

# Land Development on High Land Areas: Comparison of Process Implementation and Legislation Effectiveness between Malaysia and Hong Kong

Anuar Bin Alias, Azlan Shah Ali, Khairul Nizam Othman

Faculty of Built Environment, University of Malaya, Kuala Lumpur, Malaysia  
Email: [anuar\\_a@um.edu.my](mailto:anuar_a@um.edu.my), [asafab@um.edu.my](mailto:asafab@um.edu.my), [marxiz@yahoo.com](mailto:marxiz@yahoo.com)

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## Abstract

The increasing of development failure on highland urges the professionals to develop solution on mitigating the problems. This paper discusses on land development process and legislation on highland development in Malaysia and Hong Kong. This study is focus on land use planning, laws and regulations pertaining to land development process. Hence, this research is to review the current development process including mechanism and legislation pertaining land development on highland in Malaysia and Hong Kong. Hong Kong is chosen as an example based on the fact that for its successfulness in managing highland developments. The main aim of this research is to evaluate the effectiveness of land development legislations and development approaches for highland development. This research reveals the effects and consequences of implementation regulations and development process on highland that have been used at Malaysia and Hong Kong. In Malaysia, land development process on highland is still in questionable; why present property laws and regulations are fail to achieve highland development standards as compared to Hong Kong. There are weaknesses that need to be overcome such as on the implementation and the intensity of the provision in property laws and regulation that can ensure the achievement of required land development process.

## Keywords

Development, Highland, Legislations, Process, Property

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## 1. Background

In Malaysia, the planning and control of development of land uses is based from the various and sufficient legislations which provide strategies and approaches for development process. It is to ensure living well-being whilst promoting economic growth and the creation of sustainable development areas. Developments plans which are include Local Plans, Structure Plans and National Physical Plan are considered as an important tool in

translating government policies into action and also undermine full consideration on the quality of life, communication and transport system, socio-economic, environment protection, urban forms and infrastructure. The development encroachment towards high land and steep slope area has created massive development issues which occur from ego disaster incidents such as landslide and debris fall. Those incidents causes lost of life and damaged to properties. However, it has affected the property development and economic growth as a whole. Continuous Geo disaster incidents need to be addressed accordingly. Public has stated the issues and concern on safety, land use planning, law and regulation, management, maintenance, accountability, funding and professionalism pertaining to development sustainability on high land and steep slope areas. It is crucial to examine and seek the possible solution in order to ensure development on high land and hill slope area can be under taken to optimise and simultaneously acheiving the highest and best use. However, safety and sustainability aspects are still consider perplexing eventhough the plan has taken into consideration of con-current guideline and requirement for high land and hill slope development. Therefore, this research is crucial to seek to reveals answer and to develop understanding for these questions below:

- 1) How is the land development approaches differ between Malaysia and Hong Kong?
- 2) What are the fundamental mechanism and legislation for development on high land and steep slope area?
- 3) What are the needs for sustainable development on high land and steep slope areas?

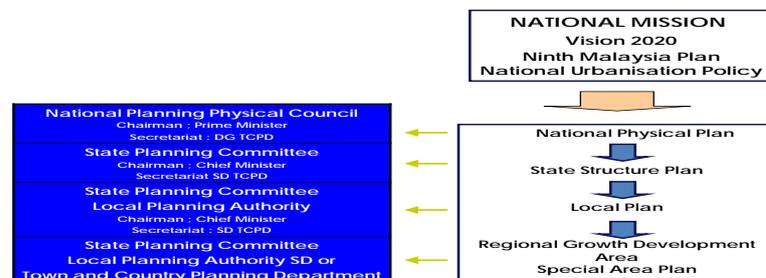
Therefore, the main aims of this research are to examine the issues and problems of land development on high land and steep slope areas and, to evaluate the effectiveness of land development legislation for high land and steep slope development. A hybrid mode that consists of qualitative and quantitative methods are used in the data collection that comprises of perception study (quantitative method), observation study (qualitative method) in case study. A structure interviews for perception study with relevant parties involve in land development on high land and steep slope areas consist of as the government organisation, developer, property owners, professionals etc. The interviews will determine the fundamentals needs and mechanism land development on high land and steep slope areas.

## 2. Discussion and Findings

### 2.1. Property Development System in Malaysia

Development plan system are consists of four level of planning which are National Physical Plan, Structure Plan, local Plan and Special Area Plan. All the plans are referring to the Town and Country Planning Act 1976 (Act 172) which based from the National Development Planning Framework that consist in three levels such as national, state and local level (**Figure 1**). Those plans provide an integrated top down development plan and strategies which mainly focus on physical, environment, economic and social aspects towards national development objective that stipulated in the vision 2020 (Bruton, 2007) [3].

At the federal stage in respect of property development system, there are four other national councils oversee the property development namely, the National Council for Local Government (NCLG) under article 95A, the National Land Council (NLC) under Article 91, and the National Finance Council (NFC) under Article 108 and National Physical Plan Council (NPPC) under chapter 2, Act 172 are chaired by the Prime Minister or his appointee. Representatives from the federal and state governments are also included in these committees (Bruton, 2007) [3]. The governmental machinery which lies on Federal Constitution provides further avenues of federal influence over the state governments. Such influence is exercisable over matters that are even listed under the state list of the Constitution (Hamzah, 2009 as cited in (Ali *et al.*, 2012) [2].



**Figure 1.** Malaysia development planning system (Source: Rosly, 2011). [11]

In April 2007, the Malaysian government under the Ministry of Housing and Local Government (MHLG) initiated a One Stop Centre (OSC) approval process in an effort to improve the delivery system and procedures at all state municipalities. The main purpose is to ensure that Malaysia stays globally competitive in the property and real estate sectors (MHLG, 2008) [9]. OSC is an independent body that acts as a facilitator for the planning process for submission of plans at the local authority. Currently the OSC forms part of the local authority located in every state in Malaysia. Prior to the introduction of the OSC, submission for approval was done separately and in sequence. Only upon approval of the layout plan the building plan can be submitted for approval with the rest of the drawings to follow suit. With the implementation of the OSC, the consultants have the option to submit all five (5) drawings, namely the layout plan, building plan, road and drainage plan, earthwork plan and landscape plan simultaneously (Abdullah *et al.*, 2011) [1]. All planning approvals is subject to the planning permission process referred to under Section IV, Town and Country Planning Act, 1976 (Act 172) [12]. Generally, the local authorities would only offer an initial conditional approval. The submitting party, that is the planner (appointed by the developer), shall then make the necessary amendments in compliance with the requirements stated in the letter of conditional approval issued by the various technical departments.

## 2.2. Legislation Regulating Highland Development Activities in Malaysia

Since 1970's, Planning and Development Guidelines and acts has been used regarding to hill land and steep slope areas. Those guidelines and acts was formed in policy, legislations, regulations, guidelines and implementation procedures that ensure a sustainable high land and steep slope areas. The current legislations and planning guidelines that have been developed since 1997 until 2010 which are:

- 1) Ampang Jaya Draft Structural Plan 1995-2020, 1997
  - 2) National Physical Plan, 2005
  - 3) High Land Development Guidelines, Ministry of Environmental and Resources, 2005
  - 4) Draft Guidelines for the Conservation and Development of Environmental Sensitive Area and its Surrounding Area, 2005
  - 5) State of Selangor Structure Plan 2020, 2007
  - 6) Planning Standards Guidelines Selangor of Selangor, 2007
  - 7) Ampang Jaya Draft Local Plan 2020, 2009
  - 8) Development and Planning Guidelines for Hilly and High land Area, Ministry of Housing and Local Government, 2009
  - 9) Development and Planning Guidelines for Hilly and High land Area, State of Selangor 2010
- (Source: Othman *et al.*, 2011) [10]

## 2.3. Development Process in Hong Kong

One of the responsible departments that involve in land development in Hong Kong is Planning Department. The Planning Department is responsible for formulating, monitoring and reviewing urban and rural planning policies and associated programmes for physical development of Hong Kong. It is also deals with planning at the territorial, sub-regional and district level and also service to The Town Planning Board.

(Source: Liu *et al.*, 1997) [8]

In early 2007, the Government of Hong Kong has launched the “Be the Smart Regulator” program. The aim of this program is to streamline licensing process and reduce compliance cost to business. Two important sectors of Hong Kong is the construction industry and the real estate sectors are the key of the program. In this regard, it remains an on-going initiative of the Government to actively seek improvement opportunities to enhance the procedures for processing various applications and approvals related to the whole property development cycle. The concept of the One Stop Centre is to provide a centralized office for receiving submissions of plans and related applications (such as those for excavation permit, telephone line connection, technical audit for drainage and water supply connection works), as well as coordinating joint inspections to be conducted by different government departments. It aims to provide convenience to the industry by offering a single point of contact. It should also save the time to developers and their authorized persons or representatives in making applications to different departments and utility companies as well as contacting different parties for inspection (**Figure 2**).

(Source: Efficiency Unit, 2013) [4]

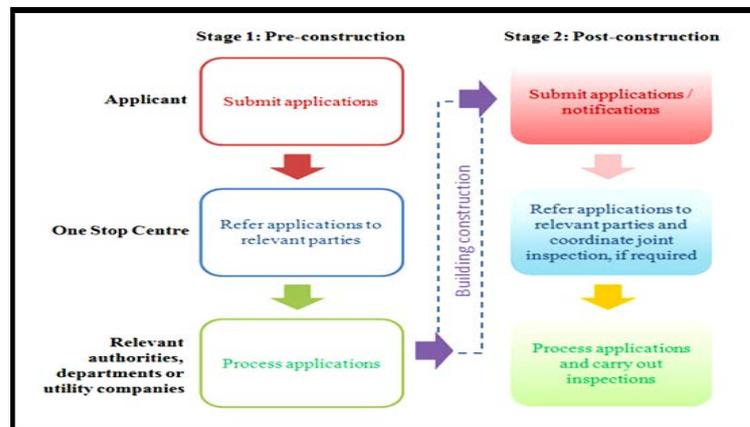


Figure 2. Process of OSC in Hong Kong.

## 2.4. Legislation for Highland Development in Hong Kong

Legislation is the framework within which a society functions. The rights and obligations of individuals and organizations in a society are determined primarily by legislations. Legislation that has been used in land development in Hong Kong are the Town Planning Ordinance, Hong Kong Standards and Guidelines and the Building Ordinance. The existing Town Planning Ordinance was first enacted in 1939. Apart from some major amendments made in 1974 relating to the planning permission system and those made in 1991 relating to planning enforcement and the setting up of planning committees and the Town Planning Appeal Board, the Ordinance has remained largely in its original form. In 1996, the Government published a White Bill on Town Planning to seek public views on the proposal to overhaul the planning system. Having considered the public comments received, the Government introduced the Blue Bill into the Legislative Council (LegCo) in 2000 (HKSARG, 2013) [6].

The Hong Kong Planning Standards and Guidelines (HKPSG) is a Government manual of criteria for determining the scale, location and site requirements of various land uses and facilities. As planning standards and guidelines could affect the allocation of scarce land and financial resources, they should be applied with a degree of flexibility. Trade-offs may be necessary so that the community at large could benefit most from the development. HKPSG is applicable in four aspects:

- Forward Planning—it provides an equitable basis for allocating scarce land resources and location guidelines for various types of land uses and facilities.
- Development Control—it provides guidance on the scale, intensity and site requirements of developments as well as the supporting facilities required.
- Plan Implementation—it provides a yardstick to measure the sufficiency of land for various uses and adequacy of facilities to serve a planning area.
- Raising Quality of Life—it provides guidelines on environmental planning and conservation of our natural landscape, habitats, cultural heritage and townscape (Source: HKSARG, 2013) [6].

Other than that the legislation that is responsible to governing of building control in Hong Kong is the Building Ordinance. The administration of the Building Ordinance is vested in the Building Department which is headed by the Director of Building, who is referred to as the Building Authority (BA). The objective of the Building Ordinance are to provide for the planning, design and construction of building and to make provision for rendering dangerous buildings and land safe. In this ordinance, there are three “authorized person” and have been register under Section 3(1) they are namely; architect, engineer and surveyor. Under the Buildings Ordinance, any person who intends to carry out building works must appoint:

- an authorized person as the coordinator of building works or street works
- a registered structural engineer, where structural aspects are involved and it is also required under the Buildings Ordinance
- a registered geotechnical engineer where geotechnical elements are involved and if so required under the Buildings Ordinance
- a registered contractor to carry out the building works

(Source: Estate Agents Authority, 2007) [5]

## 2.5. Comparative Study between Malaysia and Hong Kong

The Malaysia legislations made holistic provisions for the highland development in Malaysia. In the effort to achieving developed nation status by year 2020, the government recognized the need to improve the quality of life of the citizens. The National Land Code, The Town and Planning Act, The Conservation Act, The Environment Quality Act and Forestry Act acknowledging and accepting the social concept of development; sees highland development as a result of environmental and social barrier and not the physical impairment of the lands. Therefore, highland development is much more of environmental barrier and hindrances that affect full participation, interaction and effectiveness of local authorities. However, highland development model adopted in Malaysia is a top-down approach where government establishes policies and initiate developments for private sector to follow (Hussein & Yaacob, 2012) [7]. The Act also interprets and adopts the concept of universal design in an effort to meet up with international standard in Malaysia. **Table 1** describes a constructive comparative analysis of relevant legislations for highland development between Malaysia and Hong Kong.

## 3. Conclusion

This paper has presented a review of the literature on the comprehensive study between Malaysia and Hong Kong. This paper focused more on legislation and development process which provide strategies and approaches in land development process. Even though with property laws and regulations are in place, land development process on highland is still questionable pertinently why present property laws and regulations fail to achieve highland development standards. There are weaknesses that need to be overcome such as on the implementation and the intensity of the provision in property laws and regulation that can ensure the achievement of land development process. Therefore, it is important to conduct research in the future to find out the best result to this research.

**Table 1.** Highland development laws in Malaysia and Hong Kong.

Country	Act	Key Emphasis
Malaysia	National Land Code (1965)	The National Land Code provides regulation pertaining to land matters. It encompasses the determinations for allocation, administration, access to information and consent concerning on land use rights, interests and restrictions. It includes development approval and land use conditions, title creation, restriction and interest's creation.
	Town and Planning Act 1976	Town Planning Act has been made for proper control of town and country planning in local authority areas. It is also has been stipulated that land development may be controlled and initiated through the formulation and identification of a structure plan and a local plan.
	Land Conservation Act 1960	Specially to conserve hill lands, prevent soil erosion and control salutation. The main provision of this act is to provision relating to the declaration of areas as hill land by the state authority and the provision prohibiting the use of hill land for any purpose other than for limited agricultural purpose and mining.
	Environment Quality Act 1974	The Environment Quality Act 1974 has emphasized the very important role in carefully controlling and facilitating the importance of environmental protection from being destroyed in the land development process.
	National Forestry Act 1984	The purpose of this act is to classify every permanent reserved forest. The classifications lend themselves particularly to the protection of wildlife habitat, forest sanctuary, virgin jungle reserve, amenity forest, education forest and research forest.
Hong Kong	Town Planning Ordinance	Town Planning Ordinance has been made for providing a quality living environment, facilitating economic development and promoting the health, safety and general welfare of the community by guiding and controlling development and land use.
	Hong Kong Planning Standards and Guideline (HKPSG)	The Hong Kong Planning Standards and Guidelines is a government manual of criteria for determining the scale, location and site requirements of various land uses and facilities. The purpose of the HKPSG is to provide general guidelines to ensure that during the planning process.
	The Building Ordinance	The Building Ordinance is to provide the planning, design and construction of building and also to make provision for rendering dangerous building and land safe.

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