure project. Furthermore, this identified the main problem in land acquisition namely the dissatisfaction of the landowner with the amount of compensation given by the government. Improvement on the process and valuation of land acquisition are discussed in this study.

2.0 LITERATURE REVIEW

2.1 Land Acquisition

In Malaysia, the power to acquire land is under the jurisdiction of federal, state, and local governments. The land acquisition law is a principle that related with the rules of the procedure to be followed in the acquire land by compulsory means gives compensation to the landowner. The property is acquired by the state and it is for public interest and not for private interest (Anuar and Nasir, 2006).

2.2 Matters To Be Considered In Determining Compensation

According to Ismail and Mazlan (2009), there are few elements of dissatisfaction by landowners such as the value of land taken, severance, injurious affection and disturbances claims.

2.3 Issues In Land Acquisition

There are few issues in land acquisition when state government acquire land for public purpose. According to Anuar and Nasir (2006), the compensation is inadequate to fulfill adequate compensation under the Constitution. So, the compensation structure need to be reviewed. Although the market value is a basis for compensation of land acquisition, there is a premium should be paid to compensate the claimant. There are few valuers who have opinions that the land acquisition is not necessary the best alternative for government to acquire land for development. Other alternatives for government are direct purchases through negotiation and joint venture with the landowner.

3.0 METHODOLOGY

For this research, the data will be collected using qualitative method through face-to-face interviews with four valuers in Kota Bharu, Kelantan. This enable direct interaction with respondents namely the government and private valuers. Respondents are assessor or expert witness in court that handle the cases on land acquisition. They have many years of experience in valuation and determination of compensation to the landowners. Four valuers agreed to become the respondents in this study (See Table 1).

Table 1 : Background of respondents

Respondent	Sector	Firm
1	Public	-
2	Private	Firm A
3	Private	Firm B
4	Private	Firm C

4.0 ANALYSIS AND FINDINGS

The discussion of the study is used based on the thematic analysis and content analysis. Thematic analysis is categorizing the response from respondent according to the similar themes. Then, content analysis is converting qualitative to quantitative by calculating the respond of majority respondents for each theme. First objective of the study is to identify the factors to be considered in determining the amount of compensation in land acquisition for infrastructure project. Majority of the respondents said that factors in determining the compensation in land acquisition in Malaysia follows the first schedule of Land Acquisition Act 1960 namely market value, betterment, severance, injurious affection, disturbance claims and accommodation works. However, the factor of betterment is not taking into consideration and is not applicable practice in Malaysia, even though the betterment is prescribed in the Act.

Other than that, to support the second objective of the study which is to determine the factors of dissatisfaction of the landowners toward the amount of compensation in land acquisition, majority of the respondents said that factors of dissatisfaction is inadequate amount of compensation. Mostly, the landowners are not satisfied with the amount of compensation given by the government. However, respondents considered the amount of compensation is sufficient to buy other land to replace the acquired land. In addition, in term of process in land acquisition, majority of the respondent also state that the definition for land acquisition is clearly defined based on the Land Acquisition Act 1960. However, according to the Act, the legal regulations and standards which determine the land values and the regulations in the Act are enough and not lack. However, based on response by the respondent from the public and private sectors, the process of land acquisition is complicated and challenging. These could lead to the delays in acquiring the land and eventually delays the overall project.

The respondents from both sectors have different opinions in improving the land acquisition process in Malaysia. The parties and the agency involved should review and improve the procedure of land acquisition. Furthermore, majority of respondents indicate that it is important to reduce the land acquisition for purpose under section 3 (1) (b) (c) of Land Acquisition Act 1960. Apart from that, Director of Land and Mines should work closer with society by implementing a seminar on land acquisition. Mass media could also play role in creating awareness to the public on the rights of the landowner particularly the relevant regulation and laws in land acquisition.

5.0 CONCLUSION

In conclusion, land acquisition is one of the initial processes in any development project. It could cause delay in the project, if some of the landowners are not satisfied with the compensation of land acquisition. This study identified clearly the factors to be considered in determining the amount of compensation in land acquisition for infrastructure project and the factors of dissatisfaction of the landowners toward the amount of compensation in land acquisition. Respondents are the expert witness in the courts of law who determine the amount of compensation in land acquisition for infrastructure project. Since both sectors are involved in this study, suggestions on improvement are in the land acquisition process in Malaysia.

The main problem in land acquisition is the affected landowners who are not satisfied with the amount of compensation given by the government. Therefore, the government should give the adequate amount of compensation to the landowner and ensure the compensation is enough for them to buy other property. This could be done in the valuation process by increasing rate of severance and injurious affection. Currently, the rate is based on the condition and portion of the remaining land. However, the respondents suggested that in some cases, it should be based on the effect to the landowners. This means the difficulties of the landowner to find other property should be identified. Last but not least, the studies also help the researcher to know about the current issue on land acquisition especially in determination of the amount of compensation. As a result, this study could add knowledge and literature in improving land acquisition in Malaysia.

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