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Our Ref : EncikMak (AMMBPJ)/surat/011.10/001

Your Ref :

Date : 8 November 2010

To : **PETALING JAYA MAYOR'S OFFICE.**

Tingkat 2, Ibu Pejabat MBPJ,
Jalan Yong Shook Lin,
46675, Petaling Jaya, Selangor.

Attn : **YBHG DATO' HAJI MOHAMAD ROSLAN BIN
SAKIMAN.**

Mayor of Petaling Jaya.,



Dato',

**RE: APPROVAL OF PARAMOUNT VIEW DEVELOPMENT BY
PETALING JAYA CITY COUNCIL OSC COMMITTEE.**

I shall note at the onset that decisions made by the Petaling Jaya City Council (MBPJ) OSC committee are final and technically listed only in the full board meeting agenda as information for all other local councillors who are not within the committee.

Be that as it may, I hereby inform MBPJ that decisions involving the Paramount View condominium development that were made by MBPJ does not seem to comply to legal requirements, and that such decisions may have serious consequences.

This letter is written without prejudice.

2002 public hearing notice (attachment 1)

A public hearing was called for the area to build low-cost flats and bungalow lots back in 2002. Seeing as the present Sri Aman low-cost flats is built on a different

plot of land as opposed to what was presented at the public hearing, I shall assume that this layout was not approved and another plan was prepared.

However, a public objection hearing is required for a new plan to be submitted and approved. There does not appear to be any other public objection hearing at the time.

2005 layout plan (attachment 2)

The 2005 layout plan for Paramount View contains no authorizing signature from a certified town planner, yet was approved by the (then) MPPJ full board. Without a planner's signature, MPPJ assumes all legal responsibility for any deficiency or defect of the layout plan that it approved since the acceptance of this unsigned document contravenes Section 21C of the Town and Country Planning Act (TCPA), which requires all plans to be submitted by a qualified person or by a person who is entitled to do so.

This layout plan also appears to be a development proposal report under Section 21A of the TCPA, and not a proper layout plan as prescribed under Section 21B of the TCPA.

2009 layout plan (attachment 3)

The 2009 Paramount View layout plan now contains the authorizing signature of an engineer, which is from a different company from the town planner listed in the 2005 layout plan. This plan changes the existing 2005 Paramount View layout plan and was supposedly made out of public interest.

However, Section 25(2) of the TCPA, which allows for the modification of planning permission for public interest purposes, requires all modified plans to be confirmed by the State Planning Committee to take effect. This was not done.

The OSC committee also failed to follow Section 22(2) of the Streets, Drainage and Building Act in approving this layout plan, which requires the local authority to first publish a public notice of the preparation of the scheme in the Gazette and allow for a period of not less than one month for objections to be made.

Finally, the engineer that signed the plan does not appear to be a certified town planner, which again contravenes Section 21C of the TCPA.

Treatment of open space (attachment 4)

It is my understanding that the developed area was open space surrendered to the state authority upon completion of the initial development. This therefore brings into question the guidelines from the Federal Town and Country Planning Department on the treatment of open spaces, which requires all local councils to use the policy that was introduced by the National Council for Local Government at the 47th meeting dated 9 Aug 1999.

The policy states that all open spaces that are surrendered to the state government must be preserved as open space under the administration of the local authority and gazetted. Numerous other conditions are also listed in the policy.

The policy cannot be ignored by MBPJ or the Selangor government, as the National Council for Local Government is a Federal Constitution provision, specifically under Article 95A.

Article 95A(5) meanwhile mandates that the policies from this body to be followed by both the Federal and State Governments.

Federal Constitution Article 95A(5) – It shall be the duty of the National Council for Local Government to formulate from time to time in consultation with the Federal Government and the State governments a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto; and the Federal and State Governments shall follow policy so formulated.

This policy renders the Petaling Jaya Local Plan 1, which marked the Paramount Condominium development area for commercial purposes, unconstitutional as both MBPJ and the Selangor government failed to follow the formulated policy as per Article 95A(5).

Dwelling further into the subject matter, the power to change land use for a piece of land belongs to the state government. The entire process is covered under the National Land Code (see Borang 7C and 7D) and cannot be done using a local plan, gazetted or otherwise.

Corrective measures

I am writing this letter in my capacity as a councillor who is part of the Sustainable Development Committee which discussed the Paramount View issue before the matter was brought over to the OSC committee.

I hereby submit that the OSC committee is required to ensure that all legal requirements must be met before it approves any planning permission and other related documentation that goes with it.

These findings are now put forth to the OSC to study and to take the necessary corrective measures. Kindly provide a written response within 21 days on what the OSC intends to do.

Yours Sincerely,



MAK KHUIN WENG
MBPJ Local Councillor Zone 9
Majlis Bandaraya Petaling Jaya.

CC :

LEGAL AFFAIRS UNIT.

Tingkat 5, Menara MBPJ,
Jalan Tengah,

46200 Petaling Jaya,
Selangor Darul Ehsan

Attn : **MR. ABD. MUTTALIB BIN MOHD ALI.**

Director Of Legal Affairs Unit.