



INTRODUCTION TO LAND ACQUISITION IN MALYSIA

Malaysian Technical Cooperation Programme (MTCP):
Roles & Contributions of Land Administration
In Malaysian Development.

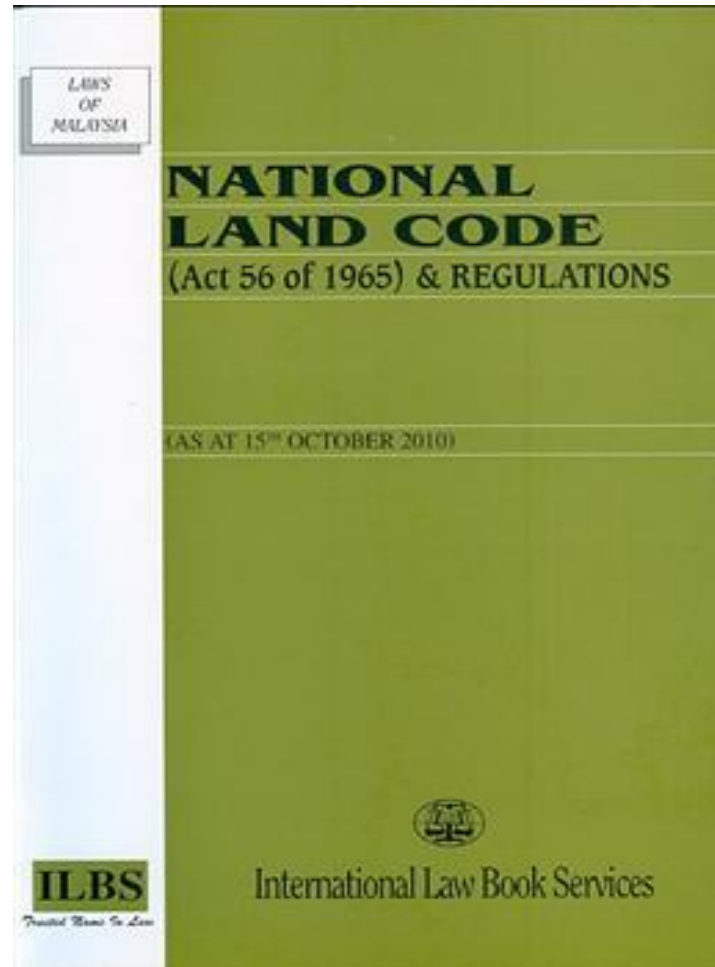
28th August 2018

INSTUN

LAND ADMINISTRATION IN MALAYSIA

- Land administration in Peninsular Malaysia is based on the Torrens System which originated from South Australia , by Sir Robert Torrens (June 27th , 1858).
- The principle behind this system is '**Registration of Title is everything**'. Simply means, once a title is registered, that person will enjoy indefeasibility of title to his/her land.

LAND ADMINISTRATION IN MALAYSIA



LAND

S.5. NATIONAL LAND CODE 1965

‘Land’ includes;

- That surface of the earth and all substances forming that surface;
- The earth below the surface and all substances therein;

LAND (continue)

- All vegetation and other natural products, whether or not requiring the periodical application of labour to their production, and whether on or below the surface;
- all things attached to the earth or permanently fastened to any thing attached to the earth, whether on or below the surface; and
- Land covered by water;

OWNERSHIP AND LAND ACQUISITION IN MALAYSIA

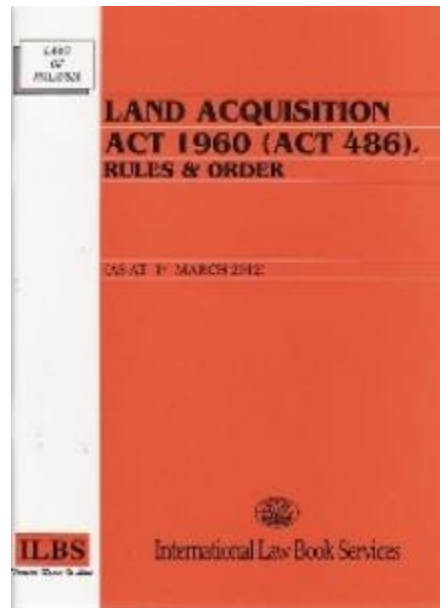
- Interference with individual's right to property – **'ownership of property is not an absolute right'**

FEDERAL CONSTITUTION

Rights to property

- Art. 13. (1) No person shall be deprived of property save in accordance with law.
- Art. 13 (2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

LAND ACQUISITION



LAND ACQUISITION

- Land Acquisition Act 1960 (Act 486). The process by which the Federal Government or State Government acquires private land for a public purpose or a purpose beneficial to the Malaysian economic development AND provides adequate compensation to the affected land owner/s.

LEGAL PROVISIONS

Under the Federal Constitution, LAND IS A STATE MATTER
- 9th schedule State list

76 (4) *Parliament may, for the purpose only of ensuring uniformity of law and policy, make laws with respect to land tenure, the relations of landlord and tenant, registration of title and deeds relating to land, transfer of land, mortgages, leases and charges in respect of land, easements and other rights and interests in land, **compulsory acquisition of land**, rating and valuation of land, and local government ; and Clause (1)(b) and (3) shall not apply to any law relating to any such matter.*

LAND ACQUISITION IN EAST MALAYSIA

- **Land Acquisition in Sabah and Sarawak**

- *95D In relation to the State of Sabah and Sarawak, Clause (4) or article 76 shall not apply, nor shall paragraph (b) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matter mentioned in clause (4) of that Article.*
- Sabah - **Sabah Land Ordinance (Cap.69)**
- Sarawak - **Sarawak Land Code (Cap.81)**

Sections 46- 83

ACQUIRING LAND

Four methods of acquiring land (Federal Government):

1. Application of State Land
2. Negotiation- Direct purchase or lease
3. Land swapping
4. Land acquisition- Land Acquisition Act 1960

RATIONAL OF LAND ACQUISITION

- For the benefit of mass population of the nation without depriving individual needs.
- Public necessity is greater than individual needs and wants.

ADVANTAGES OF LAND ACQUISITION

1. Location (State Authority have a freedom to determine the location)
2. Condition of the land (based on development proposal)
3. Free from all encumbrances:(category of land, express an implied condition)
4. Land acquired through Land Acquisition Act 1960 (mandatory)
5. Compensation is determined according to First Schedule of the Land Acquisition Act 1960
6. Relatively short period of time to acquire a land (KPI - 4 months for plot and 6 moths for alignment)

FEDERAL CONSTITUTION MALAYSIA

- Land is a State Matter – ninth schedule, list II State list. *Chapter 4—Land*
- **PART VI.**
- **RELATIONS BETWEEN THE
FEDERATION AND THE STATES**
- 83. Acquisition of land for federal purposes

AUTHORITIES TO ACQUIRE

- ONLY State Authority may acquire any land which is needed. S.3 LA 1960.
- State Authority" means the Ruler or Governor of the State. S.5.NLC 1965.

LAND ACQUISITION

S.3. (1) LA 1960. The State Authority may acquire any land which is needed—

(a) for any public purpose;

(b) by any person or corporation for any purpose which in the opinion of the State Authority is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or

(c) for the purpose of mining or for residential, agricultural, commercial, industrial or recreational purposes or any combination of such purposes.

AUTHORITIES TO APPLY

- Federal Government[S.3(1)(a) LA 1960]
- State Government [S.3(1)(a) LA 1960]
- Corporation, institution or Registered body [S.3(1)(b) and S.3(1)(c) LA 1960]
- Individual. [S.3.(1) (c) LA 1960]

LAND ACQUISITION

I. Land permissible to acquire

- Land as defined by S.5.NLC 1965

- Land occupied with permission by State Authority e.g. Approved Application, Approved Occupancy, Malay Reserve Enactment or Deed or written on Registry Of Holder (ROH) under Group Settlement Act 1960.

- Customary land e.g. Native land(indigenous people) for generations (excluding roaming area).

2. Land not permitted to acquire

- Foreign sovereignty land. e.g. embassy land

- Federal Government Land (Federal Land Commissioner).

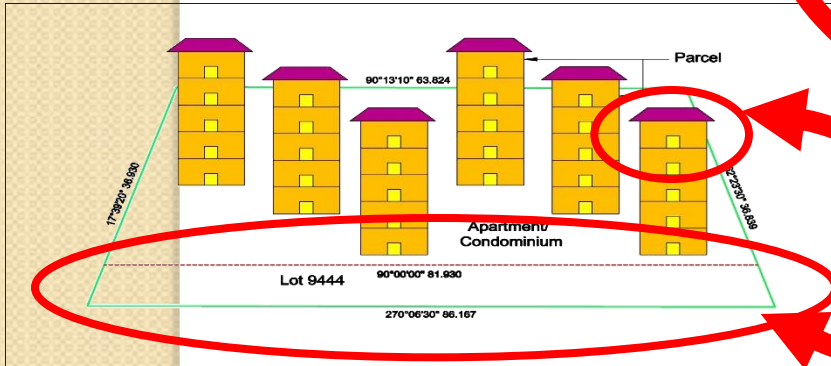
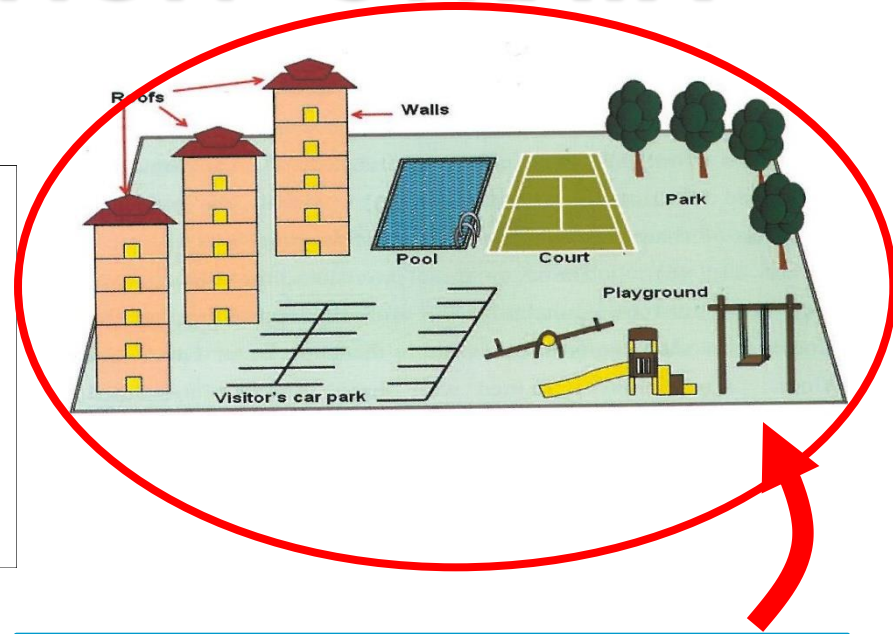
TYPES OF LAND ACQUISITION

- Surface - surface area of the land.
- Strata - high rise block and land parcel registered under strata title
- Underground land (stratum land)- land under certain depth from the surface with consideration to means sea level(mcl)

LAND ACQUISITION – SURFACE AREA



LAND ACQUISITION - STRATA



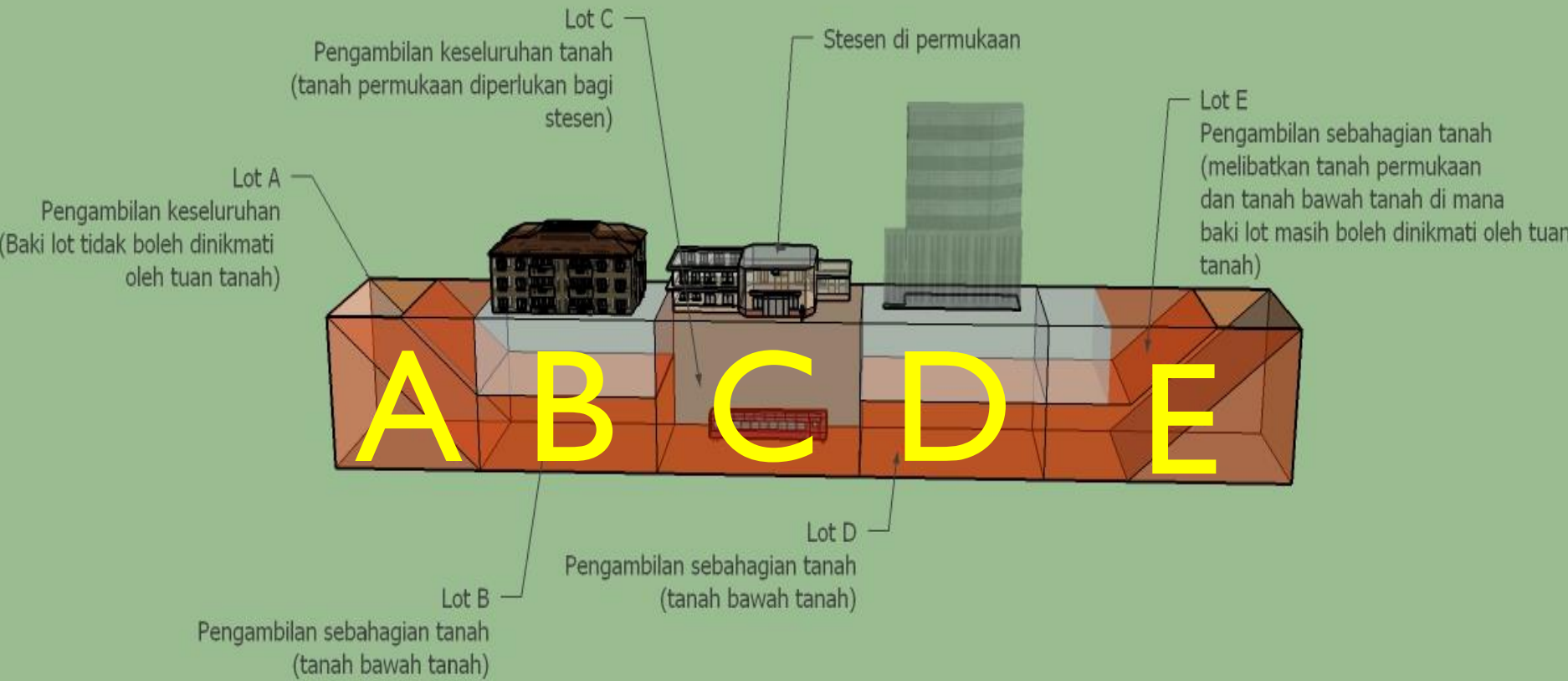
Whole scheme

Partial

Temporary unit/block

Common properties

LAND ACQUISITION- UNDERGROUND LAND (STRATUM LAND)



LAND ACQUISITION PROSEDURE

1. Preliminary notice
2. Power of entry and survey
3. Declaration of intended acquisition
4. Commencement of proceedings
5. Enquiry
6. Award and compensation
7. Taking possession
8. Withdrawal from acquisition
9. Reference to court

LAND ACQUISITION PROCESS

- i. Application of Land Acquisition by department/agency/corporation/individual to the State Authority.
- ii. Application through State Land and Mines Department to the State Authority.
- iii. Approval by State Authority.
- iv. Gazette under S.4 and S.8 (mandatory) LA 1960.

LAND ACQUISITION PROCESS

- v. Land to be marked out.
- vi. Issuance of report and valuation of land by valuers (Valuation and Property Services Department or License Valuers)
- vii. Enquiry by the Land Administrator and written award to the land owner/s and person interested.

LAND ACQUISITION PROCESS



LAND ACQUISITION PROCESS

viii. Payment of award. The Land Administrator shall determine the amount of the costs, which shall include any valuation fee imposed by the valuer, incurred in the proceedings and by what persons and in what proportion they are to be paid.

ix. Taking possession of land.

LAND ACQUISITION PROCESS



LAND ACQUISITION PROCESS



LAND ACQUISITION PROCESS (Reference to Court)



LAND ACQUISITION PROCESS (Reference to Court)

The Land Administrator may, at any time of his own motion by application in Form M refer to the Court for its determination any question as to—

- (a) the true construction or validity or effect of any instrument;
- (b) the person entitled to a right or interest in land;
- (c) the extent or nature of such right or interest;
- (d) the apportionment of compensation for such right or interest;
- (e) the persons to whom such compensation is payable;
- (f) the costs of any enquiry under this Act and the persons by whom such costs shall be borne.

LAND ACQUISITION PROCESS (Reference to Court)

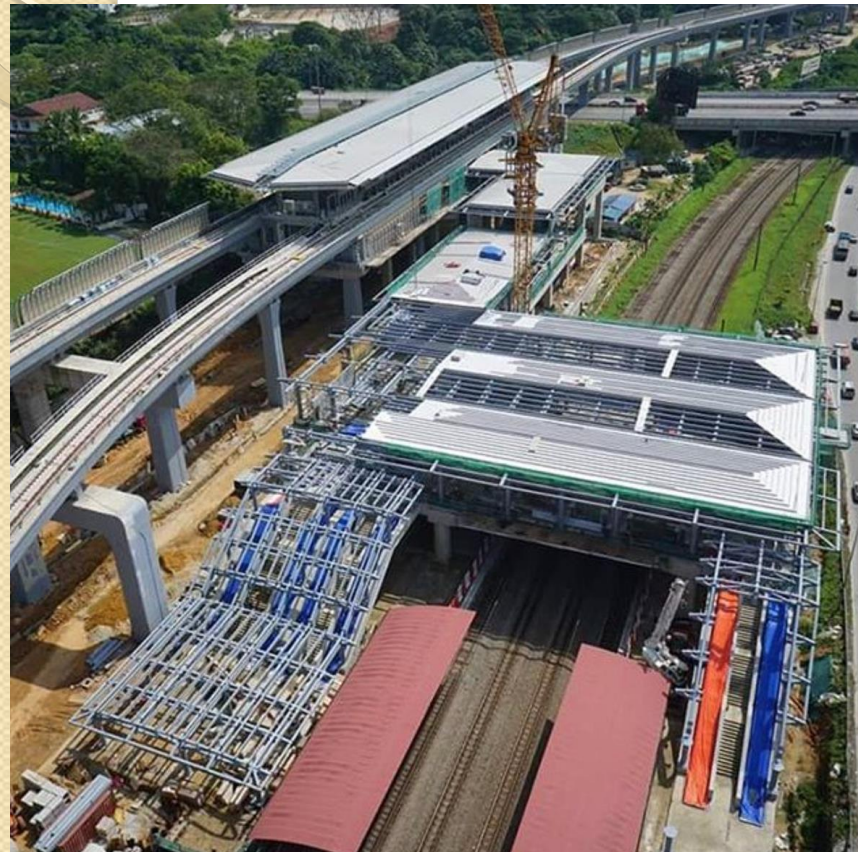
- Any interested person who make claim in due time and not accepted the Land Administrator award may apply to the court and make objection to—
 - (a) the measurement of the land;
 - (b) the amount of the compensation;
 - (c) the persons to whom it is payable;
 - (d) the apportionment of the compensation.

STATE AUTHORITY RIGHT

- To acquire the land.
- To enter and conduct preliminary land investigation on the said land.
- Taking possession of the acquire land

LAND LORD AND INTERESTED PERSON RIGHT

- Land lord and interested person
 - To be informed
 - Adequate compensation
 - Verbal or written claims
 - Appointment of legal aid and valuer
 - Objection of award
 - Acceptance, decline or accept with objection
 - Right to have new title of the lot after the acquisition
 - To be heard

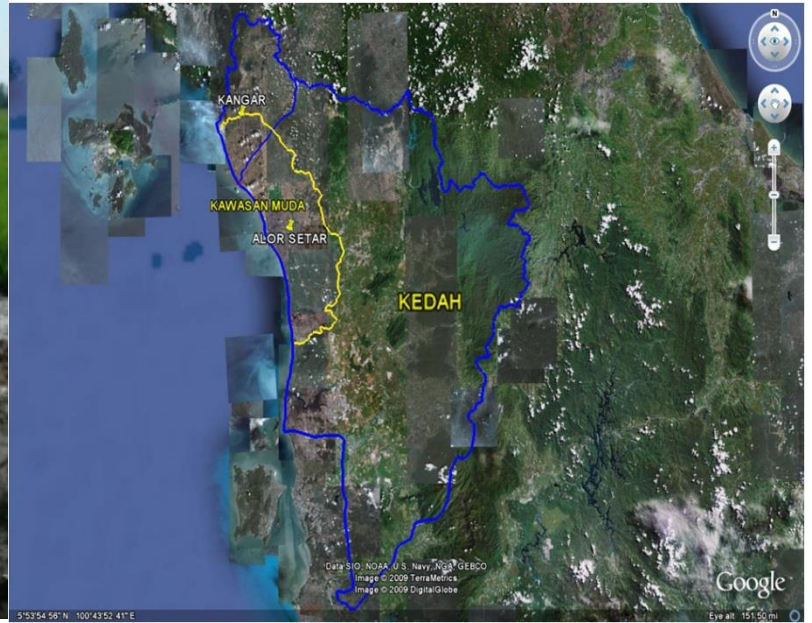


The final alignment for the Klang Valley Mass Rapid Transit (MRT) Sungai Buloh-Kajang Line



A Destination Development Strategy Iskandar, Malaysia







THANK YOU

