

**AN EVALUATION OF PLANNING APPEAL SYSTEM OF SELECTED
STATES IN MALAYSIA**

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master degree of Master of Philosophy Urban and Regional Planning**

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DEDICATION

Specially dedicated to my family:

The late Jamaludin Bin Ahmad
Azizah Binti Hashim
Muhammad Ikmal Bin Jamaludin
Siti Khalilah Binti Shahbudin
Nadiyah Binti Jamaludin
Muhammad Mukhris Bin Jamaludin
Muhammad Lutfi Hadi Bin Jamaludin
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This is all for you.

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ABSTRACT

Planning appeal is recognised as a duel platform for aggrieved applicant against the local planning authority decision on planning application. However, to date, very little study has been done on the planning of the appeal system in Malaysia to determine the efficiency of the system. Thus, this research reviewed the planning appeal process and practices to determine suitable criteria for measuring the performance of an appeal delivery system in Malaysia. Review of literature indicated that six criteria can be employed to assess the efficiency of the Appeal Board mechanism, namely time taken for appeal process; expertise of the Appeal Board; manner of proceedings; access to justice; cost of justice; and evidence and procedure. Besides, the research identified the challenges and problems associated with the planning appeal practice. Finally, measures are recommended to improve the performance of the planning appeal delivery system. Using an exploratory research design, this research collected data from interviews and document analysis involving both qualitative and quantitative data. 588 cases were reviewed to determine time taken to resolve the cases and another 100 cases were studied for the decisions. The Penang, Perak, Johor and Selangor Appeal Boards were used as the case study. In-depth interviews containing 3 sections; perceptions on Appeal Board practices and process, criteria to measure efficiency of the Appeal Board and recommendations to improve efficiency were administered to 8 respondents comprising legal and urban planning practitioners. Meanwhile, analysis of the documents identified that 8 appeal decisions on the planning matters made were overridden that led to changes in the planning policy. The results suggested that the performance of the Appeal Board was less efficient in terms of time as most disputes took more than 6 months to be cleared. Furthermore, competencies of the chairman in decision-making were questionable due to decisions which override planning matters. Most of the respondents perceived that planning appeal is not widely known to the public. However, proceedings of the Appeal Board were commendable since most hearings were conducted in an informal manner. The appeal costs are generally affordable although the Penang Appeal Board has increased its fees for private developers. With regard to the challenges and problems in the planning appeal delivery, four major issues highlighted were non familiarity with legal practice and process; formal conduct of hearings; insufficient number of staffs in the Appeal Board, and lengthy process of the Appeal Board members' appointment. Recommendations based on the study are appoint a competent and knowledgeable chairman; establish informal hearings; provide affordable administrative cost and legal aid; introduce amendments to the Act on waiting planning application decision of more than 1 year; allow third party appeal other than adjoining land owner; and provide further formal training for planning officers on planning appeal process to increase the efficiency of the Appeal Board.

ABSTRAK

Rayuan perancangan telah diiktiraf sebagai satu platform bagi pemohon yang terkilan untuk mencabar keputusan pihak berkuasa perancang tempatan mengenai keputusan permohonan perancangan. Namun begitu, sehingga kini, hanya terdapat sejumlah kecil kajian yang telah dijalankan di Malaysia untuk mengenalpasti tahap keberkesanan sistem rayuan perancangan. Oleh itu, kajian ini melihat kepada proses rayuan perancangan dan aplikasi untuk mengenalpasti kriteria yang sesuai untuk mengukur tahap keberkesanan pelaksanaan sistem tersebut di Malaysia. Kajian literature telah mengenalpasti enam kriteria yang boleh digunakan untuk menilai tahap kecekapan mekanisme Lembaga Rayuan iaitu; masa yang diambil untuk proses rayuan; kepakaran Lembaga Rayuan; cara prosiding; akses kepada keadilan; kos keadilan; serta bukti dan prosedur. Selain itu, kajian ini juga telah mengenalpasti masalah dan cabaran yang berkait rapat dengan pelaksanaan rayuan perancangan. Akhir sekali, terdapat kayu ukur yang telah dicadangkan untuk meningkatkan tahap pelaksanaan sistem rayuan perancangan. Menerusi reka bentuk penyelidikan penerokaan, kajian ini telah mengumpul data daripada temu bual dan analisis dokumen yang merangkumi data kualitatif dan kuantitatif. 588 kes telah dipilih untuk mengenalpasti masa yang diambil untuk menyelesaikan kes rayuan and 100 kes telah dikaji untuk meneliti keputusan rayuan yang dibuat. Lembaga Rayuan Pulau Pinang, Perak, Johor dan Selangor telah digunakan sebagai rujukan kes. Temu bual mendalam mengandungi 3 bahagian; persepsi mengenai pelaksanaan dan proses Lembaga Rayuan; kriteria untuk mengukur tahap keberkesanan Lembaga Rayuan dan cadangan untuk meningkatkan kecekapan telah diajukan kepada 8 responden yang merupakan pelaksana undang-undang dan perancangan. Manakala, analisis dokumen telah mengenalpasti 8 keputusan rayuan telah mengeneipkan aspek perancangan yang menyebabkan perubahan kepada polisi perancangan. Hasil kajian mendapati tahap pelaksanaan Lembaga Rayuan adalah kurang cekap kerana mengambil masa lebih daripada enam bulan untuk diselesaikan. Tambahan pula, kewibawaan Pengerusi dalam membuat keputusan juga dipersoalkan kerana mengabaikan aspek perancangan. Kebanyakan responden menyatakan bahawa rayuan perancangan masih belum mendapat liputan yang meluas daripada orang awam. Namun begitu, prosiding Lembaga Rayuan dipuji kerana dijalankan dalam bentuk informal. Kos rayuan juga dilihat mampu milik walaupun Lembaga Rayuan Pulau Pinang telah meningkatkan fi untuk syarikat pemaju. Merujuk kepada masalah dan cabaran yang dihadapi dalam pelaksanaan rayuan perancangan, terdapat empat isu utama yang telah dikenalpasti iaitu ketidakbiasaan dengan pelaksanaan dan proses undang-undang; prosiding pendengaran yang formal; ketidakcukupan staf dalam Lembaga Rayuan dan proses pelantikan ahli Lembaga Rayuan yang mengambil masa yang lama. Kajian ini telah mencadangkan bahawa pelantikan Pengerusi yang berwibawa dan berpengetahuan hendaklah dibuat; melaksanakan pendengaran yang tidak formal; menyediakan kos pentadbiran dan bantuan undang-undang; memperkenalkan perubahan kepada Akta berkenaan keputusan permohonan perancangan yang mengambil masa lebih daripada 1 tahun; membenarkan permohonan rayuan pihak ketiga selain daripada pihak tanah berjiran; dan menyediakan latihan formal untuk pegawai perancang tentang proses rayuan perancangan untuk meningkatkan tahap keberkesanan Lembaga Rayuan

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- LR/SP/10/1994 Lim Ah Meng & Lim Ten Hoo v. MPSP
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- LR/PP/01/95 Tetuan Island View Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang
- LR/PP/7/1996 Bencon Development Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang & Ors
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- LR/PP/3/2000 Tetuan Mekar Setia Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang
- LR/PP/7/2000 Tetuan Mustapha & Khoo v. Majlis Perbandaran Pulau Pinang
- LR/PP/10/2001 KHSB Marketing Sdn. Bhd. vs. Majlis Perbandaran Pulau Pinang Song Hin Sdn. Bhd. v. MPPP [2001]
- LR/PP/1/2002 N. Chelliah a/l Nagalingam Servai v. MPPP
- LR/PP/4/2002 Khoo Kok Seang v. MPPP
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- LR/SP/2/2005 Tetuan Beh Yoong Hock v. Majlis Perbandaran Seberang Perai
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- LR/PP/23/2007 Lim Eng Huat v. MPPP
- LR/PP/24/2007 Than Thean Soo v. MPPP
- LR.SEL. (83-85) MPAJ (07-09) 2008 Bluementhal Reality Sdn. Bhd., Dato' Abdul
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- LR.SEL.(102)MPSJ(09)2008 Tadika Anak Permata (Krista Puchong Hartamas) v.
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- LR/SP/32/2009 Desa Menang Sdn. Bhd. v. MPPP
- LR.SEL.(109)MPSJ/03/2009 Lee Wan Nam v. Majlis Perbandaran Subang
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- LR/PP/34/2009 Maltag Sdn. Bhd. v. MPPP
- LR/PP/18/2009 Khaw Lay Eng & Khoo Teng Seng v. MPPP
- LR.SEL.(105)MBSA/01/2009 Puan Khairiah Talha v. Majlis Bandaraya Shah
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- LR.SEL. (116)MPSJ/06/2009 Tetuan NPO Development Sdn. Bhd. v. Majlis
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- LRNJ/04/MPBP/01/005/2010 Envilink Sdn. Bhd. v. Majlis Perbandaran Batu
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- LR.SEL.(188) MPK/04/2010 Kang Lih Yuan v. MP Klang
- LR.SEL.(151)MBPJ/01/2010 Tetuan Beemer Sdn. Bhd. v. Majlis Bandaraya
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- LR/PP/35/2010 Tetuan Old Frees Association Sdn. Bhd. v. MPPP
- LR/PP/34/2010 Tetuan United Hokkien Cemeteries v. MPPP
- LR/PP/7/2010 Harum Bayan Sdn. Bhd. v. MPPP
- L.R.N.PK.086/MPM/05 Tetuan Eclipse Property Sdn. Bhd. v. Majlis Perbandaran
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- L.R.N.PK.101/MBI/76 Tetuan Haluan Ikhlas Sdn. Bhd. v. Majlis Bandaraya Ipoh [2011]
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- L.R.N.PK.098/MBI/74 Tetuan Jasa Lagenda Sdn. Bhd. v. MBI [2011]
- LR/PP/24/2011 Tetuan Tat Tat Boot Constructions Sdn. Bhd. v. MPPP
- LR/PP/42/2012 Tetuan Heavenly Heritage Sdn. Bhd, v. MPPP
- LR/PP/6/2012 Tetuan Kok Nyet Yin v. MPPP
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- L.R.N.PK.110/MBI/84 Special Setup Sdn. Bhd. v. Majlis Bandaraya Ipoh [2012]
- L.R.N.PK.107/MPT/10 Lim Dun Seng v. Majlis Perbandaran Taiping [2012]
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- L.R.N.PK.113/MBI/86 Leong Poh Choo v. Majlis Bandaraya Ipoh [2012]
- L.R.N.PK.111/MPT/11 Tetuan Tasek Food Court v. Majlis Perbandaran Taiping [2012]
- L.R.N.PK.117/MDK/3 Ceria Canggih Sdn. Bhd. v. Majlis Daerah Kerian [2013]
- LR/SP/31/2010 Hu Yu Kamg v. Majlis Perbandaran Seberang Perai
- LR/PP/9/2013 Ooi Yook Chu v. MPPP
- LRNJ/04/MPBP/06/023/2013 Tetuan Sumiteras Sdn. Bhd. v. Majlis Perbandaran Batu Pahat
- L.R.N.PK.115/MDK/1 Bumi Johan Sdn. Bhd. v. Majlis Daerah Kerian [2013]
- L.R.N.PK.124/MDK/5 Pakatan Saksama Sdn. Bhd. v. Majlis Daerah Kerian [2013]
- L.R.N.PK.114/MBI/87 Ng Chan Wai v. Majlis Bandaraya Ipoh [2013]
Pembinaan Gaya Indah Sdn. Bhd. v. Majlis Daerah Kerian [2013] L.R.N.PK.115/MDK/1
- L.R.N.PK.123.MDTM/1 Jurukur Proaktif v. Majlis Daerah Tanjung Malim [2013]

- L.R.N.PK.130/MBI/92 Asia Metropolitan School v. Majlis Bandaraya Ipoh
[2014]
- L.R.N.PK.119/MBI/88 Logarajah v. MBI [2013]
- L.R.N.PK.131/MBI/93 Agensi Sri Anika Sdn. Bhd. v. MBI [2014]

HIGH COURT CASES

- 1 LNS 46 District Council of Central Province Wellesley v. Yegappan
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- 1 LNS 143 FC Pengarah Tanah dan Galian, Wilayah Persekutuan v. Sri Lempah
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- 1 LNS 28 Datin Azizah Abdul Ghani v. Dewan Bandaraya Kuala Lumpur
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- 3 MLJ 1 MPPP v. Syarikat Bekerjasama-sama Serbaguna Sg. Gelugor
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- 3 MLJ 640 Lee Freddie & Ors v Majlis Perbandaran Petaling Jaya & Anor
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- 2 MLJ 97 Abdul Razak Ahmad v. Kerajaan Negeri Johor (1994)
- 3 CLJ 837 Majlis Perbandaran Seberang Perai v. Tropiland Sdn. Bhd. (1996)
- 1 AMR 509 MPPP v. Lembaga Rayuan Pulau Pinang & Junimas Sdn. Bhd.
(1999)
- 1 LNS 172 Chong Co Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang (1999)
3 MLJ 51 [1999]
- 5 MLJ 130 Chong Co. Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang (2000)
- 7 CLJ 473 Ah San v. Majlis Bandaraya Ipoh (2005)
- 6 MLJ 581 Sri Bangunan Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang &
Lembaga Rayuan Pulau Pinang (2007)
- 6 CLJ 805 Abdul Rahman Abdullah Munir & Ors v. Datuk Bandar Kuala
Lumpur [2008]
- 3 CLJ 962 Awang Ismail & Ors v. Kerajaan Negeri Kedah & Ors (2010)
- MLJU 885 Khaw Lay Eong v. Majlis Perbandaran Pulau Pinang [2013]
- 8 MLJ 539 BU Developments. Sdn. Bhd. v. Selangor Appeal Board & Ors
[2014]

5 MLJ 554 Majlis Perbandaran Subang Jaya v. Visamaya Sdn. Bhd. & Anor
[2015]

ENGLAND CASES

1 KB 223 Associated Provincial Picture Houses Limited v. Wednesbury
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AC 40 Ridge v Baldwin [1964]

1 LNS 71 South East Fire Bricks Sdn. Bhd. (1980)

JPL 634; 2 PLR 70 Electricity Supply Nominees Ltd v Secretary of State and
Northavon District Council and Kingswood Borough
Council [1992]

Pyx Granite Co. Ltd v. Ministry of Housing and Local Government [1960] A.C. 260

Fawcett Properties Ltd. v. Buckingham County Council, 1961 App. Gas. 636; Hall

(J.A.) & Co. v. Shoreham-by-Sea Urban Dist. Council, [1964] 1 W.L.R. 240 (C.A.);

R. v. Hillingdon London Borough Council, ex p. Royco Homes Ltd., [1974] 2

W.L.R. 805 (Q.B. Div'l Ct.);

Pyx Granite Co. v. Ministry of Hous. and Local Gov't, [1958] 1 Q.B. 554.

LIST OF ABBREVIATIONS

JPBD	Jabatan Perancangan Bandar dan Desa
MBJB	Majlis Bandaraya Johor Bahru
MPJBT	Majlis Perbandaran Johor Bahru Tengah
MPPP	Majlis Perbandaran Pulau Pinang
MBPP	Majlis Bandaraya Pulau Pinang
MPSP	Majlis Perbandaran Seberang Perai
MBI	Majlis Bandaraya Ipoh
MBSA	Majlis Bandaraya Shah Alam
MPSJ	Majlis Perbandaran Subang Jaya

LIST OF APPENDICES

Appendix 1 Questionnaires

CHAPTER 1

INTRODUCTION

1.0 Introduction

Rapid urban population growth leads to an increasing number of physical developments around the world. Thus, urban planning needs to mobilize the existing resources in an optimum manner. In recent years, the role of physical planning has become more complex as it has involved the delicate balancing of urban development while delivering amenities to enhance the quality of life of the people, at the same time preserving the environmental quality (Marzukhi et.al., 2012). Accordingly, there is the need for laws and regulations to guide individuals or organizations. Thus, almost all countries promulgate laws related to land use and development. For a town planner, laws influence what form of physical changes can actually be realised and to an extent the socio-economic dimensions that should accompanied those changes. The laws set the parameters to the degree to which the authorities can influence other parties' properties and provide the necessary policy instruments with which to intervene in order to achieve the desired goals (Beunen & Dijk, 2009). Planning law is essentially statutory as many other law subjects, such as contract and tort. This is explained by the introduction of a comprehensive system of planning and development control with far-reaching implications in the use and enjoyment of land (Khublall & Yuen, 1991). Planning law generally does not accommodate detailed ramifications relating to the exercise of administrative discretion in decision-making.

Disputes over land development are ubiquitous due to various complications that arose. Apart from the differential impacts of development as some individuals may benefit from development while others are deprived, a more persistent conflict in planning occurs on day to day basis involving development applications and the presence of 'not in my back yard' (NIMBY) attitudes which raised objections by property owners to what is being proposed. Planning theory has brought forth several methods to counter conflicts pertaining to land use. In the sixties, the conflict between protection of public interest and private interest has advanced the need for public participation (Arnstein, 1969) and advocacy planning (Davidoff, 1965). This led to assisted negotiations (Forester, 1989) and a more democratic focus of consensus building (Innes, 1996). Later the notion of 'ideal speech situation' (Habermas, 1981) was added to communicative methods (Healey, 1997, 2006). Such techniques are often successful at the development plan-making stage as it generally involves the whole community. While development plans set out the land use policy, development control is concerned with the implementation of the policy and it is at this stage that individual interests are affected.

Since land use planning represents an intervention by the government of traditional property rights, it is therefore justified that a review mechanism be established to ensure that such powers are appropriately used. Thus, when an applicant for planning approval received an adverse decision from the planning authority i.e. a refusal or planning conditions not in his/her favour, the conflicting parties may choose to appeal to some 'higher' decision-making authority. Countries like Australia and England provide for a right to appeal by establishing a tribunal to hear the appeals. Pursuant to s36 (1) Town and Country Planning Act 1976 (hereinafter, the Act) an Appeal Board is established for every state in Peninsular Malaysia. This research therefore attempts to contribute to further understanding of the planning Appeal Board by examining the performance of selected Boards in Peninsular Malaysia

1.1 Problem statement

The establishment of appeal bodies in the field of planning is essentially attributed by the need to ensure efficient administration of disputes by a planning authority outside the judicial system. Planning decisions are legal decisions and it is bound under the general court system, even though Appeal Board is administered by state authority. The bodies that decide appeals and the decisions themselves are pertinent to urban planning. Indeed, the appeal procedures are considered to be the cornerstone of the planning system because it is where the system and its policies are challenged and often the premise where the debatable and complex issues are addressed (Cullingworth et al., 2015). Planning conflicts are first heard by the appeal tribunals as first instance independent appellate bodies, however the final say for the planning appeal decision holds by the legal Chairman appointed. Appeal tribunals serve as a meeting point of law and planning often to deliberate about rights and resources. It is also a place for the inevitable contestation between public authorities, developers, and the public. It therefore becomes an invaluable source for learning about planning works and to an extent the practical implications of policies that are being challenged (Punter & Bell, 2000).

Appeal tribunals may take various forms. For example, the English appeal system is made up of the Planning Inspectorates acting for the Secretary of State for the Environment, who sits alone in deciding appeals. The states in Australia have various forms of appeal bodies. The New South Wales established the Land and Environment Court aimed to provide a flexible procedural framework to resolve conflicts. In New Zealand, the Environmental Court was set up to conduct ‘people-friendly’ system of appeals. A right of appeal also varies in term of its scope. Some tribunals review the merits of a planning appeal e.g., England and Australia while others like the Oregon’s Land Use Board of Appeals are confined to review the questions of law. Whatever the form and scope are, the primary purpose establishing bodies to determine planning appeal is to provide a venue for conflict resolution, to prevent unfair decisions, and to protect aggrieved individuals against the unsatisfactory decisions of lower-tier planning agencies (N. Mualam, 2014).

Questions however are raised as how well the planning appeal systems performed. Compared to other aspects of planning, not many studies are done on aspects of planning appeals including appeal processes, form and composition of appeal bodies as well as appeal decisions. The studies carried so far however have raised a number of shortcomings of planning appeals. A study by (N. Mualam, 2014) suggested that there are planning tribunals established in democratic countries purportedly operate under transparent, equitable and fair guidelines are found to be lacking transparency and costly participation (A. A. Moore, 2013) or limited right of appeal (Ellis, 2006). The operation of an appeal body itself has also been disputed as it may undermine democracy due to decisions being made by the body itself instead of the local politicians (Chipman, 2002).

The methods of dealing with planning disputes have also been criticised (Barker & Couper, 1984; Pearce & Bingham, 1997; Purdue, 1991); also (Bacow & Wheeler, 1984; Dukes, 1996) they are found to be too formal thus users feel intimidated. Hearings or local inquiries which employed adversarial style often intensifies rather than alleviates conflict between the parties. In the British System, depending on the method or procedure used, appeal decisions are alleged to be partial towards the interests of central government; decisions are considered as inefficient as they come as win/lose outcomes and limited public involvement (Pearce, 1999).

Although the Malaysian planning law is closely modelled after the Town and Country Planning 1968 for England and Wales, the evolution of the laws in each country thus far, has occurred in quite different manner from each other. In the context of planning appeal, similarities may only be found in term of scope of appeals and the nature of review which is merit based. In Peninsular Malaysia, planning appeals are heard and decided by the planning Appeal Board set up for each state unlike the English Inspectorate system to be further discussed in Chapter 2. The Appeal Board is constituted as quasi-judicial body provided with wide power to review appeal cases “de novo” which raises the question as to the extent of the authority of the Board. Although instances where the Appeal Board overturned the

decisions of the local planning authority are relatively few, it would seem that some decisions are considered to be an interference of the planning system. It therefore raises concern as to whether the Appeal Board may have been given too much power as to be the ultimate authority in the final determination of planning policies (Lee, 2002b). The formulation of planning policy involves both consultative and participative process implying that the tribunal alone may not be adequate to ensure that public interest is protected.

Several cases that have been decided by the Appeal Board demonstrated that both issues of law and policy were addressed by the Board which goes against the notion that review of planning cases should be confined only to planning merits. These questions lead to the composition of the Appeal Board. As required by the Act, both Chairman and Deputy Chairman should have judicial qualification and experience to be appointed, however there is a concern that they may not be able to address the right planning issues in the appeal. Similar concerns are also raised in other planning tribunals, for example in New South Wales, Australia which consequently established the Land and Environmental Court to address the issues of expertise (Willey, 2007b). The Malaysian practice of appointing both the Chairman and Deputy Chairman from legal community also means that the appeal procedures are more inclined to be formal and on court basis. This has been contradicting to the practice of tribunal whereas it should be conducted in round table discussion and friendly to public.

Although the planning statute for Peninsular Malaysia was introduced in 1976, it is only in early 2000 that all states accepted the complete provisions of the law. By 1990, Penang was the only state that applied all parts of the Act and established the first Planning Appeal Board. Planning appeals started to be lodged in then and the number grew overtime. Of late the number of planning appeals in states other than Penang, namely Perak, Selangor and Johor have steadily increased. This implies an increasing awareness among the public that has underlies and echoes the importance of urban planning and the related rules of law. The issues raised above need to be further examined.

Theoretical knowledge on planning appeals are however underdeveloped. Compared to other aspects of planning, planning appeals do not attract as many studies. Studies on planning appeals have included Brotherton, (1993); Buitelaar, Galle, & Salet, 2013; Green Balance, Solicitors, Popham, & Purdue, 2002; Nir Mualam, 2014; Punter & Bell, 2007; Willey, 2001, 2005, 2006, 2007a, 2007b). Since planning discipline is closely tied to the governmental system as well as socio-cultural nature of the country, the findings of these researches may not be wholly applicable. Another study has been added up. To date, there have been only five studies on Malaysian planning appeals i.e. (Johar, 1989) who evaluated the Malaysian planning legislation; (Lim, 1994) who review the function of Appeal Board and how the decision affected the town planning; (Lee, 2002b) who reviewed the power of the Appeal Board; (Azlan & Ahmad Sarkawi, 2011) who examined the appeal cases of the Penang Appeal Board and (Maidin, 2012) who examined the Malaysian town and country planning law and procedure.

1.2 Research Questions

The study seeks to answer the following research questions:

- i. Do the selected criteria for measuring the performance of Planning Appeal Boards is applicable in general?
- ii. What are the problems and challenges within the administrative process of Planning Appeal Board in Malaysia?
- iii. How can the delivery of Planning appeal system are improved for effective dispute resolution in Malaysia.

1.3 Aim and Objectives of the Study

The aim of this study is to assess the Planning Appeal system in Malaysia with a view to making recommendations for improving planning appeal practice. To achieve its aim, this study outlines the following objectives:

- i. To review Planning Appeal processes and practices so as to determine the suitable criteria for measuring the performance of Appeal delivery system in Malaysia.
- ii. To identify the challenges and problems associated with Planning Appeal practice in Malaysia.
- iii. To recommend measures for improving the performance of Planning Appeal delivery system in Malaysia.

1.4 Significance of Study

The primary goal of the research is to improve the delivery system of planning appeal. An evaluation of the efficiency of the Planning Appeal Boards is fundamental for improving planning delivery system in Malaysia. This is because the planning appeal system is important in guiding and managing physical and land use planning and development for both current and future needs of the society. This is because; planning appeals has to take competing interests of different parties and public interest into consideration in every decision made. Apart from that, planning appeals also ensure that the equality of treatment for all parties is delivered, especially for aggrieved planning applicants. In addition, planning appeal acts as a platform to rectify any decision made by local planning authorities such as irrationality, impropriety, unreasonableness or disproportionality. Thus, better quality of life for both urban and rural can be promoted.

This significance of this study is to highlight the importance of Appeal Board as a safeguard mechanism against the wide discretionary power of local authority and the results of this study will be useful to improve the performance of Appeal Board process and practice. For example, this study has listed criteria to evaluate the performance of Appeal Board such as time taken for planning appeal process, the expertise of Appeal Board, conduct of hearing, evidence and procedure, access to justice and cost of justice. From the evaluation criteria, this study helps the policy makers and the agencies to speed up the administrative process for an appeal registered while delivering just and fair decision to the both aggrieved applicants and respondents. It also helps to point out the strength of weaknesses of current delivery performance of Appeal Board in the selected states.

1.5 Scope of the study

This study explores the current trends of planning appeal in Peninsular Malaysia to identify the strength and weakness of the current planning appeal system. Accordingly, the study undertook an extensive review of the literature to identify the most suitable criteria for evaluating the efficiency of the Planning Appeal system with particular reference to Appeal Boards in Malaysia. Similarly, the study also examined the problems and challenges associated with Appeal Board delivery system through process and practice. The study is, however, concerned with rejected planning permission and imposed conditions that come with planning approval.

Research with regards to Appeal Board delivery system is considerably difficult because it only a small fraction of the society is involved in Planning Appeal. As matter of fact, the Appeal Board establishment and its practices are only well-known by the persons who are directly involved in it. In addition, only two

planning consultants were established to specifically consult on planning appeal in Malaysia which are KWA Planners Sdn. Bhd. And PAG Consult Sdn. Bhd. In fact, some of respondents refused to participate because of their tight schedule. Therefore, it is difficult to use probability sampling technique to randomly select respondents as those involved in the Appeal Board's system Board members are small in number. In practice, only 1 legal advisor manages appeal cases, whilst an urban planning officer serves as a registrar. This small number of respondents limited the study to the use of purposive sampling for data collection.

Other limitations of the study include unavailability of data for assessing grounds of decision for appeal cases. Besides, there was poor system of storing data especially for the first set of appeal cases that the Boards handled. Most of the appeal cases in the immediately after the Appeal Board were established were not stored in digital form. It was only available in hard copy that was not easily accessible by the public.

1.6 Research framework

This study encompasses five main stages (Fig 1.1), namely preliminary study, literature review, data collection, data analysis and synthesis, and research findings.

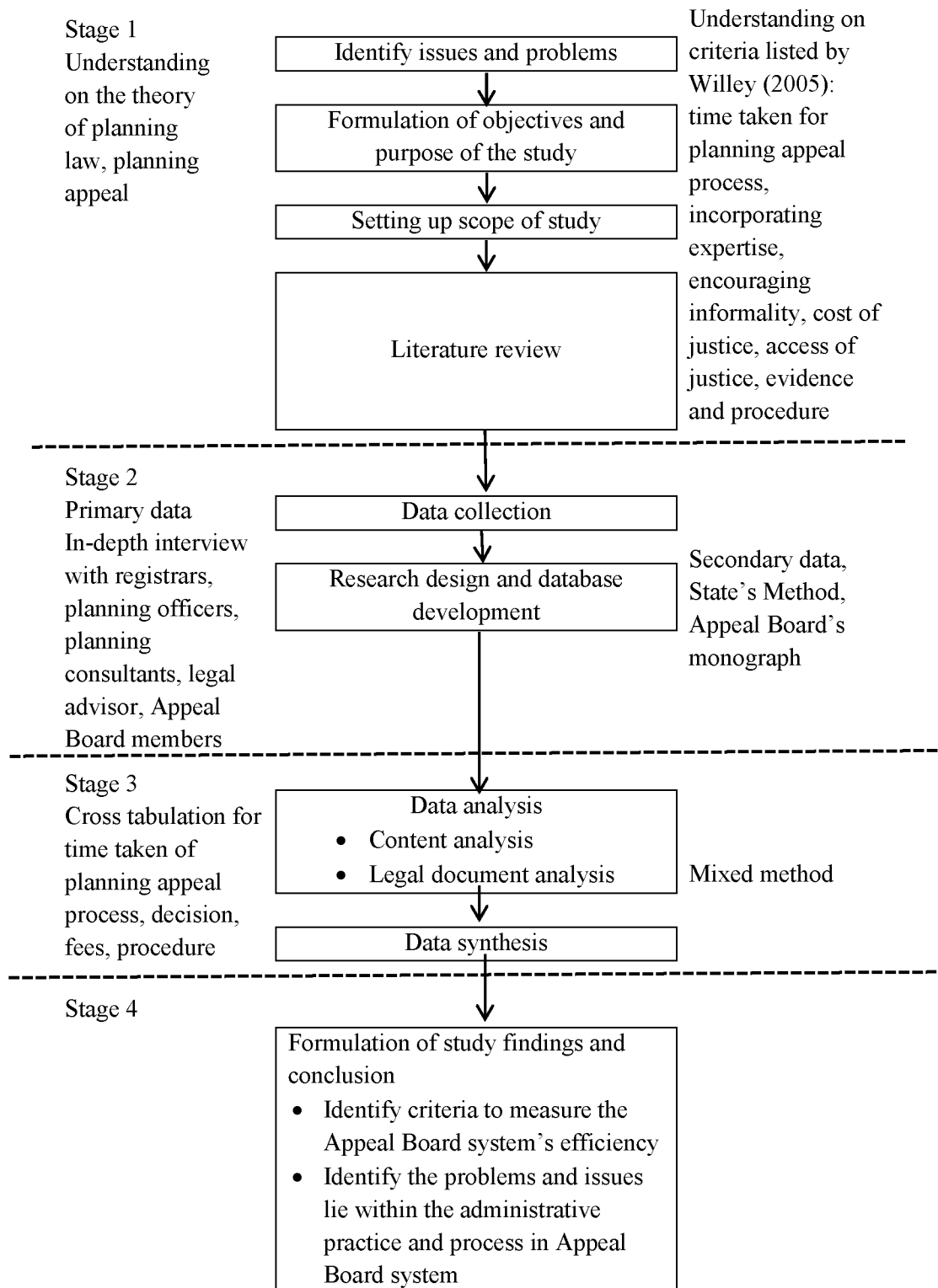


Figure 1. 1 : Research Framework

i. Preliminary Study

In preliminary stage, the study identified issues and background problems relevant to the subject of investigation. This stage involves the understanding of the research field with regards to Appeal Board's system, processes, practices, and the most suitable criteria for evaluating the efficiency of the Appeal Board. This stage outlined the aim, objectives, and scope of study.

ii. Literature Review

Under this stage, the study explores the theoretical background of urban planning and law. The review examined the background of urban planning system and its roles in the planning appeal process in general. Subsequently, the literature review examined urban planning system in Malaysia and its planning appeal system with particular reference to the roles of planners (as a decision-maker), expert witness and advocates.

iii. Data Collection

This stage focused on gathering both primary and secondary data for the study involving several data collection techniques such as document analysis, in-depth interview with respondents and observation during Appeal Board's proceeding. As for primary data, data is collected through in-depth interviews with 8 respondents which consist of Appeal Board's registrars, legal advisors in local planning authority, registered town planners and members of Appeal Boards. For secondary data, the study collected statistical figures such as the number of cases registered, date of appeal registered and appeal's decision is involved as shown the below table.

Table 1.1: Number of cases registered, date of appeal registered and appeal's decision

No.	Respondents	Date of appeal registered	Date of appeal's decision	Appeal's decision

iv. Data analysis and data synthesis

This chapter analysed the data in stage 3 and synthesizes the major findings with regards to the current trends in Appeal Board performances and Appeal Board decisions based on content analysis of legal documents and literature reviews. The analysis and synthesis are organised into 2 parts: perceptual responses and issues in Appeal Board process and practice, while the second part includes synthesis of the most suitable criteria to measure the efficiency of delivery system in Appeal Board system. Cross tabulation has been done for time taken of planning appeal process has been divided into 3 categories; less than 6 months, 6 to 12 months and more than 12 months. For the expertise of Appeal Board members, the decision made that has been approved and opposed to the urban planning framework has been taken into consideration. For conduct of hearing, process of the appeal such as the conduct of hearing and the process of evidence is assembled. Meanwhile, for access of justice and cost of justice, both access to Appeal Board and administrative costs are examined.

v. Conclusion and recommendations

The last stage focused on reporting the findings of the study and offering recommendations to improve the practice and process in the delivery system of Appeal Board based on findings of the study. The conclusion, limitation of study and areas for future studies are highlighted in this stage.

References

- Abdullah, N. C. (2015). Asia Pacific International Conference on Environment-Behaviour Studies Public Interest Litigation in Alternative Dispute Resolution : A proposed mechanism in tribunal for consumer claims. *Procedia - Social and Behavioral Sciences*, 168, 204–210.
- Aberastury, P., Blanke, H.-J., Bottino, G., Macho, R. G., Greco, L., Bustillos, L. O., ... Sommermann, K.-P. (2014). *Euro-American Model Code of Administrative Jurisdiction Vol 1*. (R. Perlingeiro & K.-P. Sommermann, Eds.).
- Abukhater, A. B. E. (2009). Rethinking planning theory and practice: A glimmer of light for prospects of integrated planning to combat complex urban realities. *Theoretical and Empirical Researches in Urban Management* 4, 2(11), 64–79.
- Adshead, J. (2014). Revisiting the ideologies of planning law. *International Journal of Law in the Built Environment*, 6(1/2), 174–193.
- Afrane, S. K. (1993). *The Integration of housing and economic activities: a case study of low income settlements in Kumasi, Ghana*. University of British Columbia, Canada.
- Alexander, E. R. (2002). The Public Interest in Planning: From Legitimation to Substantive Plan Evaluation. *Planning Theory*, 1(3), 226–249.
- Alfasi, N., & Portugali, J. (2007). Planning Rules for a Self-Planned City, 6(2), 164–182. <https://doi.org/10.1177/1473095207077587>
- Allmendinger, P. (2001). *Planning in Postmodern Times. RTPI Library Series*. London: Routledge.
- Allmendinger, P. (2002). Planning Theory.
- Allmendinger, P., & Houghton, G. (2012). Post-political spatial planning in England : a crisis of consensus ? *Transactions of the Institute of British Geographers Ó 2011 Royal Geog Raphical Society (with the Institute of British Geographers)*, 89–103.
- American Bar Association's Rule of Law. (2012). *Access to Justice Assessment Tool*.
- Arnstein, S. R. (1969). A Ladder Of Citizen Participation. *Journal of the American Planning Association*, 35(4), 216–224.
- Aronson, M., & Dyer, R. (2000). *Judicial Review of Administrative Action*. Pyrmont, N.S.W.: LBC Information Services.
- Azlan, N. F., & Ahmad Sarkawi, A. (2011). The planning appeal cases by developer from year 1992-2005: a case study of Penang Board. In *Planning Practice in Malaysia Legal Perspective* (pp. 227–259). Kuala Lumpur: IIUM Press.
- Babbie, E. R., & Mouton, J. (2001). *The Practice of Social Research* (8th.). Oxford University Press Inc.
- Bacow, L., & Wheeler, M. (1984). *Environmental Dispute Resolution*. Plenum. London.
- Baert, P. (1998). *Social Theory in the Twentieth Century*. Cambridge: Polity Press.
- Barker, A., & Couper, M. (1984). The art of quasi-judicial administration. *Urban Law and Policy*, 6, 363–476.
- Barratt, M. J., & Lenton, S. (2015). Representativeness of online purposive sampling with Australian cannabis cultivators. *International Journal of Drug Policy*, 26(3), 323–326.
- Bart, I. L. (2010). Land Use Policy Urban sprawl and climate change : A statistical exploration of cause and effect , with policy options for the EU. *Land Use Policy*, 27(2), 283–292.

- Beatley, T. (1994). *Ethical Land Use: Principles of Policy and Planning*. John Hopkins University Press.
- Berry, J., Brown, L., & McGreal, S. (2001). The Planning System in Northern Ireland Post-devolution. *European Planning Studies*, 9(6), 781–791.
- Beunen, R., & Dijk, T. Van. (2009). Understanding the working of laws in spatial planning, *17*(12), 1–14.
- Bevan, A. (1992). *Alternative Dispute Resolution, a Lawyer's Guide to Mediation and Other Forms of Dispute Resolution*. (Sweet and Maxwell, Ed.). London.
- Blanco, H. (1995). Community and the four jewels of planning. In S. Hendler (Ed.), *Planning Ethics* (pp. 66–82). New Brunswick, NJ: Rutgers University Press.
- Brotherton, I. (1993). The Interpretation of Planning Appeals. *Journal of Environmental Planning and Management The Interpretation of Planning Appeals*, 36(No. 2.), 37–41.
- Brotherton, N. (1992). On the control of development by planning authorities. *Environment and Planning B : Planning and Design*, 19, 465–478.
- Brown, A. (2012). Challenges of development and undevelopment in a globalising world. In M. Campagna, A. De Montis, F. Isola, S. Lai, C. Pira, & C. (Eds. . Zoppi (Eds.), *Planning support tools: Policy analysis, implementaion and evaluation, proceedings of the seventh international conference on informatics and urban and regional planning* (pp. 77–93). Milan: Franco Angeli.
- Bruton, M. J. (2007). *Malaysia: The Planning of a Nation*. Malaysia: PERSADA (Persatuan Pegawai Perancang Bandar dan Desa Malaysia).
- Bryman, A. (2009). The nature of qualitative research. In *Social Research Methods* (Fourth edi, pp. 266–290). Oxford University Press Inc.
- Buitelaar, E., Galle, M., & Salet, W. (2013). Third-party appeal rights and the regulatory state: Understanding the reduction of planning appeal options. *Land Use Policy*, 35, 312–317.
- Campbell, S., & Fainstein, S. (Eds.). (2013). *Readings in planning theory* (2nd. Editi). Berlin: Blackwell.
- Chipman, J. G. (2002). *A Law Unto Itself: How the Ontario Municipal Board Has Developed and Applied Land-Use Planning Policy*. University of Toronto Press.
- Cohen, B. (2006). Urbanization in developing countries: Current trends , future projections , and key challenges for sustainability. *Technology in Society*, 28, 63–80.
- Creswell, J. W. (2003). *Research Design: Qualitative, quantitative and mixed-methods approaches*. (T. Oaks, Ed.) (2nd.). CA: SAGE Publications Inc.
- Cullingworth, B., & Nadin, V. (2002). *Town and Country Planning in UK* (13th.editi). London: Routledge.
- Cullingworth, B., Nadin, V., Hart, T., Davoudi, S., Pendlebury, J., Vigar, G., ... Townshend, T. (2015). *Town and Country Planning in the United Kingdom* (Fifth Edit).
- Davidoff, P. (1965). “Advocacy and Pluralism in Planning.” *Journal of the American Institute of Planners*, 31(4), 331–338.
- Davies, J. G. (1972). *Evangelistic Bureaucrat: Study of a Planning Exercise in Newcastle-upon-Tyne*. Tavistock Publications Ltd.
- Deacon, D., Bryman, A., & Fenton, N. (1998). Collision or Collusion? A Discussion of the Unplanned Triangulation of Quantitative and Qualitative Research Methods. *International Journal of Social Research Methodology*, (1), 47–63.
- Deacon, D. T. (2017). Agencies and Arbitration. *Columbia Law Review*, 117(4), 991–1052.

- de Vaus, D. A. (2001). *Research Design in Social Search* (First edit). Great Britain: SAGE Publications Inc.
- Dukes, F. (1996). *Resolving Public Conflict*. Manchester: Manchester University Press.
- Eccles, D., & Bryant, T. (1999). *Statutory Planning in Victoria* (2nd. Editi). Melbourne: Federation Press.
- Edgar, A. (2011). Decision-makers , Expert Witnesses and Advocates : The Roles of Planners in Merits Appeals Decision-makers , Expert Witnesses and Advocates : The Roles of Planners in Merits Appeals, (December 2014), 37–41.
- Egbu, A. U. (2007). *Impact of land use planning on urban housing development in Nigeria*. University of Wolverhampton,UK.
- Ellis, G. (2006). Third Party Appeals- Pragmatism and Principle. *Planning Theory and Practice*, 7(3), 330–339.
- Faludi, A. (1973). *Planning Theory*. Oxford: Pergamon Press, Headington.
- Fitzgerald, J., & Cox, S. (2002). *Research Methods and Statistics in Criminal Justice : An Introduction (with InfoTrac)* (3rd.). Wadsworth Pub.
- Flyvberg, B. (1998). *Rationality and power : Democracy in action*. Chicago: University of Chicago Press.
- Fogg, A. (1974). *Australian Town Planning Law : Uniformity and Change*. St. Lucia University of Queensland Press.
- Fontana, A., & Frey, J. (1994). Interviewing : The Art of Science. In *The Handbook of Qualitative Research* (pp. 361–376). Thousand Oaks, CA: SAGE Publications Inc.
- Forester, J. (1989). *Planning in the Face of Power* (1st.). Berkeley and Los Angeles, California: University of California Press.
- Forrester, J. (1999). *The Deliberative Practitioner : Encouraging Participatory Planning Studies*. Cambridge, Mass: MIT Press.
- Froeb, L. M., & Kobayashi, B. H. (2001). Evidence production in adversarial vs. inquisitorial regimes. *Economics Letters*, 70(2), 267–272.
- Fundamental Rights Agency. (2011). *Access to justice in Europe: an overview of challenges and opportunities*. <https://doi.org/10.2811/171>
- Genn, H. (1993). *Tribunals and Informal Justice, 1993*.
- Gibbs, G. R. (2007). *Analyzing Qualitative Data*.
- Goldman, S. (1968). Administrative Delay and Judicial Relief. *Michigan Law Review*, 66(7), 1423–1454.
- Goldschalk, D. R. (2004). Land use challenges: coping with conflicts in visions of sustainable development and liveable communities. *Journal of the American Planning Association*, 70(1), 5–13.
- Grant, M. (1982). *Urban Planning Law*. London: Sweet and Maxwell.
- Grant, M. (2009). *Environmental Court Project Final Report: Report to the Department of Environment , Transport and the Regions*.
- Green Balance, Solicitors, L. D. & C., Popham, J., & Purdue, M. (2002). *Third Party Rights of Appeal in Planning*.
- Greene, J. ., Caracelli, V. J., & Graham, W. . (1989). Toward a conceptual framework for mixed-method evaluation designs. *Educational Evaluation and Policy Analysis*, 11(3), 255–274.
- Grey, J. H. (1979). Discretion in Administrative Law. *Osgoode Hall Law Journal*, 17(1), 107–132.
- Habermas, J. (1981). *The theory of communicative action*. Cambridge, Polity.
- Habermas, J. (1984). *The Theory of Communicative Action*. (McCarthy, Ed.).

- Cambridge: Polity Press.
- Harlows, C., & Rawlings, R. (1997). *Law and Administration :Law in Context* (2nd. Editi). Butterworths.
- Harris, N. (2002). Collaborative planning: from theoretical foundations to practice forms. In P.Allmendinger & M.Tewdwr-Jones (Eds.), *Planning Futures: New Directions in Planning Theory* (pp. 21–43). London: Taylor and Franchis.
- Healey, P. (1997). *Collaborative Planning : Shaping Places in Fragmented Societies*. Macmillan, London.
- Healey, P. (1998). Collaborative Planning in Stakeholder Society. *Town Planning Review*, 69(1), 1–21.
- Healey, P. (2006). Transforming governance : Challenges of institutional adaptation and a new politics of space. *European Planning Studies*, 14(3), 299–320.
- Heap, D. (1969). *An Outline of Planning Law*.
- Hedgecock, D. (2003). The exercise of influence within the local planning system. *Australian Planner*, 40(3), 35–39.
- Heikkila, E. J. (2000). *The economics of planning*. New Brunswick: New Jersey Centre for Urban Policy Research.
- Innes, J. (1995). Planning theory's emerging paradigm: communicative action and interactive practice. *Journal of Planning Education and Research*, 14, 183–189.
- Innes, J. E. (1996). Planning Through Consensus Building: A New View of the Comprehensive Planning Ideal. *Journal of the American Planning Association*, 62(4), 460–472.
- Jabatan Perancangan Bandar dan Desa. (2011). E d i s i 3. *Blog@ 172*, (3 Januari 2011).
- Jabatan Perancangan Bandar dan Desa. (2014). *Monograf Perundangan Perancangan Bandar & Desa*.
- Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia. (2013). *Lembaga Rayuan PPA 07 : Panduan Pelaksanaan Akta 172*. Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia.
- Kadouf, H. A., & Maidin, A. J. (2009). Weaknesses in the registration of land dealing system in Malaysia : Suggestions for improvements for enhancing the systems. *The Law Review*, 500–536.
- Khublall, N., & Yuen, B. (1991). *Development Control and Planning Law Singapore* (First Edit). Singapore: Longman Singapore Publishers (Pte) Ltd 1991.
- Krishnan, A. (2000). Judicial Review and Appellate Powers: Recent Trends in Hong Kong and Malaysia. *The Malayan Law Journal*, 2.
- Lai, W. C. (1994). The Economics of Land Use Zoning : A Literature Review and Analysis of the Work of Coase. *The Town Planning Review*, 65(1), 77–98.
- Landoni, M. (2007). Justice Delayed: An Overview of the Options to speed up Federal Justice. Retrieved from <https://www.princeton.edu/jpia/past-issues-1/2007/6.pdf>
- Lee, L. . (2002a). Who's the Ultimate Planning Authority in Malaysia? Reviewing the Powers and Role of the Appeal Board. *Journal of Malaysian And Comparative Law*.
- Lee, L. M. (2002b). Who's the Ultimate Planning Authority in Malaysia? Reviewing the Powers and Role of the Appeal Board. *Journal of Malaysian and Comparative Law*.
- Lembaga Rayuan Negeri Perak. (2015). *Lembaga Rayuan: Panduan Proses Rayuan Di Negeri Perak*. Jabatan Perancangan Bandar dan Desa Negeri Perak.
- Maidin, A. J. (2012). *Malaysian Town and Country Planning Law and Procedure*.

- Marzukhi, M. A., Omar, D., & Leh, O. L. H. (2012). Re-appraising the Framework of Planning and Land Law as an Instrument for Sustainable Land Development in Malaysia. *Procedia - Social and Behavioral Sciences*, 68, 767–774.
- McAuslan, P. (1980). *The ideologies of planning law*. Pergamon Press.
- McKinsey Global Institute. (2012). The social economy: Unlocking value and productivity through social technologies, (July), 1–184.
- Merriam, S. B. (2001). *Qualitative Research and Case Study Applications in Education*. San Francisco: Jossey-Bass Pub.
- Meyerson, M., & Banfield, E. C. (1955). *Politics, Planning and the City*. Glencoe: Free Press.
- Miles, M. B., & Huberman, A. M. (1994). *Qualitative data analysis*. London: SAGE Publications Inc.
- Mohd. Sukuran, T., & Ho, C. S. (2008). PLANNING SYSTEM IN MALAYSIA Mohd Sukuran bin Taib and Ho Chin Siong Universiti Teknologi Malaysia.
- Moore, A. A. (2013). *Planning Politics in Toronto: The Ontario Municipal Board and Urban Development*. Toronto, Ontario: University of Toronto Press. Morris.
- Moore, V. (2002). *A Practical Approach to Planning Law* (8th. Editi). Oxford: Oxford University Press.
- Mualam, N. (2014). Where Planning Meets the Law: The Rise of Appeal Tribunals for Deciding Land-use Disputes. *Journal of Planning Literature*, 29(4), 370–385. <https://doi.org/10.1177/0885412214542129>
- Murphy, P. (2003). *Murphy On Evidence* (Eighth Edi). New York: Oxford University Press Inc.
- Murugan. (2008). *City Planning and Redevelopment Law. Prosiding Seminar Pemantapan Pelaksanaan Lembaga Rayuan Peringkat Negeri Sembilan, 22-23 Julai 2008*. Seremban, Negeri Sembilan, Malaysia: Jabatan Perancangan Bandar dan Desa Negeri Sembilan.
- Naess, P. (2001). Urban planning and sustainable development. *European Planning Studies*, 9(4), 503–524.
- National Coalition for a Civil Right to Counsel, National Legal Aid & Defender Association, Maryland Legal Aid Bureau, I., School, N. C. for A. to J. at C. L., Justice, B. C. for, Center for Law and Social Policy, ... Economy. (2013). *ACCESS TO JUSTICE: Ensuring Meaningful Access to Counsel in Civil Cases*.
- Njoh, A. J. (2004). The experience and legacy of French colonial urban planning in sub - Saharan Africa. *Planning Perspective*, 19(4), 435–454.
- Pearce, B. (1999). *The role of mediation in the settlement of planning appeals. DP-107, Department of Land Economy, University of Cambridge*. Cambridge.
- Pearce, B., & Bingham, M. (1997). *More efficient planning appeals. Town and Country Planning*.
- Posner, R. A. (2015). the Rise and Fall of Administrative Law, 1.
- Punter, J., & Bell, A. (2000). Design Appeals in England in the 1990s: An Aggregate Analysis, 37(2), 275–299.
- Punter, J., & Bell, A. (2007). English local planning authorities and design appeals: Perceptions and realities English Local Planning Authorities and Design Appeals: Perceptions and Realities. *Journal of Urban Design*, (December 2014), 37–41.
- Purdue, M. (1991). *Planning appeals*. (M. Keynes, Ed.). Open University Press.
- Rainey, H. G. (1997). *Understanding & managing public organisation*. San Francisco: CA: Jossey-Bass.

- Rakodi, C. (2001). Forget planning , put politics first? Priorities for urban management in developing countries Carole. *International Journal of Applied Earth Observation and Geoinformation*, 3(3), 209–223.
- Ratcliffe, J. (1983). *An Introduction to Town and Country Planning*. London: Hutchinson.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge, Mass: Harvard University Press.
- Reade, E. (1987). *British Town and Country*. The Open University Press.
- Roy, M. (2009). Planning for sustainable urbanisation in fast growing cities : Mitigation and adaptation issues addressed in Dhaka , Bangladesh. *Habitat International*, 33(3), 276–286. <https://doi.org/10.1016/j.habitatint.2008.10.022>
- Ryan, P. (1987). *Urban Development : Land and Policy*. Melbourne: Law Book Company.
- Sandefur, R. L. (2008). Access to Civil Justice and Race, Class, and Gender Inequality. *Annual Review of Sociology*, 34(August), 339–358.
- Sandefur, R. L. (2015). Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers’ Impact. *American Sociological Review*, 80(5), 909–933.
- Sandercock, L. (1998). *Towards Cosmopolis*. London: Wiley.
- Simon, H. a. (1976). From substantive to procedural rationality. *25 Years of Economic Theory*, 65–86. https://doi.org/10.1007/978-1-4613-4367-7_6
- Stahel, W. R. (2011). The Virtuous Circle ? Sustainable Economics and Taxation in a Time of Austerity. *Thinkpiece*, (63), 1–6.
- Stein, L. (1995). Planning and Accountability: A Replay. *Australian Planner*, 32(2), 71–73.
- Stubbs, M. (2000). Informality and the planning appeal by hearing method: An appraisal of user satisfaction. *The Town Planning Review*, 71(3), 245–267.
- Supperstone, M., & Knapman, L. (2008). *Administrative Court Practice*. (M. Supperstone & L. Knapman, Eds.). New York: Oxford University Press Inc.
- Taylor, N. (1980). Planning Theory and the Philosophy of Planning. *Urban Studies*, 17(2), 159–172.
- Teo, S. E. (2007). *Your Rights and the Law*. Malaysia: Malayan Law Journal Sdn. Bhd.
- Thompson, S., & Maginn, P. J. (Eds.). (2007). What is planning? In *Planning Australia: An overview of urban and regional planning* (2nd. Editi, pp. 11–27). New York: Cambridge University Press.
- UN-Habitat. (2009). *Planning sustainable cities : policy directions, global report on a human settlements* (Abridged E). London: Earthscan.
- Wackernagel, M., & Rees, W. E. (1996). *Our Ecological Footprint: Reducing Human Impact on the Earth*. B.C.: Gabriola Press New Society Publishing.
- Wade, J. (1978). The Family Court of Australia and Informality in Court Procedure. *The International and Comparative Law*, 27(4), 820–848.
- Watson, V. (2009). “ The planned city sweeps the poor away . . . ” : Urban planning and 21st century urbanisation. *Progress in Planning*, 72, 151–193.
- Webber, P. (1994). PLANNING AND ACCOUNTABILITY. *Australian Planner*, 31(4), 216–220.
- Wikeley, N. (2000). Burying Bell : Managing the Judicialisation of Social Security Tribunals, 298(4), 475–501.
- Willey, S. (2001). The Future of Planning Appeals in Western Australia. *Planning Practice and Research*, 16(2), 185–192.
- Willey, S. (2002). Planning in the courtroom: rural subdivision issues in the town

- planning. *Town Planning Appeal Tribunal*, 8(2), 70–86.
- Willey, S. (2005). Are planning appeal rights necessary? A comparative study of Australia, England and Vancouver BC. *Progress in Planning*, 63(3), 265–320.
- Willey, S. (2006). Planning Appeals : Are Third Party Rights Legitimate ? The Case Study of Victoria , Australia Planning Appeals : Are Third Party Rights Legitimate ? The Case Study of Victoria , (December 2014), 37–41.
- Willey, S. (2007a). Planning appeal processes : reflections on a comparative study, 39(1), 1676–1699.
- Willey, S. (2007b). Planning appeal processes: Reflections on a comparative study. *Environment and Planning A*, 39(7), 1676–1698. <https://doi.org/10.1068/a38315>
- Willey, S. (2007c). Planning appeals: The impacts of conflicting planning philosophies between judicial and executive planning bodies - a rural planning case study Planning Appeals :, (December 2014), 37–41.
- Willey, S. (2010). The merits of merit-based planning appeals : observations from Australia The Merits of Merit-based Planning Appeals : Observations from Australia. *International Planning Studies*, 9(November 2005), 261–281.
- Yeo, Y. P. (2016). Planning Appeal Board -The Way Forward. In *Seminar Lembaga Rayuan & Pelancaran e-Rayuan 2016*. Penang.
- Yiftachel, O. (1989). Towards a Typology of Urban Planning Theories. *Environment and Planning B: Planning and Design*, 16, 23–39.
- Yin, R. K. (2009). *Case Study Research: Design and Methods* (Fourth Edi). SAGE Publications Inc.
- Zafer, M. R. (1994). *Law of Evidence in Malaysia : An Outline*. International Law Book Services.
-
- Creswell, J. W. (2014). *Research Design : Qualitative, Quantitative and Mixed-Methods Approaches*. United States of America: SAGE publications, Inc. .
- Davis, K. C. (1979). *Discretionary Justice: A Preliminary Inquiry*. United States of America: Louisiana State University Press.
- Lee, L. M. (2014). The Boundaries of Discretionary Town Planning Powers. *Malayan Law Journal*.
- McAuslan, P. (1980). *The ideologies of Planning Law*.
- McCoubrey, H. (1988). *Effective Planning Appeals*. BSP Professional Books.
- Md Dahlan, N. H. (2015). Comparative Legal Analysis On the Viability of Judicial Management on Insolvent Residential Developer Companies In Malaysia, the Republic of Singapore and the United Kingdom. *Malayan Law Journal*.
- Purdue, M. (1977). *Cases and Materials on Planning Law*. London: Sweet & Maxwell Limited.
- Schwandt, T. A. (2007). *The Sage Dictionary of Quaitative Inquiry*. Sage Publication Inc.
- Smith, D. L. (1983). Development Control. In H. Detlef Kammeier, Sanjay Arora, & Erlinda J. Parma, *Terms and Concepts in Planning*.