

22/04/1999

Environmental degradation: Local authorities must act speedily

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MONDAY'S announcement that the Ampang Jaya Municipal Council would take a developer to court for not maintaining and improving its silt traps at the Bukit Sungai Puteh Forest Reserve came as a surprise.

Local authorities, by and large, seem reluctant to act against developers despite soil erosion problems arising from indiscriminate land-clearing and hill-cutting.

More often than not it is the Department of Environment which hauls errant developers to court.

The problem is that the DOE's powers are limited as land matters come under State jurisdiction.

Action from local authorities, to date, consists mainly of compound fines which are often too small to have any effect on large developers.

Stop-work orders are issued only when provoked. This begs the question why this happens.

A local council official in Selangor said the councils would prefer if developers would commit themselves to rectifying the problem rather than having to go through the lengthy process of court proceedings.

And sometimes there is intervention by State Government.

A case in point is the Ukey Perdana housing project in Hulu Klang. Two years ago, the Cabinet directed the Housing and Local Government Ministry to investigate land clearing work after Prime Minister Datuk Seri Dr Mahathir Mohamad spotted a bare hill at the site.

The Ampang Jaya Municipal Council (MPAJ) issued a stop-work order to the developer for contravening earthwork requirements. It had also threatened to take the developer to court.

But that was as far as it went.

In the latest case, Selangor Science, Technology and Environment Committee chairman Datuk Ch'ng Toh Eng said the MPAJ would prosecute Kemas Anggun Sdn Bhd for failing to improve and maintain its silt traps.

State authorities had earlier blamed the developer for the March 9 mud flow which affected houses in nearby Taman Cuepacs.

Action is to be taken under Section 70A of the Street, Drainage and Building Act 1974 which states that no person is allowed to start earthworks without local authority approval.

Sub-sections four and five of the Act allow local authorities to put a halt to any earthwork and to issue directives whenever necessary.

The Act provides for a maximum jail term of five years and up to RM50,000 fine or both.

The Act also allows local authorities to gazette and implement by-laws and regulations they deem fit. For instance, Kuala Lumpur introduced the Earthworks (Federal Territory of Kuala Lumpur) By-Laws 1988 which, among others, state that earthworks have to be carried out in phases as a protective measure.

The project engineer is required to submit plans to prove that the subsequent phase of earthworks will not cause nuisance or damage to the surrounding properties.

In general, most local authorities come up with their own set of guidelines stipulating the manner in which land-clearing should be done, drainage systems and culverts should be built, streams should be protected and silt traps should be adequately provided and maintained.

Since local authorities are given the power to approve layout, building

and infrastructure plans, they can impose their own conditions to compel developers to take measures to protect the environment.

That was why in January, the committee overseeing the Bukit Sungai Puteh development had directed MPAJ and the Kajang Municipal Council (MPKj) to adopt all conditions and recommendations contained in the macro-Environmental Impact Assessment for the project.

This was because the DOE had no legal jurisdiction over the project which did not require an EIA. An EIA is only mandatory when a project involves 50 hectares or more.

The MPAJ and MPKj were asked to include DOE's recommendations into their own set of conditions. This, however, did not stop Kemas Anggun from failing to abide by the conditions imposed.

Was this due to lack of enforcement and supervision? MPAJ had insisted that it had been inspecting the site every two weeks.

Poor supervision is an inherent problem due to shortage of manpower within local authorities. The problem is even more pronounced in areas experiencing rapid growth such as in Selangor, Kuala Lumpur and Johor.

Given the fact that development projects are increasing in number and size, local authorities should have sufficient manpower and the technical expertise.

The latter is needed to determine project site suitability and to conduct effective enforcement.

The official from the local council suggested deploying officials with a sound environmental background, such as from DOE, in local authorities.

The problem is the DOE is already facing manpower shortage and the Public Services Department has no plans to change the current situation.

What the DOE has done to improve its monitoring is to compel developers to submit environmental management plans (EMP) for projects subject to the EIA.

The EMP includes work schedules which explain in detail when earthworks will begin, when and how mitigative measures will be taken, and how often silt traps will be desilted.

Perhaps, local authorities can do the same.

Selangor introduced a system where developers are required to submit a planning evaluation report, describing the proposed projects and offering suggestions on how to overcome adverse implications resulting from it.

Whether or not local authorities are implementing the system is another matter.

Joint inspections by the relevant agencies, such as the DOE, the Drainage and Irrigation Department, the Land Office, and the State Town and Country Planning Department, would help too.

Local authorities can make use of the technical input provided by other agencies with the expertise. For instance, they can adopt and gazette the various guidelines the DOE has come up with.

These include guidelines to protect sensitive sites such as hilly terrain and coastal areas and guidelines to prevent soil erosion.

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