

READINGS IN MALAYSIAN URBAN AND REGIONAL PLANNING

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CHAPTER 2

PLANNING LEGISLATION IN A VIEW OF 'FEDERALISM' IN MALAYSIA

Azila Ahmad Sarkawi

INTRODUCTION

This chapter discusses planning legislation in the 'federalist' context of Malaysia. In the essence of federalism that has been described as "the establishment of a single political system, within which, general and regional governments are assigned to coordinate authority such that neither level of government is legally or politically subordinate to the other" (Watts, 1966:13), it is a big challenge in terms of the uniformity of laws among the states in Malaysia due to historical factors that land belongs to the State and each state evolved individually before becoming federated in 1963¹. Undeniably this historical account has some legal and administrative impact on current planning practice in Malaysia (Azam, 2006; Ismail, 2005) that might have an indirect impact on the consideration of neighbouring land in development planning.

Goh (1990: 123) commented that "the enactment of the TCPA did not result in any dramatic change in planning practice in the country because the various state governments took their time to adopt the Act". The reasons for this slow adoption are; firstly, urban planning has never been seen by the politicians as a very important activity, probably due to the lack of immediate results from urban planning; secondly, the TCPA introduced a new planning system which most people, including many existing urban planners, neither knew nor understood. The planners needed some time to familiarize themselves with this new system; thirdly, the Act also contains several other requirements, such as the levying of development charges, which few people knew how to implement or what the effects of their implementation would be. Therefore, many state governments are still hesitant about the parts of the Act which deal with planning control, development charges, appeals etc. (Ismail,

¹ Established in 1963, the Federation of Malaysia comprises the long peninsular land mass which separates the Indian Ocean from the South China Sea, together with the northern quarter of Borneo but excluding the small state of Brunei. Peninsular Malaysia, covering 131 573 square kilometres (sq km), is made of eleven states: Perlis, Kedah, Penang, Perak, Selangor (with the Federal Capital Territory of Kuala Lumpur), Melaka, Johor, Negeri Sembilan, Pahang, Terengganu and Kelantan. At 795 sq km, Perlis is the smallest state, while Pahang (35 964 sq km) is the largest after Sarawak. The island of Singapore, which was part of Malaysia between 1963 and 1965, is independent. The Borneo territories, Sabah (formerly British North Borneo), Sarawak and the Federal Territory of the island of Labuan, together cover roughly 198 000 sq km, but are separated at the closest point from the Peninsula by over 530 kilometres. Kota Kinabalu (previously Jesselton), the capital of Sabah, is 864 km from Kuching (Sarawak's capital) and more than 1600 km from Kuala Lumpur (Rutter, 1989).