

Effectiveness of Implementing Vertical Space Utilization in Badung District

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Abstract

The study aims to examine the problem of implementing Badung Regency Regional Regulation Number 26 of 2013 in the use of vertical space regarding the height of multi-storey buildings and the supervision of violations of vertical space utilization in Badung Regency. This study employs an empirical legal research method, which involves observation and interviews as data collection techniques. The results indicate that there is a discrepancy between the desired and actual outcomes of the implementation of vertical space utilization related to multi-storey buildings in Badung Regency. A discrepancy was identified between the intended and actual implementation of vertical space utilization related to multi-story buildings in Badung Regency. The violation of the building height provisions, which have been set at a maximum of 15 meters, renders ineffective the provisions of Badung Regency Regional Regulation Number 26 of 2013. The absence of community participation in monitoring the use of vertical space can result in a lack of attention to violations that occur directly in the field. This has implications for the importance of integrating public participation in legislation to address issues related to vertical space utilization and maintain harmony between development and environmental conservation. The study contributes to the discourse on sustainable urban development and the integration of legal principles with cultural values, offering practical benefits for legal practice and regulatory improvement in spatial planning.

Keywords: Effectiveness, Legal Principles, Legislation, Regional Regulations, Vertical Space.

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Правовое регулирование и эффективность использования вертикального пространства в округе Бадунг

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Аннотация

В исследовании рассмотрены проблемы реализации Регионального законодательства округа Бадунг № 26 от 2013 г., касающегося использования вертикального пространства в отношении высоты многоэтажных зданий, а также контроля за нарушениями установленных региональных норм. В данной работе применяется эмпирический метод правового исследования, включающий наблюдение и опросы в качестве методов сбора данных. Результаты показывают наличие расхождения между желаемым и фактическим использованием вертикального пространства в округе

Бадунг. Нарушение норм по высоте зданий, установленных на максимальном уровне 15 метров, делает неэффективными положения Регионального законодательства округа Бадунг № 26 от 2013 г. Отсутствие участия сообщества в мониторинге использования вертикального пространства может привести к недостаточному вниманию к нарушениям в этой сфере. Это негативно сказывается как на степени участия общественности в законодательном процессе, так и на поддержании гармонии между развитием и охраной окружающей среды. Данное исследование вносит вклад в дискурс об устойчивом городском развитии и интеграции правовых принципов с культурными ценностями. В работе автор предлагает решения для юридической практики и способы совершенствования регулирования в области пространственного планирования.

Ключевые слова: законодательство Индонезии, региональное законодательство, региональные правовые нормы, округ Бадунг, вертикальное пространство.

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Introduction

National development is a continuous process aimed at improving the welfare of the people in all areas of life and livelihood, in order to realize the national ideals and goals stated in the preamble to the 1945 Constitution of the Republic of Indonesia. The government of Bali has implemented a multifaceted and long-term development program with the objective of enhancing the well-being of communities across various domains. This program is based on the principle of sustainability and takes into account the natural carrying capacity of Indonesia, especially Bali, with reference to the national development program, namely Nangun Sat Kerthi Loka Bali¹. One important thing is the public works sector related to buildings. Along with its growth and activity, the need for space increases. Thus, management need to be balanced, efficient, effective, harmonious, and sustainable to achieve integration and synergy of development between sectors and regions. It is also necessary to regulate spatial planning and control space utilization based on spatial structure and patterns.

The utilization of space in accordance with Art. 1 Sec. 14 of Law Number 26 of 2007 Concerning Spatial Planning is an endeavour to realize spatial structure and spatial patterns in accordance with the spatial planning plan. In the explanation of the provisions of Article 32 paragraph (1) of Law Number 26 of 2007, it is stated that the implementation of space utilization programs is a development activity, whether carried out by the government or the community to realize spatial planning plans. This space utilization program can be implemented by vertical use of space or use of space inside the earth, which is intended to increase the capacity of space to accommodate activities more intensively². In space use planning, spatial structure and spatial patterns are important references for determining the direction of sustainable regional development policies. It is hoped that integration and synergy between space structures and space patterns can create optimal use of space and minimize conflicts between interests in space use, especially space use for buildings. The authority of district/city regional governments in the context of spatial planning has also been regulated in Article 11 of Law Number 26 of 2007 concerning Spatial Planning (UUPR)³.

Bali is a popular tourist destination for both local and foreign tourists on holiday in Indonesia. The natural beauty of Bali, especially the beaches, is very famous and amazing. Interestingly, in Bali there are no high-rise buildings or skyscrapers like other big cities in Indonesia. Bali is the only province in Indonesia that has a maximum building height limit of only 15 meters or the equivalent of 4 floors. However, hospital buildings accommodate the provision of space for hospital-related infrastructure networks with the provision that the number of floors is a maximum of 5 (five) floors, which is regulated in Article 100 paragraph (4) letter i of Bali Province Regional Regulation Number 2 of 2023. This shows that there is a change in the Bali Provincial

¹ Bali Provincial Government (2019). Bali Province Vision. <https://www.baliprov.go.id>

² Lestari, R. D., Wisudawati, T., Santoso, A. P. A. (2022) Agrarian Law & Spatial Planning. *Pustaka Baru Pres*.

³ Hasni (2016) Hukum penataan ruang dan penatagunaan tanah: Dalam konteks UUPA, UUPR, UUPLH. *Rajawali Press*.

Government's policy regarding the height of buildings, especially buildings for hospitals, which can exceed 15 meters above the ground level where the building is erected.

According to Badung Regency Regional Regulation Number 26 of 2013 concerning Badung Regency Spatial Planning for 2013–2033 in Article 58 paragraph (2) letter c states that the height of buildings that utilize air space above the earth's surface is limited to a maximum of 15 m (fifteen meters), except for public buildings and special buildings that require a height requirement of more than 15 m (fifteen meters), such as: transmitter towers, high voltage electricity poles, lighthouses, towers of religious buildings, buildings for aviation safety, security defences buildings, and special buildings for the purposes of safety and other public security. The provisions aim to provide flexibility for the development of traditional Balinese architectural roof forms, the height of the building is calculated from the ground surface to the intersection of the vertical plane of the building structure and the sloping plane of the building roof, and it is prohibited to use the space above the intersection plane to carry out permanent activities.

The Badung Regency Regional Government is currently facing challenges in regulating the height of buildings which have an impact on the environment and increasingly narrow land. This issue has a connection that is important to pay attention to. During the 2018–2022 period, there was a change in the function of rice fields in Badung Regency amounting to 276.60 hectares. The large number of land conversions is largely influenced by the many tourism businesses that are developing in Badung Regency which utilize horizontal and vertical space. The Badung Regency Central Statistics Agency recorded the number of tourism accommodations from 2016 to 2018 which are the results of census and surveys as follows.

Judging from the data above, the large number of star hotels, budget hotels, tourist lodges, condotels, rental houses, restaurants, eateries, bars is proof that the use of horizontal and vertical space has a big impact on the environment. However, it is needed to pay attention to the provisions stipulated in laws and regulations and the values that live in society based on the Tri Hita Karana philosophy. It is a philosophical concept in Balinese culture and life¹ that teaches harmony and balance between three important aspects consisting of *Parhyangan* (relationship with God or the Almighty), *Pawongan* (relationship between humans and other humans) and *Pabelasan* (human relationship with the natural environment and ecosystem)². The principles of Tri Hita Karana form the basis of the Balinese people's way of life and serve as guidelines for maintaining harmony with God, fellow humans and nature. Therefore, the role of the government, indigenous communities and traditional leaders is very important in maintaining the sustainability and authenticity of Balinese culture, especially in Badung Regency.

Table 1. Number of Accommodation Businesses in Badung Regency in 2016–2018

No.	Accommodation Facilities	Number of			Total	Number of rooms			Total
		2016	2017	2018		2016	2017	2018	
1	Star Hotel	155	155	170	26.505	24.683	24.683	26.543	75.909
2	Budget Hotel	521	539	551	297.510	33.075	35.698	37.314	106.087
3	Cottage	775	893	885	791.080	2.750	2.983	3.146	8.879
4	Condotel	50	57	59	3.413	7.261	8.668	8.992	24.921
5	House for rent	40	40	40	1.640	7.899	789	789	9.477
No.	Restaurant Facilities	Number of Restaurants			Total	Chairs amount			Total
		2016	2017	2018		2016	2017	2018	
1	Restaurant	966	1.011	1.056	3.033	86.388	88.422	92.330	267.140
2	Bar	370	371	373		12.335	12.353	12.433	37.121

Source: <https://badungkab.bps.go.id/indicator/16/121/1/akomodasi.html>; <https://badungkab.bps.go.id/indicator/16/123/1/restoran.html>, downloaded on Tuesday, July 4 2023.

¹ Redana, I. W., Mujiyono. (2023) Implementation of Tri Hita Karana Teachings to Shape the Character of Early Children. *International Journal of Multidisciplinary Sciences*. No. 1 (2). Pp. 241–252. DOI: <https://doi.org/10.37329/ijms.v1i2.2343>

² Wiratmaja, I. N., Sudana, I. W., Suacana, I. W. G. (2023). The Development of the Duality Model of Village Government Based on Local Wisdom Tri Hita Karana in Bali Province 1979 to 2019. *Journal of Namibian Studies: History Politics Culture*. Vol. 34. Pp. 2317–2336. DOI: <https://doi.org/10.59670/jns.v34i.1508>

The rapid development in the tourism sector has indeed made a positive contribution to regional economic growth, increased Regional Original Income (PAD), and job creation. But, on the other hand, the growth of the tourism sector has also had negative impacts, such as traffic jams, significant foreign cultural infiltration, the number of tourism businesses that do not have permits or permits that do not comply with applicable regulations, development that ignores spatial planning, increasing development in green areas, violations of vertical spatial use and many other problems^{1,2}. Based on observations, facts were found that on Jalan Raya Petitenget and Jalan Pemelisan Agung multi-storey buildings estimated to exceed the maximum building height requirement of 15 meters. If existing problems are not immediately anticipated with fast and intensive control, then the vertical space related to the height of multi-storey buildings as regulated in statutory regulations will never be achieved. This means that it is necessary to study the use of vertical space, which has been regulated in the Badung Regency Regional Regulation No. 26 of 2013. There are several previous studies related to research such as, building construction permit (IMB) that violates the spatial planning occurs will have an impact on the Regional Spatial Planning of Buleleng Regency³. Moreover, in order to avoid conflicts in the development of green open space with other urban areas, it is essential to integrate the development of green open space with other urban scale plans. This will ensure a balanced approach to urban planning and promote the creation of sustainable green spaces⁴.

This research was designed to analyze the implementation of Badung Regency Regional Regulation Number 26 of 2013 of vertical space utilization on the height of multi-storey buildings in and to analyze supervision of violations of vertical space utilization in Badung Regency. It is expected to provide practical benefits in legal practice by increasing understanding of legal provisions in spatial planning to protect community welfare. Apart from that, this research also provide useful input to law makers to improve regulations related to spatial planning in order to improve national law, especially regarding determining the use of vertical space.

Methods

In general, efforts to control the implementation of spatial planning plans are carried out through supervision and control activities. Based on the provisions in Article 233 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2021 concerning the Implementation of Control of Space Utilization and Supervision of Spatial Planning, the supervision of spatial planning consists of monitoring, evaluation and reporting activities. Monitoring are observation activities regarding the application of Spatial Planning which can be carried out directly, indirectly, and/or based on information from the community. Direct monitoring can be done through: 1) Questionnaires or Checklists. Filling out a questionnaire or checklist is carried out to obtain data and information on the Implementation of Spatial Planning; 2) Interview. Interviews are conducted to verify data, information and supporting evidence; 3) Field Survey. Indirect monitoring is carried out through secondary data collection as supporting evidence for filling out questionnaires or checklists. And/or monitoring based on information from the community.

Evaluation is carried out by comparing data and information from monitoring results with the performance indicators for the implementation of spatial planning that have been determined. The evaluation as intended is carried out to analyze the causes of spatial planning problems that arise, estimate the magnitude of the impact due to the problems that occur, analyze the actions needed to eliminate and/or reduce deviations and impacts that have arisen and will occur, and formulate the necessary follow-up steps. Reporting is the activity of preparing and submitting reports on the results of spatial planning supervision. The spatial planning supervision report contains the performance level of spatial planning implementation and recommendations.

¹ Nepomnyashchyy, O., Yekimov, S., Rybalchenko, N., Tebenko, V., Lysak, O. (2023) The Impact of Green Tourism on the Development of the Regional Economy. In: A. Beskopylny, M. Shamtsyan, V. Artiukh (Eds.). XV International Scientific Conference "INTERAGROMASH 2022". Vol. 574. Pp. 1589–1595. Springer International Publishing. DOI: https://doi.org/10.1007/978-3-031-21432-5_170

² Suryani, L. P., Widiati, I. A. P., Permatasari, I. (2022) The Impact of Tourism Industry Development In Relation to Violations of Utilisation of Cliff Borders by Tourism Entrepreneurs. *Sociological Jurisprudence Journal*. No. 5 (2). Pp. 126–132. DOI: <https://doi.org/10.22225/scj.5.2.2022.126-132>

³ Sumitra, G. (2017) Implikasi Penerbitan Izin Mendirikan Bangunan (IMB) Terhadap Tata Ruang Kabupaten Buleleng [Thesis]. Universitas Warmadewa.

⁴ Mahendra, I. M. A. (2022). Analisis Ruang Terbuka Hijau Dalam Perspektif Pembangunan Kota Berkelanjutan (Studi kasus Kawasan pusat Kota Denpasar, Bali). *Jurnal Ilmiah Vastuwidya*. Vol. 5 (1). Pp. 41–49. DOI: <https://doi.org/10.47532/jiv.v5i1.408>

The report on the results of supervision of spatial planning carried out by the regent/mayor is submitted to the governor.

Implementation of Badung Regency Regional Regulation Number 26 of 2013 in the Utilization of Vertical Space related to multi-storey buildings in Badung Regency

Regency Regional Spatial Planning, abbreviated as RTRWK, is a spatial planning document that elaborates on strategies and policies for general space utilization. The document contains a series of objectives, policies, regional spatial planning strategies, spatial structure plans, spatial pattern plans, strategic area determinations, directions for regional space utilization, and provisions for controlling the spatial utilization of Badung Regency. Spatial Planning Regulations are an effort to establish a legal basis for the Badung Regency Government. In this case, Badung Regency Regional Regulation Number 26 of 2013 has been established as the legal basis for implementing spatial planning. This regulation covers various aspects, including the use of vertical space in Badung Regency. Therefore, it is very important if it is implemented along with the active participation of the community in Badung Regency.

Article 1 number 15 of the Badung Regency Regional Regulation Number 26 of 2013, states that the utilization of space aims to achieve spatial structure and patterns in accordance with the spatial planning plan through the preparation and implementation of programs, along with financing. Air space management, especially the use of vertical space related to the height of buildings in Badung Regency, is regulated in the provisions of Article 58 paragraph (1) of Badung Regency Regional Regulation Number 26 of 2013. To maintain flight safety and security, maintain the sacredness of holy places and maintain public comfort, it is regulated in the provisions of Article 58 paragraph (2) of Badung Regency Regional Regulation Number 26 of 2013 which states:

- a) The structure and maximum height of buildings and other structures in flight operation safety areas, noise zone boundaries and airport environmental areas must comply with aviation safety and security provisions, and be coordinated with the competent authorities.
- b) The location for the construction of radio, television and telecommunications receiver and/or transmitter towers must be built in a Cultivation Area, providing a sense of security and guaranteeing environmental safety, not disturbing religious activities, the sanctity of sacred objects in the surroundings, which must be built and used appropriately collective.
- c) The maximum height for buildings that utilize air space above the earth's surface is limited to fifteen meters (15 m), except for public buildings and special buildings that require a height requirement of more than 15 m, such as: transmitter towers, high voltage electricity poles, lighthouses, towers of religious buildings, buildings for aviation safety, defense and security buildings, and special buildings for the purposes of safety and other public security based on studies taking into account security, comfort and harmony with the surrounding environment, as well as obtaining permission from the relevant agency authorized.
- d) The aircraft's flight altitude setting must not be lower than 1,000 (one thousand) feet above ground level, except in accordance with take-off approach procedures at each airport and emergency conditions.

Based on the interview with Mr Sang Nyoman Oka Parmana, Intermediate Expert Licensing Administrator at the Badung Regency One Stop Investment and Integrated Services Service who previously served as Head of the Government and Development Licensing Services Division said that, it was recorded that there was an increase in the number of applications for Building Construction Permits in Badung Regency, which greatly affecting regional income Badung Regency obtained from the Building Permit Levy. It was recorded from 2010 to April 2013, the overflow of IMB data from the Badung Regency Human Settlements Service to the Badung Regency DPMPSTP had issued 6,752 IMBs. Since the establishment of the Badung Regency Integrated Licensing Services Agency on 5 May 2013 to 4 July 2017, it has issued a total of 7,695 IMBs. Moreover, the nomenclature of the Badung Regency Integrated Licensing Services Agency changed to the Badung Regency Investment and One-Stop Integrated Services Service from July 5 2017 to August 3 2021 with a total of 6,590 IMBs have been issued. The following is a table of the issuance of IMB in Badung Regency for the last 14 (fourteen) years from 2010 to 2023, which explained in detail in Table 2.

Table 2. IMB data is published in Badung Regency Period 2010–2021

No.	Year	IMB Published	Retribution Value (Rp)	Information
1	2010	1.914	27.888.149.091,00	Department of Human Settlements
2	2011	2.105	32.154.330.501,00	Department of Human Settlements
3	2012	1.865	46.319.018.584,29	Department of Human Settlements
4	2013	868	22.217.352.742,52	January to April (Creation Department)
5	2013	1.154	37.558.563.718,15	May to December 2013 (BPPT)
6	2014	1.711	75.841.384.804,38	BPPT
7	2015	2.291	45.223.160.498,72	BPPT
8	2016	1.841	38.183.568.292,26	BPPT
9	2017	698	27.545.265.460,57	January 1 to July 4 2017 (BPPT)
10	2017	416		5 July to December 2017 (DPMPTSP)
11	2018	1.074	24.092.874.000,00	DPMPTSP
12	2019	1.666	18.051.028.803,45	DPMPTSP
13	2020	2.168	20.277.487.529,91	DPMPTSP
14	2021	1.266	19.155.771.631,20	January 4 to August 3 2021 (DPMPTSP)
	Total	21.037	434.507.955.657,45	

Source: DPMPTSP Badung Regency.

Meanwhile, from the published IMB data according to table 3, the number of accommodation IMBs in Badung Regency that can utilize vertical space in accordance with the maximum building height requirement of 15 meters, such as: Hotels, Hotel Condominiums (Condotels), Restaurants and Bars.

Table 3. IMB for accommodation in Badung Regency on vertical space utilization on 2010–2021

No.	Year	Hotel	Condo Hotel (Condotel)	Restaurants and Bars
1	2010	80	13	50
2	2011	95	19	42
3	2012	65	13	25
4	2013	92	9	13
5	2014	74	18	21
6	2015	40	5	23
7	2016	33	4	38
8	2017	15	7	15
9	2018	8	2	19
10	2019	8	0	34
11	2020	10	0	40
12	2021	9	3	30
	Total	529	93	350

Source: DPMPTSP Badung Regency.

The interview with Mr. I Made Agus Aryawan, Head of the Badung Regency Investment and One-Stop Integrated Services Service said that the investment climate, especially investment in the tourism sector in Badung Regency, is developing very well and faster. As it is known, almost 85% of Badung Regency's Original Regional Income (PAD) relies on the tourism sector. The consequences of Badung Regency as an international

tourism destination are in addition to the increasing number of tourist visits, both domestic and foreign tourists, followed by the development of business activities. The business activity with the dominant investment value entering Badung Regency is most popular in the tourism sector. Badung Regency is very dependent on the tourism sector, especially from hotel and restaurant taxes. The following 5 (five) dominant sectors are: 1) hotels and restaurants; 2) transportation, warehouse and telecommunications; 3) housing, industrial and office areas; 4) other services; 5) trade and repair. Of these five sectors, the recent increase in investment in Badung Regency in the 2020–2022 period can be seen in Table 4.

Table 4. Recapitulation of Investment Realization Development (PMDN and PMA) in Badung Regency Period 2020–2022

No.	Year	Domestic Investment (PMDN)		Foreign Investment (PMA)	
		Number of Projects	NIB (Rp)	Number of Projects	NIB (Rp)
1	2020	1.863	70.903.392.331.684,00	1.362	163.754.408.146.799,00
2	2021	937	2.437.406.200.001,00	2.487	2.392.316.689.862,00
3	2022	1.977	3.201.859.558.783,00	2.819	3.206.843.948.000,00
Total Investment		4.777	76.542.658.090.468,00	6.668	169.353.568.784.661,00

Source: DPMPSTP Badung Regency.

From the data presented above, the number of projects and investments realized in Badung Regency can increase economic growth, and the large number of tourism supporting buildings built by local communities and by entrepreneurs who invest their capital in Badung Regency either through Domestic Investment (PMDN) and Foreign Investment (PMA), so that the opening of job opportunities automatically influences the increase in applications for Building Construction Permits (IMB). The rapid development of buildings in the Badung Regency area and the recent increase in applications for building permits are related to multi-storey buildings that utilize vertical space, which in practice cannot be denied that there are building height violations. Badung Regency's One Stop Investment and Integrated Services Service in the 2020–2021 period has rejected the IMB application on the Online Licensing Service (LAPERON) system because it violates building height provisions as regulated in the provisions of Article 58 paragraph (2) letter c of the Regency Regional Regulations Badung Number 26 of 2013 by issuing a letter of return of files to the IMB applicant, will be explained in detail in Table 5.

There are buildings that violate vertical space utilization and referring to the provisions in Article 100 paragraph (2) letter a of Badung Regency Regional Regulation Number 26 of 2013, there are violations in the field of spatial planning as intended, namely space utilization. It is not in accordance with the Badung Regency regional spatial plan (RTRWK) because it is expressly stated in the provisions of Article 58 paragraph 2 letter c of the Badung Regency Regional Regulation Number 26 of 2013.

The interview with Mrs. Ni Ketut Midartini, Young Expert Licensing Arranger who previously served as Head of Licensing Issuance at the Badung Regency Investment and One-Stop Integrated Services Service on Tuesday, December 6 2023, said that since August 3 2021 the Building Construction Permit has been converted and has been changed to Building Approval (PBG) Certificate of Functional Worthiness (SLF) through the SIMBG system throughout Indonesia. The steps for registering the PBG/SLF application up to the technical study are carried out through the SIMBG PU account which is managed at the Badung Regency Public Works and Spatial Planning Service. The Badung Regency Investment and One-Stop Integrated Services Service only issues Regional Retribution Decree Letters (SKRD) and issues Building Approvals (PBG) and Functional Worthiness Certificates (SLF). In Badung Regency, in the period 2021 to 2023, PBG/SLF has been issued, which will be explained in Table 6.

Table 5. Data on IMB applications that were on 2020–2021

No	2020	2021	Allotment	Terms (m)	Available (m)	Information
1	1	–	Shop	15	18.60	File Return Letter Number: 648/1347/DPMPTSP/2020 dated 20 April 2020
2	1	–	Boarding house	15	16.50	File Return Letter Number: 648/1508/DPMPTSP/2020 dated 3 June 2020
3	1	–	Hotel	15	24.50	File Return Letter Number: 648/2177/DPMPTSP dated 30 September 2020
4	–	1	Restaurant	15	19.10	File Return Letter Number: 648/715/DPMPTSP/2021 dated April 14 2021
5	–	1	Residential home	15	17.80	File Return Letter Number: 648/1024/DPMPTSP/2021 dated 17 May 2021
Total	3	2				

Source: DPMPTSP Badung Regency.

Table 6. PBG/SLF data is published in Badung Regency Period 2022–2023

No.	Year	PBG/SLF	Information
1	2022	758	The application process is through SIMBG PU and through the LAPERON System
2	2023	1.301	
	Total	2.059	

Source: DPMPTSP Badung Regency.

Meanwhile, from the PBG/SLF data published in table 7, the number of PBG/SLF accommodations in Badung Regency that can utilize vertical space in accordance with the maximum building height requirement of 15 meters, such as: Hotels, Hotel Condominiums, Restaurants, and Bars.

Table 7. PBG/SLF accommodation in Badung Regency on utilization of vertical space 2022–2023

No.	Year	Hotel	Condo Hotel (Condotel)	Restaurants and Bars
1	2022	9	1	27
2	2023	22	-	32
	Total	31	1	59

Source: DPMPTSP Badung Regency.

The people of Badung Regency in their use of space must consistently follow the regional spatial plan that has been determined. The use of vertical space in Badung Regency needs to be supported by active community participation by involving themselves in space utilization activities that are in accordance with local wisdom values and spatial plans. This is one of the strategic steps to achieve spatial planning goals in Badung Regency, including implementing spatial planning, space utilization and controlling space utilization. Thus, community participation in implementing spatial planning can create a harmonious balance between regional development and preserving local values in Badung Regency.

Based on this explanation, it is related to the Legal System Theory by Lawrence M. Friedman that says legal system is divided into 3 (three), namely the legal structure (the basic elements of the legal system), legal substance (the composition of regulations) and legal culture (human attitudes towards the law and the legal system). An example of this in practice can be seen in the enforcement of building height regulations in Badung

Regency, where the legal structure (regional regulations), legal substance (building height provisions), and legal culture (attitudes towards compliance) all play a role in ensuring adherence to the law. In this case, the Badung Regency Civil Service Police Unit as the enforcer of the regional regulations should supervise every building construction carried out by the community or by investors who invest in Badung Regency, so that there are no violations within. Licensing related agencies must carry out their duties and functions in providing services and supervision to the community regarding the use of vertical space in Badung Regency, such as socializing the provisions and requirements for the use of vertical space to public.

The legal structure plays a crucial role in ensuring effective law enforcement regarding vertical space utilization by providing the framework and regulations that govern building height restrictions. In the case of Badung Regency, the Regional Regulation Number 26 of 2013 sets specific building height requirements, which serve as the legal foundation for enforcing vertical space utilization regulations. This legal structure establishes the parameters within which construction activities must comply, enabling authorities to monitor and enforce adherence to these regulations effectively.

The legal substance, which refers to the composition of regulations, plays a crucial role in ensuring effective law enforcement regarding vertical space utilization. In the case of Badung Regency, the specific building height requirements outlined in the Badung Regency Regional Regulation Number 26 of 2013 serve as the legal substance that authorities use to monitor and enforce adherence to vertical space utilization regulations. These regulations provide the necessary guidelines and standards that must be followed in construction activities to maintain compliance with the law. The quality of the legal substance established or owned by Badung Regency is not sufficient in itself to guarantee effective law enforcement.

The concept of legal culture refers to the human attitudes that individuals hold towards the law. The essence of law as rules is characterized by content that is both general and normative. The content is general because it applies to everyone, and normative because it determines what should be done, what should not be done, or must be done, and determines how to comply with these rules¹. The legal culture of the people of Badung Regency, who are involved in the use of vertical space, must also be taken into account. Without this, the law enforcement or Badung Regency Regional Regulation Number 26 of 2013 in vertical space utilization will not work effectively.

Even though there are provisions governing the use of vertical space, violations still occur. This can be seen from the buildings being built that do not meet building height regulations. Limiting the height of buildings also functions as a measure to preserve the natural landscape, namely reducing energy waste and playing a role in protecting the environment. By limiting the height of buildings, natural beauty can be maintained and over-exploitation can be prevented.

Supervision of Vertical Space Utilization Violations in Badung Regency

Efforts to realize the spatial structure and pattern of Badung Regency through space utilization must be accompanied by supervision to ensure compliance with the regional spatial plan. Supervision includes all efforts and actions aimed at determining the extent to which tasks are being performed in accordance with established policies and objectives². According to Sujatmoko³, supervision is any efforts to evaluate the performance of tasks or activities should be aimed at determining their compliance with expectations. As for the purpose of supervision, to achieve development goals and objectives effectively and efficiently, a good planning system needs to be implemented and a good implementation and supervision system is needed and is able to guarantee the efficiency and effectiveness of achieving the planned development targets and objectives⁴. Supervision can prevent irregularities in carrying out planned work. Supervision of space utilization in Badung Regency is carried out as an effort to realize the implementation of spatial planning in accordance

¹ Sadjijono, H. (2021) Law Between Sollen and Sein (In the Perspective of Legal Practice in Indonesia) (Cetakan 3). *LaksBang PRESSindo*.

² Daim, N. A. (2019) Licensing Law: Information Technology-Based Integrated Licensing Services from a Good Governance Perspective. *LaksBang Justitia*.

³ Sujatmoko, Y. (2019) State Administrative Law. *Setara Press*.

⁴ Helmi. (2013). Hukum Perizinan Lingkungan Hidup (Cetakan 2). *Sinar Graphics*.

with statutory provisions and avoid violations in terms of space utilization in Badung Regency. This is an effort made by the Badung Regency government to create an environment that is well-organized, sustainable and in line with community needs. Spatial planning acts as a mechanism that regulates land use, as a means of coordinating sectoral policies and as a means of protecting the environment. Based on this role, spatial planning itself has become a tool for achieving sustainable development goals.

Supervision and sanctions are both measures to ensure compliance, but they differ in their approach. Supervision is a preventative measure, while sanctions are a repressive measure¹. Bestuursdwang sanctions (government coercion) are the tool most widely used and also the most effective in resolving environmental problems in the use of space². Preventive efforts in the form of measures to prevent and control violations of vertical space utilization in Badung Regency need to carry out counseling, monitoring and supervision of permits (paying attention to the conditions stated in permits). Supervision of the granting of permits is a government control tool to prevent potential environmental damage³. Meanwhile, repressive instruments can take the form of written warnings, government coercion, freezing of building permits (IMB) that have been converted to PBG/SLF. This is different from repressive instruments by the judiciary, in the form of canceling a *beschikking* determination or permit from the relevant agency⁴. Even though supervision is carried out very well, it is still very possible for violations to occur, while these violations must be followed by the application of sanctions. Without the application of sanctions, regulations are just words that have no meaning, which can be violated by anyone⁵.

Supervision in controlling space utilization is carried out, among other things, through supervision of the implementation of the issuance of permits issued by authorized agencies regarding the physical development of an area. In licensing, a supervisory function is attached to space utilization activities in order to protect public interests and preserve the environment. In accordance with existing provisions, the authorized agency is responsible for monitoring, evaluating, and managing space quality with regard to space utilization. Evaluation of the suitability of the spatial plan for space utilization is carried out by examining the form of space utilization and permits held. One of the evaluations is the formulation of recommendations (reporting), namely suggestions for follow-up actions regarding development activities that are not in accordance with the spatial plan. Based on the provisions in Article 60 paragraph (2) of Badung Regency Regional Regulation Number 26 of 2013 concerning Badung Regency Spatial Planning for 2013–2033, it states: “Provisions for Controlling Badung Regency Regional Space Utilization consist of: a) general provisions of the Regulations; b) licensing provisions; c) provisions for granting incentives and incentives; d) sanctions directive”.

The provisions in Article 60 paragraph (2) letter b, the licensing provisions are part of the control of space utilization and the responsibility for technical supervision in the field of licensing is the Badung Regency Investment and One-Stop Integrated Services. Licensing services are the authority of the One Stop Integrated Services and Investment Service (DPMPTSP). DPMPTSP also has the authority to supervise the licensing services that have been issued. Licensing is a policy tool implemented by the Government or Regional Government (Pemda) to control impacts that may arise from social or economic activities⁶. Permits also function as a means of legal protection for the ownership or implementation of an activity. Space utilization permits are given to prospective space users who will carry out space utilization activities based on the spatial planning plan and intended to ensure space utilization in accordance with spatial plans, zoning regulations, and minimum service standards in the field of spatial planning; and prevent negative impacts on space utilization; and protect the general interests of the wider community⁷.

¹ Machmud, S. (2019) Tindakan Preventif dan Represif Non-Yustisial Penegakan Hukum Administrasi Oleh Eksekutif. *Jurnal Hukum Media Justitia Nusantara*. No. 7 (2). Pp. 62–77. DOI: <https://doi.org/10.30999/mjn.v7i2.660>

² Daim, N. A. (2019) Licensing Law: Information Technology-Based Integrated Licensing Services from a Good Governance Perspective. *LaksBang Justitia*.

³ Op cit.

⁴ Machmud, S. (2019) Tindakan Preventif dan Represif Non-Yustisial Penegakan Hukum Administrasi Oleh Eksekutif. *Jurnal Hukum Media Justitia Nusantara*. No. 7 (2). Pp. 62–77. DOI: <https://doi.org/10.30999/mjn.v7i2.660>

⁵ Panambunan, A. M. K. (2016) Penerapan Sanksi Administratif Dalam Penegakan Hukum Lingkungan Di Indonesia. *Lex Administratum*. No. 4 (2). Pp. 93–101.

⁶ Assegaf, M. I. F., Juliani, H., Sa'adah, N. (2019) Pelaksanaan Online Single Submission (OSS) Dalam Rangka Percepatan Perizinan Berusaha Di Dinas Penanaman Modal Dan Pelayanan Terpadu Satu Pintu (DPMPTSP). *Jawa Tengah. Diponegoro Law Journal*. No. 8 (2). Pp. 1328–1342.

⁷ Lestari, R. D., Wisudawati, T., Santoso, A. P. A. (2022) Agrarian Law & Spatial Planning. *Pustaka Baru Pres*.

Permits issued by the Badung Regency Investment and One-Stop Integrated Services Service for space utilization will then be monitored to monitor whether the activities carried out comply with the specified requirements¹. This supervision can be carried out in collaboration with related professions in accordance with the field of supervision regulated by ministries, institutions and/or regional governments. Coordination is basically a form of mutually supportive cooperation with the aim of achieving harmony to create effective cooperation between all parties. In the supervision process, if discrepancies or deviations are found, ministries, institutions, and/or regional governments will take action, such as giving warnings, temporarily suspending business activities, imposing administrative fines, and/or revoking business permits.

Based on an interview with I Wayan Sudira, the supervision of business permits issued through the RBA Online Single Submission (OSS) system by the Badung Regency DPMPTSP in accordance with its authority, the supervision team together with the DPMPTSP carried out an assessment of the implementation of business activities and related buildings. The Regent of Badung Regency formed a Supervision Team through Regent's Decree Number 58/044/HK/2023, in which the Badung Regency DPMPTSP acts as the coordinator of business licensing supervision by involving related technical agencies as members. In supervising business permits that have been issued by the Badung Regency DPMPTSP in accordance with its authority, if there are violations related to spatial planning or building construction, the Badung Regency PUPR Service has an important role. The Badung Regency PUPR Service can take steps in accordance with applicable laws and regulations and coordinate with the Badung Regency Civil Service Police Unit to take action according to its authority based on statutory regulations.

Ida Bagus Surya Suamba, added that buildings that violate spatial planning in terms of vertical space utilization related to multi-storey buildings will be dealt with firmly and subject to administrative sanctions by issuing warning letters and orders to temporarily stop activities in the field and rejecting SLF applications for existing buildings that violate building height regulations. In the period 2018 to 2021, no buildings were found that violated the maximum building height requirement of 15 meters. The following will explain the buildings that violate building height provisions for the 2022–2023 period in the form of Table 8.

Table 8. Buildings That Violate Building Height Regulations in Badung Regency Period 2022–2023

Year	Location	Type of Allocation	Terms (m)	Available (m)	Note
2022	Kayu Aya Street, Seminyak Village, Kuta District	W (Tourism Zone)	Maximum height 15 meters	The overall height of the building is 18.5 meters	Upassha Hotel
2023	Palapa Street, Benoa Village, South Kuta District	R-4 (Low Density Residential)	KLB 1.5-3 floors	5-story building with a total height of 12.3 meters	Construction of Boarding Houses
	Pererenan Beach Road, Pererenan Village, Mengwi District	W (Tourism Zone)	Special provisions for 1 floor KLB borders	3 storey building with a total height of 7 meters	Sau Bali
	Pererenan Beach Road, Pererenan Village, Mengwi District	W (Tourism Zone)	Special provisions for 1 floor KLB borders	3 storey building with a total height of 7 meters	PNB Beach & Resort
	Pererenan Beach Road, Pererenan Village, Mengwi District	W (Tourism Zone)	Maximum height 15 meters	The overall height of the building is 17 meters	See Sea Pererenan
	Batu Mejan Beach Road, Canggu Village, North Kuta District	W (Tourism Zone)	Maximum height 15 meters	The overall height of the building is 18 meters	Apartment Construction

Source: Badung Regency PUPR Service.

From the data presented, there are violations of the maximum building height requirement of 15 meters. This violation was identified during the period 2022 to 2023. It is evident that there are instances of buildings that contravene the provisions set forth in Article 100, Paragraph (2), Letter a of Badung Regency Regional Regulation Number 26 of 2013. These violations can be attributed to the utilization of space that is not in accordance with the spatial planning plan. The existence of buildings that violate this indicates the lack of effective supervision

¹ Adriani, H., Saleh, I., Syahadat, R. M., Patih, T., Putra, P. T. (2022) The Mosque as a Hybrid Space: A Place for Worship and Tourism. *KnE Social Sciences*. Pp. 538–548. DOI: <https://doi.org/10.18502/kss.v7i8.10772>

carried out by the relevant agencies, in terms of building construction carried out by the public and investors who invest their capital in Badung Regency who should comply with the building height provisions as regulated in Article 58 paragraph (2) letter c of the Regulation Badung Regency Region Number 26 of 2013.

Furthermore, Ida Bagus Surya Suamba, added, in relation to building supervision, there is a Spatial Planning Division which has the task of controlling space utilization as regulated in Badung Regent Regulation Number 84 of 2016 concerning Description of the Duties of Regional Services. During the period 2018 to 2019 there were 548 findings of space use violations, however, these were not followed up with administrative sanctions in the form of a written warning letter, as intended in Article 112 paragraph (2) letter a Badung Regency Regional Regulation Number 26 of 2013, the function of controlling space utilization was not effective during that period. In 2020, there was a decrease in the level of space utilization violations due to less effective supervision and restrictions imposed during the Covid-19 pandemic. The period of 2020 to 2023, findings of violations of space use have been followed up with the application of administrative sanctions, although they are still limited to issuing warning letters. Ida Bagus Surya Suamba stated the Badung Regency Public Works and Spatial Planning Service has never imposed administrative sanctions in the form of sealing and demolishing buildings that violate provisions. However, this was only limited to giving a warning letter which was copied to the Badung Regency Civil Service Police Unit as the enforcer of the Regional Regulation. This happens because the majority of violators have completed their permits after receiving a warning letter from the Regency Government.

Regular monitoring is carried out to inventory activities that are indicated to violate spatial planning. The form of action that is considered to violate the site plan (spatial planning) is controlling or constructing a building that violates the designation and the provisions of the building construction spec, even though the imposition can be exchanged (alternatively) for fines (*dwangsom*) or sanctions for building demolition. Thus, it is necessary to clarify what is meant by *bestuursdwang*, so that it can be implemented fairly and wisely¹. Supervision has the urgency to observe, research and evaluate the implementation of previously established plans, so as to ensure that implementation does not deviate from what has been planned. Supervision aims to ensure that the use of space aligns with the function specified in the spatial plan. Control, on the other hand, involves taking action to ensure that the planned use of space is realized². In the event of irregularities in space utilization activities, where the implementation of space utilization is not in accordance with the Spatial Planning Plan and zoning regulations, whether equipped with a permit or without a permit, disciplinary action will be taken. Controlling is part of the process of controlling space utilization as a result of reporting regarding irregularities in space utilization. The imposition of sanctions is a means of controlling the use of space that is not in accordance with spatial plans and zoning regulations, whether equipped with a permit or not. The existence of laws to provide justice, goodness and partiality for the interests of the wider community. When related to the theory of justice, that law carries the value of justice, which has both normative and constitutive characteristics for law³. It is normative, because it is from justice that positive law originates. It is constitutive because justice must be an absolute element of the law and a rule without justice does not deserve to become law. In this case, the Badung Regency Government carries out supervision and control over violations of space use based on the provisions of statutory regulations.

Supervision is carried out by involving the community, whose role includes: submitting reports and/or complaints to the Badung Regency Government. The role of the community in supervising and monitoring the implementation of space utilization activities has significant relevance. Community participation or public participation, in the context of democratic government demands public involvement in the decision-making process which is increasingly crucial in the era of regional autonomy⁴. The implementation of regional autonomy,

¹ Daim, N. A. (2019) Licensing Law: Information Technology-Based Integrated Licensing Services from a Good Governance Perspective. *LaksBang Justitia*.

² Koeswahyono, I. (2012) Law on Land Use and Spatial Planning in Indonesia (Problematics Between Text and Context). *Universitas Brawijaya Press*.

³ Mubayyinah, F. (2019) Legal Review Of Indefinite Revocation Of The Political Right To Hold Public Office Against Corruption Convicts. *Prophetic Law Review*. No. 1 (1). DOI: <https://doi.org/10.20885/PLR.vol1.iss1.art6>

⁴ Gusman, D., Syofyan, Y. (2023) Public Participation In Legislation (Legal Comparison Studies In Indonesia, South Africa, And United State). *Nagari Law Review*. No. 6 (2). P. 133. DOI: <https://doi.org/10.25077/nalrev.v6.i.2.p.133-145.2023>

in accordance with Law of the Republic of Indonesia Number 32 of 2004 concerning Regional Government, has resulted in substantial changes in every aspect of regional government administration.

Based on the provisions in Article 109 paragraph (6) letter b, the community has a role in monitoring and supervising the implementation of space utilization activities so that they are in accordance with the Badung Regency regional spatial plan that has been determined, especially regarding the use of vertical space related to multi-storey buildings. Traditional villages as customary law community units have a role in assisting the government in the smooth and implementation of development in all fields, including in the fields of security and environmental preservation. Traditional villages base themselves on customary law to regulate and manage the lives of customary law communities and their customary territories.

In considering the opinions of Lawrence M. Friedman regarding the effectiveness of law, one must consider the role of legal culture, or human attitudes towards law¹. This is a key element in supporting legal culture by the community, both individuals and customary law communities in Badung Regency, in monitoring space utilization. Furthermore, it assists the government in responding to violations that occur in the field. Community participation in monitoring and supervising the implementation of space utilization activities in their area is a form of controlling space utilization which is not only the responsibility of the government, but also the responsibility of everyone to achieve shared prosperity.

Conclusions

The Badung Regency Regional Spatial Planning Plan has been strictly regulated in Badung Regency Regional Regulation Number 26 of 2013. Empirical results found a gap between the desired (*das sollen*) and actual (*das sein*) implementation of vertical space utilization related to multi-story buildings in Badung Regency, which is not in accordance with the provisions in the Badung Regency Regional Regulation Number 26 of 2013. This is evidenced by the prevalence of high-rise buildings that exceed the specified height requirements. Therefore, in terms of vertical space utilization related to multi-storey buildings is considered not effective. The absence of community participation in monitoring the use of vertical space related to multi-storey buildings can result in negligence in monitoring violations that occur directly in the field. Supervision of vertical space utilization must be done through licensing instruments as a control form carried out by the Badung Regency Investment and One-Stop Integrated Services Service and the Badung Regency Public Works and Spatial Planning Service in coordination with related agencies and community participation.

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