

# The Role of the Public Works and Housing Agency in the Provision of Green Open Space by Housing Developers in Bengkulu City

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## ABSTRACT

*In a housing complex, the need for green open space is very important to create because it has the function of balancing the environment, regulating temperature, filtering dirty air, controlling flooding, and as an environmental support facility. The development of green open space in a housing complex is one of the mandatory elements that must be fulfilled by developers who will build a housing complex, but in reality, many housing developers pay less attention and build the condition of green open space in their housing complex. This causes the function of green open space to be less enjoyed or felt by the residents of the housing. The method used in this study is an empirical juridical approach, research conducted by examining primary data obtained in the field. Data collection is done by observation, direct interviews and documentation related to the research. Supervision of the availability of green open space in residential areas is part of the function of the Bengkulu City Housing and People's Settlement Agency, the purpose of this supervision is to determine the implementation of work, work results, and everything whether it is in accordance with the plan or not. The supervisory role carried out by the Bengkulu City government in this case the Bengkulu City Housing and People's Settlement Agency has not been very effective by seeing that there are still many housing developers in Bengkulu City who have not provided green open space in their residential areas and there are no strict sanctions given by the Bengkulu City government to developers who do not provide green open space in their residential areas. The limited number of supervisory apparatus and the absence of a specific budget to carry out supervision are obstacles for the Bengkulu City government in carrying out supervision, so there is a need for additional competent staff and a budget so that supervision can run optimally.*

## INTRODUCTION

Urban spatial planning is an obligation for local governments, especially district/city governments as implementers of regional government at the district/city level. One example is Bengkulu City. As an autonomous region, the Bengkulu City Government is obliged to manage all its affairs independently, as regulated in Law Number 23 of 2014 concerning Regional Government, which states that there are several mandatory affairs that must be carried out by the regional government, one of which is in the aspect of public works and spatial planning, including regulatory, development, implementation, and supervision activities, which are based on the administrative area approach and different levels of spatial utilization. Of course, in spatial planning in autonomous regions, the government must pay attention to several aspects of life, one of which is the environment. The need for a healthy environment is also regulated in Article 28H, point 1 of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states that "every person has the right to live in physical and spiritual prosperity, to have a home, to enjoy a good and healthy environment, and to receive health services." The current reality is that almost all cities in Indonesia face the challenge of maintaining a clean and comfortable living environment.<sup>1</sup>

The high rate of development and population growth makes it difficult to achieve a clean and comfortable environment. Improving the ecological quality of a city can be achieved by establishing Green Open Spaces (RTH). Systematically, Green Open Spaces are essentially part of a city, a totality of interconnected, unbuilt entities that function to support comfort, well-being, improve environmental quality, and preserve nature. In general, the form of Green Open Space for Housing can be in the form of forest area or non-forest area such as parks, green belts, yard areas, mixed gardens or greenery on the roof and beside the building generally have a planological configuration that follows the shape of the city's structural pattern.

The availability of green open space in residential areas is an important thing to maintain ecological balance so that the existence of green open space and public space can meet the needs of the residents, the existence of green open space (GOS) is always the smallest part of its existence in the residential location, housing developers (Developers) should pay attention to the existence and availability of green open space in residential areas. In a housing complex the need for green open space (GOS) is a very important thing to be created because it is a greening in the residential area. In some housing complexes, green open spaces (RTH) can be used as play areas and gathering areas with family and friends. In reality, many housing complexes pay little attention to and develop green open spaces in accordance with the applicable regulations of the Ministry of Public Works. This results in the residents of these housing complexes under-appreciating or under-appreciating the functions of these green open spaces. Real estate developers, also known as developers, are individuals or companies that develop residential areas into habitable, economically viable housing that can be sold to the public.

Meanwhile, Article 5, paragraph (1) of the Minister of Home Affairs Regulation Number 5 of 1974 concerning Provisions for the Provision and Grant of Land for Company Purposes defines housing development companies, which can also be defined as housing developers. Housing development companies are companies engaged in the construction of housing, consisting of various types, models, and types of houses in large numbers on land areas that will form a unified environment surrounding the housing complex and provide public facilities needed by the residents. In Bengkulu City Regional Regulation number 11 of 2017 concerning Green Open Space Management, article 13 paragraph (2) states: "Every housing

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<sup>1</sup> A.M. Yunus Wahid. 2014. *Pengantar Hukum Tata Ruang*. Jakarta: Kencana.hlm 12.

developer is obliged to realize parks and greenery in green belt locations in accordance with the site plan that has been approved by the mayor or appointed official." Green open spaces in housing are very necessary and needed, especially for residents of the housing complex itself, where green open spaces in housing areas function to support clean and healthy living programs in Bengkulu City.

Based on data from the Bengkulu City Public Housing and Spatial Planning Service, there were 202 housing development companies recorded in 2016-2019 in Bengkulu City. However, currently it can be seen that many housing areas in Bengkulu City have not provided green open spaces in their housing areas, one of which is the Timur Indah Residence Housing Complex. Even if there are any, most of them place green open spaces only on leftover land. Therefore, supervision is needed to handle this. The Mayor is responsible for overseeing green space management. This oversight can be delegated to the Head of the Regional Work Unit responsible for green space management. The purpose of oversight is to determine whether work implementation, results, and everything else is in accordance with plans, as well as to assess the extent of errors and to enable corrective action.

## METHOD

This research is an empirical juridical legal study, conducted by examining primary data obtained in the field, specifically through direct studies at the Bengkulu City Public Works and Spatial Planning Agency and the Bengkulu City Public Housing and Settlement Agency. The data sources used in this study consist of primary and secondary data. Primary data is data obtained directly from primary sources related to the problem being discussed through unstructured interviews. Primary data was obtained directly from informants, namely the Bengkulu City Public Works and Spatial Planning Agency and the Bengkulu City Housing and Settlement Agency.<sup>2</sup> Secondary data is data not obtained directly by the researcher but rather from existing data. Secondary data is obtained through library research on the research materials used, including primary legal materials, secondary legal materials, and tertiary legal materials.<sup>3</sup>

## RESULT AND DISCUSSION

### **The Role of the Bengkulu City Government in Overseeing the Availability of Green Open Space by Developers (Housing Developers) Bengkulu City is the capital of Bengkulu Province.**

It covers an area of 151.70 km<sup>2</sup> and has a population of 364,604. The city is divided into nine sub-districts: Gading Cempaka, Kampung Melayu, Muara Bangka Hulu, Ratu Agung, Ratu Samban, Selebar, Singaran Pati, Sungai Serut, and Teluk Segara. As an autonomous region, the Bengkulu City Government is obligated to manage all its affairs independently, as stipulated in Law Number 23 of 2014 concerning Regional Government. This mandates several mandatory functions for regional governments, including public works and spatial planning, encompassing regulatory, development, implementation, and oversight activities. In spatial planning within the autonomous region, the government must consider aspects of life, including the environment.

As the population grows year after year, the need for space, both for living and for other activities, increases. Between 2022 and 2024, there were approximately 232 housing developments in Bengkulu City, and this number will continue to grow annually to meet the community's housing needs. Open spaces in residential areas play a vital role in the

<sup>2</sup> Soerjono Soekanto. 2014. *Pengantar Penelitian Hukum*. Jakarta: Universitas Indonesia. Hlm 122

<sup>3</sup> *Ibid*

sustainability of the community. They function as environmental balance, temperature regulators, air filters, flood control, and as supporting facilities for residents to play and gather with their families.

Law No. 26 of 2007 concerning Spatial Planning defines housing as a group of houses that function as a residential environment equipped with environmental facilities and infrastructure. Meanwhile, settlements are defined as parts of the environment outside protected areas, whether urban or rural, that function as residential environments equipped with environmental facilities and infrastructure.

The area of green open space, according to Law No. 26 of 2007 concerning Spatial Planning, must comprise at least 30% of the total area, with 20% as public green open space and 10% as private green open space.<sup>4</sup> According to Law No. According to Government Regulation No. 28 of 2002, which regulates the green area coefficient, green open space is the primary control tool for both the public and the private sector in development.

Green open space in residential areas is a crucial aspect because it is a government asset that can be used to increase urban green open space. Based on Government Regulation No. 1 of 2007, the provisions for land use planning for residential areas are as follows:

1. The land use composition is 60% of the land area controlled for housing and commercial facilities managed by the developer, and 40% for public facilities and infrastructure, social services, and greenbelts/parks.
2. The housing provision applies the 1:3:6 concept, meaning the number of houses is 1 large house, 3 medium houses, and 6 small houses.
3. The planned road network must be integrated with the existing road network or take into account road network development.
4. Housing development must be environmentally conscious, meaning it takes into account the surrounding environment. The presence of new neighborhoods is expected to provide added value and stimulate the growth of the built environment, controlled by what is proposed according to the plan or obtained permits.

The monitoring function of the availability of green open space in residential areas is highly needed. Considering the current reality, quite a lot of housing is not equipped with green open space, which is one of the obligations that must be fulfilled by housing developers to build green open space in their residential areas. This can be seen in Law No. 1 of 2011 concerning Housing and Residential Areas. The article states that the provision of housing is carried out to meet the need for housing as one of the basic human needs for improving and equitable public welfare. Green open space is a housing and settlement facility, therefore the party that builds the housing is obliged to provide green open space facilities.

The form of supervision carried out by the Bengkulu City Government, specifically the Public Housing and Residential Areas Agency, is direct supervision by observing, researching, inspecting, and checking "on the spot" at the work site, and also receiving direct reports from the implementation. However, in practice, direct supervision carried out by the Bengkulu City Public Housing and Residential Areas Agency is passive because it is only carried out occasionally and is not scheduled.

Based on a field survey by taking 4 random samples, namely Bumi Nusa Asri 1 housing, Bumi Nusa Asri 2, Bumi Nusa Lestrai Housing, and Timur Indah Residence 2 Housing, the housing has not provided green open space in its housing area and especially Timur Indah Residence 2 housing has provided Green Open Space but the space is just left alone and only

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<sup>4</sup> Nirwono Joga dan Iwan Ismaun, 2011, *RTH 30%! Resolusi (Kota) Hijau*. Jakarta: Gramedia Pustaka Utama. Hlm 84.

becomes an unkempt bush, even though one of the functions of creating green open space in the housing area is to add aesthetic value to a housing. When there is already a green open space such as plants, it should still be maintained so that it does not become a bush, the community can do mutual cooperation about once a month in which case community participation is needed in managing and maintaining the existing green open space, in addition to adding aesthetic value, green open space in the housing area has a very important function, namely to maintain the availability of land as a water catchment area, add oxygen, air filters, and prevent pollution.

Based on the concept of the role that has been explained above, the supervisory role carried out by the Bengkulu City government in this case the Bengkulu City Public Housing and Settlement Agency has not been very effective by seeing that there are still many housing estates in Bengkulu City that have not provided green open spaces in their housing areas and there are no strict sanctions given by the Bengkulu City government to Developers who do not provide green open spaces in their housing areas even though the provision of green open spaces in housing areas is the obligation and responsibility of Developers (Housing Developers) as stated in article 19 of Law No. 1 of 2011 concerning Housing and Settlement Areas which states that the implementation of houses and housing is carried out to meet the need for housing as one of the basic human needs for the improvement and equality of social welfare. Green open spaces as one of the housing and settlement facilities are an obligation that must be provided by developers in their housing areas.

### **Factors Inhibiting the Bengkulu City Government's Monitoring of Green Open Space Availability in Housing Areas**

Monitoring the availability of green open space in housing areas is the responsibility of the Bengkulu City Government, specifically the Bengkulu City Public Housing and Settlement Agency. Timing of supervision is a crucial part of the monitoring process. This monitoring must take into account the pre-construction (preventive) phase, the pre-construction (repressive) phase, and the post-construction (post-audit) phase.

Based on interviews conducted by researchers, information was obtained on several monitoring procedures implemented by the Bengkulu City Public Housing and Settlement Agency. These include direct field inspections and monitoring if there are complaints from the public about the lack of green open space in the housing area. However, in practice, these monitoring activities are not carried out routinely and are not yet optimal due to several inhibiting factors, including:<sup>5</sup>

#### **1. Limited personnel in the supervision sector.**

The lack of personnel is a challenge faced by the Bengkulu City government. Supervision activities require people to be directly involved in the field. Their task is to monitor housing developments to ensure they are built according to the initial plan and to assess the completeness of infrastructure, facilities, and public utilities. The supervision carried out by the Bengkulu City Public Housing and Settlement Agency is guided by the site plan submitted by the developer. Therefore, the Agency only checks the green open space's compliance with the existing site plan.

#### **2. Lack of budget**

Implementation at the Bengkulu City Public Housing and Settlement Agency, the lack of budget is a barrier to supervision, as field visits require transportation costs to support the supervision process. To date, supervision conducted by the Bengkulu City government has been minimal and suboptimal due to several constraints. The primary goal of

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<sup>5</sup> Muhammad Iqbal, dkk. (2023). *Manajemen Ruang Terbuka Hijau (RTH) Perkotaan*. Makasar, Penerbit: Chakti Pustaka Indonesia

supervision is to ensure development aligns with the existing RTRW (Regional Spatial Plan). As the authority responsible for supervising residential areas, the Bengkulu City Public Housing and Settlement Agency must understand the applicable regulations in detail. Supervision guidelines are based on applicable regional regulations.

As we all know, in Article 19 of Law Number 1 of 2011 concerning Housing and Residential Areas, green open space is one of the housing facilities that must be provided by housing developers. Furthermore, the Bengkulu City Government, in Bengkulu City Regional Regulation Number 11 of 2017 concerning Green Open Space Management, also requires housing developers to implement parks and greenery in green belt locations in accordance with the site plan. The form of sanctions given to developers who do not provide and convert green open space includes warnings, up to the revocation of building permits (IMB). However, to date, the Bengkulu City Public Housing and Settlement Agency has never explicitly imposed sanctions on developers who do not provide green open space in their housing areas.

## Conclusion

Based on the explanation presented by the researcher above, several conclusions can be drawn regarding the role of the Bengkulu City Government in overseeing the availability of green open space by developers (housing developers). The Bengkulu City Government's role in this oversight is not yet optimal, as many developers still fail to provide green open space in their housing complexes, even after the housing is already occupied. Limited supervisory personnel are one of the obstacles facing the Bengkulu City Government in conducting oversight. Therefore, the need for additional competent staff is needed so that the Bengkulu City Public Housing and Settlement Agency can improve existing oversight. Furthermore, the lack of a specific budget allocated for green open space oversight is also a challenge faced by the Bengkulu City Government. Sanctions imposed on developers who fail to provide or convert green open space include warnings and even revocation of building permits (IMB). However, to date, no firm sanctions have been implemented by the Bengkulu City Government.

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suatu kawasan perkotaan yang diisi oleh tumbuhan dan tanaman guna mendukung manfaat ekologi, sosial, budaya, ekonomi, dan estetika.

Peraturan Daerah Kota Bengkulu nomor 11 tahun 2017 tentang Pengelolaan Ruang Terbuka Hijau