

Legal Standing of the Head Regulation of the Batam Indonesia Free Zone Authority (A Case Study of Purajaya Hotel)

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Abstract

*The establishment of a well-ordered legal framework is essential for the proper functioning of a state. Within the Batam Free Trade Zone and Free Port Area, a regulatory instrument known as the Regulation of the Head of the Batam Indonesia Free Zone Authority (Perka BP Batam) exists, whose legal standing is often equated with that of the Batam City Regional Regulation (Perda Batam). The coexistence of the Batam City Government and BP Batam has led to overlapping authorities, particularly in licensing, land administration, spatial planning, and other regulatory domains. The hierarchy of laws and regulations in Indonesia, as stipulated in Article 7 paragraph (1) of Law Number 12 of 2011, explicitly recognizes Regional Regulations at the regency/city level, but the Perka BP Batam is not explicitly mentioned. Nevertheless, Article 8 paragraph (2) of the same Law acknowledges the validity of regulations issued by authorized bodies or agencies, provided such authority is derived from higher legislation or delegated powers. This study aims to identify and analyze the normative position of Perka BP Batam within Indonesia's legal hierarchy. The research employs a normative juridical method using both the statute approach and the case approach. The findings indicate that the Batam City Regional Regulation serves as a reference for Perka BP Batam, particularly in matters of general regulation. Furthermore, the results show that the Batam City Regional Regulation holds a higher position due to its broader scope and applicability across the entire Batam City area. However, under the principle of *lex specialis derogat legi generali*, the Perka BP Batam retains authority to regulate specific matters within the Batam Free Trade Zone and Free Port Area.*

Keywords: legal status; hierarchy; regulation; Batam.

Abstrak

Penyelenggaraan kehidupan bernegara memerlukan tatanan peraturan perundang-undangan yang tertib. Di Kawasan Perdagangan Bebas dan Pelabuhan Bebas Batam terdapat produk hukum berupa Perka BP Batam yang kedudukannya sering disejajarkan dengan Peraturan Daerah Kota Batam. Keberadaan Pemerintah Kota Batam dan BP Batam menimbulkan tumpang tindih kewenangan, terutama dalam perizinan perdagangan, pertanahan, tata ruang, dan bidang lain. Hierarki peraturan perundang-undangan di Indonesia sebagaimana Pasal 7 ayat (1) UU Nomor 12 Tahun 2011 menegaskan keberadaan Peraturan Daerah Kabupaten/Kota, sedangkan Perka BP Batam tidak tercantum secara eksplisit. Namun, Pasal 8 ayat (2) UU yang sama mengakui keberadaan peraturan yang ditetapkan lembaga atau badan sepanjang diperintahkan peraturan yang lebih tinggi atau dibentuk berdasarkan kewenangan. Penelitian ini bertujuan mengidentifikasi dan menganalisis kedudukan Perka BP Batam dalam hierarki peraturan di Indonesia. Metode penelitian menggunakan yuridis normatif dengan pendekatan peraturan perundang-undangan (statute approach) dan kasus (case approach). Hasil penelitian menunjukkan Peraturan Daerah Kota Batam berfungsi sebagai rujukan Perka BP Batam, terutama dalam hal-hal bersifat umum. Hasil penelitian menunjukkan bahwa kedudukan Peraturan Daerah Kota Batam lebih tinggi karena ruang lingkupnya yang luas dan berlaku di seluruh wilayah Kota Batam.



Namun, prinsip lex specialis derogat legi generali berlaku bagi Perka BP Batam untuk mengatur kewenangan khusus dalam Kawasan Perdagangan Bebas dan Pelabuhan Bebas Batam.

Kata Kunci: *kedudukan; hierarki; peraturan; Batam.*

Introduction

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) constitutes the highest source of law and serves as the fundamental basis for the formulation and implementation of all regulations in Indonesia. As a state governed by the rule of law (*rechtstaat*), Indonesia requires that every governmental act be grounded in valid legal norms and supported by clear legitimacy (Siregar, 2024). Therefore, in order to ensure legal certainty and systematic order in the formation of legislation, Law No. 12 of 2011 on the Formulation of Laws and Regulations (UU PPP) was enacted, which explicitly regulates the hierarchy of national legal norms (Suriadi et al., 2023). However, in practice, several legal instruments are not expressly accommodated within such hierarchy, including the BP Batam Head Regulation (Perka BP Batam). The existence of Perka BP Batam, which holds authority within the Batam jurisdiction, raises fundamental concerns regarding its status within the Indonesian legal system and whether its legal force can be justified on a juridical basis (Hanafi et al., 2025).

Within the national legal system, the hierarchy of laws and regulations is expressly stipulated under Article 7 paragraph (1) of Law No. 12 of 2011, which states that the types and hierarchy of legislation consist of: (a) the 1945 Constitution; (b) MPR Decrees; (c) Laws/Government Regulations in Lieu of Law (Perppu); (d) Government Regulations (PP); (e) Presidential Regulations (Perpres); (f) Provincial Regional Regulations; and (g) Regency/Municipal Regional Regulations. Nevertheless, within this statutory hierarchy, Perka BP Batam is not mentioned as a formally recognized category of legislation (Bunga, 2017). Based on this provision, Perka BP Batam does not fall within the formally acknowledged types of legislation under the statutory hierarchy (Pratama, 2024). In administrative practice within Batam, however, BP Batam actively relies on Perka BP Batam as a legal basis for administrative decision-making, particularly in matters relating to land management and investment activities (Antariksa, 2017). This situation generates a form of legal dualism, as Perka BP Batam factually produces legal force and tangible legal consequences, yet normatively lacks a clear position within the hierarchy of legislation (Aditya & Winata, 2018).

The Head Regulation of BP Batam constitutes a legal instrument issued by an authority institution vested with special powers pursuant to Presidential Decree No. 41 of

1973 and Government Regulation No. 46 of 2007 (Joestiawan et al., 2025). Under these provisions, BP Batam is authorized to manage, regulate, and supervise land utilization on Batam Island, Rempang, and Galang. In exercising such functions, BP Batam issues various administrative regulations, including Perka BP Batam, which serves as the operational legal basis for implementing policies within the free trade zone (Simatupang & Dompak, 2023). One concrete manifestation of this authority can be observed in the demolition case of Purajaya Hotel, where the action was carried out due to alleged violations of the Annual Mandatory Fee of the Authority (UWTO) provisions. This incident illustrates that Perka BP Batam exerts significant legal implications, despite not being formally incorporated into the hierarchy of legislation as regulated by statute (Modjo & Tan, 2021).

The demolition of Purajaya Hotel constitutes a concrete example of a normative conflict that generates legal uncertainty. BP Batam relied on Perka BP Batam as the juridical basis for making decisions with broad implications for the public and business actors, particularly in the City of Batam. The unclear legal status of this instrument creates the potential for legal uncertainty and opens room for disputes regarding the legality of BP Batam's actions (Harianto & Cornelis, 2022). Therefore, an in-depth analysis is required to assess the legal force of Perka BP Batam, particularly in ensuring compliance with the principles of legality and legal certainty. Moreover, this issue also carries implications for governance and investment in Batam as a nationally strategic area. Batam is a strategic region with a special status that functions as an industrial, trade, and free-port zone (Tari, 2022). As such, BP Batam, as the managing authority, plays a crucial role in creating a conducive investment climate. However, if the legal basis underpinning BP Batam's exercise of authority such as Perka BP Batam remains contested, this may potentially disrupt policy stability and legal certainty in the Batam area (Paramita et al., 2021). This condition reinforces the urgency of conducting research to review the juridical position of Perka BP Batam within the legal hierarchy, so that it may serve as a reference for public policies aligned with higher-level regulations.

In previous studies, discussions concerning BP Batam's authority have generally focused on the issue of overlapping powers, particularly regarding BP Batam's ex officio authority in managing and supervising development in Batam (Dalla & Hutabarat, 2018). For instance, several studies primarily examine how BP Batam possesses special authority in Batam's development alongside the Batam City Government under the regional autonomy framework (Rosyadi, 2016). However, no study has specifically examined the legal standing of Perka BP Batam within the hierarchy of laws and regulations using a

concrete case study such as the demolition of Purajaya Hotel. The novelty of this research lies in its comprehensive analysis of the legal position of Perka BP Batam within the Indonesian legal order and the extent to which such regulation may remain applicable despite not being listed under Article 7 paragraph (1) of Law No. 12 of 2011, using an empirical and real-life case study.

This research is limited in scope to an analysis of the legal force of Perka BP Batam within the hierarchy of Indonesian laws and regulations, using the demolition of Purajaya Hotel as the primary object of study. This study will not address the technical aspects of the demolition from the perspective of construction or property management, but will instead focus on a juridical analysis of the legal basis used by BP Batam in undertaking such action. Furthermore, the research emphasizes constitutional law and administrative law aspects, particularly concerning BP Batam's authority to issue Perka BP Batam and the extent to which such regulation may serve as a valid legal foundation for its administrative decisions and actions. This study is also limited to regulations applicable up to the time the research is conducted, without addressing potential future policy or regulatory changes. With these limitations, the research is expected to provide a more focused and in-depth analysis in understanding the position of Perka BP Batam within Indonesia's legal system.

This research is expected to provide significant contributions to various stakeholders, particularly readers, the academic community, and the Batam City Government. For readers, this study may serve as a reference for understanding the standing of Perka BP Batam within the legislative hierarchy and its implications for public policy, especially in land management in Batam. For academia, this research may enrich scholarly discourse in the field of state administrative law by offering a new perspective on the legal force of regulations that are not explicitly included in the national legislative hierarchy but nonetheless possess executory effect. Meanwhile, for the Batam City Government and BP Batam, this research may serve as evaluative input in formulating clearer policies with stronger legal certainty in order to prevent potential conflicts between BP Batam policies and regional and central regulations (Pratama, 2024). Accordingly, this research is expected to contribute to strengthening a more transparent and equitable legal system in the governance of land administration in Batam.

Based on the foregoing background, the research questions of this study are formulated as follows: (1) what is the normative legal standing and legal force of Perka BP Batam under Law No. 12 of 2011 on the Formulation of Laws and Regulations? (2) what is

the validity of BP Batam's action in demolishing Purajaya Hotel when examined through the principle of legal certainty within the national legal system?

Research Method

This study employs a normative juridical legal research method, with the primary focus on analyzing the legal standing of the Head Regulation of the Batam Indonesia Free Zone Authority (BP Batam) within Indonesia's legislative and regulatory framework (Disemadi, 2022; Khasanah & Pratama, 2023, p. 109; Khozin & Diniyanto, 2025, p. 34; Nafisah & Diniyanto, 2024, p. 5; Saputri & Pratama, 2024, p. 122). This method is selected as it is relevant for addressing the research problems through an examination of written legal norms, legal doctrines, and court decisions related to the object of the study. The analytical approaches applied include the statute approach to examine relevant laws and regulations, the theory approach to understand the concepts and analytical frameworks underlying such regulations, and the case approach to assess court decisions relevant to the implementation of the said regulations (Arliman S, 2018; Diniyanto, 2019, p. 353; Fauzan et al., 2022; Marzuki, 2014). The data sources of this research consist of primary legal materials, including Law No. 12 of 2011 on the Formulation of Laws and Regulations, Law No. 23 of 2014 on Regional Government, Government Regulation No. 46 of 2007 as amended by Government Regulation No. 62 of 2019, and BP Batam Head Regulation No. 7 of 2022. In addition, the research uses secondary legal materials such as doctrines, legal journals, and scholarly literature, as well as tertiary legal materials including legal dictionaries and digital sources. Data collection is conducted through library research, by reviewing legal documents and relevant literature. The collected data are analyzed using a descriptive-qualitative method with a deductive approach, namely by outlining relevant legal norms, evaluating regulatory synchronization, and presenting systematic legal arguments to address the research questions (Diniyanto, 2021, 2022; Diniyanto et al., 2021; Diniyanto & Sutrisno, 2022; Hamid et al., 2023; Miles et al., 2016; Miles & Huberman, 1994; Tan, 2021).

Discussion

1. The Normative Legal Standing and Binding Force of the BP Batam Head Regulation under Law No. 12 of 2011 on the Formation of Laws and Regulations

The legal standing of legislation within the Indonesian legal system cannot be separated from the theory of the hierarchy of legal norms developed by Hans Kelsen.

Through the concept of *Stufenbau der Rechtsordnung*, Kelsen describes law as a tiered system, in which lower norms derive their validity from higher norms (Holqi & Widiyanto, 2024). Legal norms, in principle, do not contradict each other. The norms above are fundamental. This means that the higher the norm, the more fundamental it becomes. Conversely, the lower the norm, the less fundamental it becomes. The more fundamental the norm, the more abstract and universal it becomes. Conversely, the less fundamental the norm, the more concrete and specific it becomes. A norm that is very fundamental, abstract, and universal is called a *grundnorm* (basic norm). A *grundnorm* is a norm that no longer derives validity from a higher norm or a higher norm, because there is no higher norm than the *grundnorm* (Azzahra & Pratama, 2025, p. 220; Mukarromah & Diniyanto, 2023, p. 230; Ramadani & Diniyanto, 2023, p. 12).

This theory from a normative perspective, emphasizes that the structure of legal norms is inherently hierarchical and ultimately grounded in a *grundnorm* (Purba, 2022). The hierarchical nature of this conception influences both legal theory and practical implementation, including the organization of state power. Consequently, the structure of state authority composed of state organs (*staatsorganen*) may also be understood as containing its own internal hierarchy. In other words, interpretations of the hierarchical structure of norms may generate implications for the hierarchy of institutions (Pratama et al., 2026).

Building upon Kelsen's approach, Jimly Asshiddiqie refers to this as the theory of formal and/or structural hierarchy (Asshiddiqie, 2020). According to Asshiddiqie, each state institution holds a different position depending on the level of its authority to establish laws and regulations. Law-making institutions that produce higher norms such as the House of Representatives (DPR) and the President occupy a higher standing than administrative bodies that merely issue implementing regulations. Institutions that create higher legal norms (higher norm-creating institutions) therefore hold a significantly higher position compared to institutions that create lower norms (lower norm-creating institutions) (Arief & Gobel, 2022). For instance, the Constitutional Court has the authority to review laws against the 1945 Constitution, whereas the Supreme Court reviews regulations below the level of laws. Nevertheless, both institutions are essentially equal in institutional standing, as the 1945 Constitution merely allocates their respective competencies. Thus, this theory emphasizes that legal hierarchy does not automatically produce an institutional hierarchy, but rather places regulations according to their normative function within the legal system (Hakim, 2024).

Hans Kelsen's theory of legal hierarchy emphasizes the importance of universal principles governing the relationships among legal norms (Maarif, 2024). As previously mentioned, norms have established principles. These principles must be adhered to, particularly in the formation of legislation. Violating the principles of the norm hierarchy theory can lead to disharmonious legislation. The potential for overlapping laws and regulations can be significant (Putri & Pratama, 2025b). The resulting legal consequences are detrimental to society. Dissonant laws and regulations can lead to legal violations. Overlapping regulations overlap with the application of the law. The potential for misapplication of the law is very likely. The resulting consequences are injustice and the ineffectiveness of a law. Therefore, it is crucial to create harmonious legislation to ensure legal certainty, justice, and benefit. One effort that can be made to create harmonious legislation is by adhering to the norm hierarchy theory (Atika & Diniyanto, 2025; Inayati & Pratama, 2022; Isthifailla & Pratama, 2024; Putri & Pratama, 2025a; Ulum & Diniyanto, 2024).

Within the Indonesian legal context, these principles are reflected in three fundamental doctrines, namely: (1) higher law prevails over lower law (*lex superior derogat legi inferiori*), (2) specific law prevails over general law (*lex specialis derogat legi generali*), and (3) newer law prevails over older law (*lex posterior derogat legi priori*) (Jusuf & Mazin, 2024). These doctrines regulate the hierarchy and binding force among regulations in order to prevent overlap and normative conflicts. Their application also serves to ensure that every legal instrument adheres to principles of vertical and horizontal consistency within the national legal order. For example, regional regulations must not contradict statutes, and ministerial regulations must not regulate matters beyond the scope of delegated authority. Accordingly, Kelsen's hierarchical theory functions in practice as a foundational framework for legislative drafting in Indonesia. This is particularly important in determining the position of Perka BP Batam, which is issued pursuant to delegated authority from the central government (Djauzie, 2025).

Law No. 12 of 2011 on the Formation of Laws and Regulations clearly establishes the hierarchy of national legislation under Article 7 paragraph (1). The provision states that the hierarchy consists of the 1945 Constitution, MPR Decrees, Laws/Government Regulations in Lieu of Law (Perppu), Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/Municipal Regional Regulations (Supriyono & Dewi, 2024). Within this structure, there is no explicit mention of regulations issued by non-structural institutions, such as the BP Batam Head Regulation (Perka BP Batam).

However, Article 8 paragraphs (1) and (2) of the same law affirms that regulations enacted by state institutions or bodies granted authority under higher-level regulations remain legally recognized. This indicates that as long as an institution derives its authority through delegation from higher legal norms, the legal instruments it produces carry legitimate legal force (Yusuf & Erlina, 2025). This provision therefore serves as the normative basis for the existence of Perka BP Batam as an administrative legal instrument with binding effect.

Although Kelsen's theory is inherently hierarchical and formalistic, Jimly Asshiddiqie criticizes its limitations for failing to adequately account for functional aspects in law-making. Asshiddiqie introduces the concept of functional and substantive legal hierarchy, which holds that the position of a regulation is determined not only by its formal structure of formation, but also by its function and regulatory substance (Paonganan et al., 2025). Within this framework, regulations enacted pursuant to delegated authority possess valid legitimacy insofar as their substance conforms to higher legal principles. Accordingly, Perka BP Batam may be classified as a legitimate form of delegated regulation, as it originates from delegated authority conferred through government regulations (Raziansyah et al., 2025). Thus, the binding force of Perka BP Batam should not be assessed solely based on its place within a formal hierarchy, but rather through the legality of the authority under which it is enacted and the normative function it performs in the governance of the free trade zone.

In Indonesia's constitutional system, the unitary state form does not imply that governmental administration must be uniform across all regions. Indonesia is a pluralistic state; therefore, differences in legal status and regional authority may exist without undermining national unity. This is evident in regions granted special status, such as Aceh, Papua, and Yogyakarta, which possess distinct regulatory arrangements shaped by their specific historical and social contexts (Ridwansyah, 2018). Such differentiation demonstrates that decentralization in Indonesia is asymmetrical, giving rise to regional regulations and institutions with unique and diverse characteristics. Accordingly, the establishment of BP Batam with special authority to regulate the Free Trade Zone and Free Port Area (KPBPB) reflects a model of asymmetrical decentralization in the economic sector (Nurwati & Husna, 2025). Within this context, regulations issued by BP Batam, including Perka BP Batam, may be constitutionally justified and possess defensible legal legitimacy.

The establishment of BP Batam is based on Law No. 36 of 2000 as amended by Law No. 44 of 2007 on Free Trade Zones and Free Ports, as well as Government

Regulation No. 46 of 2007. Through these legal instruments, BP Batam is designated as the authority responsible for managing the free trade and free port zone in Batam (Pitriani et al., 2025). However, such arrangements have generated a dualism of authority between BP Batam and the Batam City Government, particularly in relation to licensing, land administration, and regional development. This dualism results in overlapping policies and legal uncertainty for both the public and investors. From the perspective of hierarchical norm theory, this condition highlights the need for clear boundaries of competence and legal basis for each institution. Therefore, understanding the normative standing of Perka BP Batam becomes essential in preventing inter-authority conflicts within the Batam jurisdiction (Mursalin & Irawan, 2025).

Article 360 paragraphs (1) and (2) of Law No. 23 of 2014 on Regional Government provide the legal basis for the central government to designate special areas in the national interest, including the KPBPB Batam. Such special areas possess distinctive characteristics in the administration of governmental functions, and consequently, the regulations applicable within them also carry a special nature (Simatupang & Dompok, 2024). In this regard, BP Batam receives delegative authority from the central government to regulate and manage its jurisdiction through the issuance of regulations, including Perka BP Batam. Therefore, the legal force of Perka BP Batam derives from the delegation of authority granted by higher-level regulations, particularly Government Regulation No. 41 of 2021 (Hanafi et al., 2025). This confirms that Perka BP Batam holds a normatively valid position, despite not being explicitly listed within the formal hierarchy under Law No. 12 of 2011. Accordingly, the existence of Perka BP Batam operates within a legal space that is functionally recognized.

Although legally legitimate, the implementation of BP Batam Regulations (Perka BP Batam) often encounters obstacles due to overlapping authority with the Batam City Government. In the land sector, for example, the public faces a dual financial burden, as they are required to pay both the Annual Mandatory Authority Fee (UWTO) to BP Batam and Land and Building Tax (PBB) to the Batam City Government (Syuzairi et al., 2022). A similar situation occurs in business licensing and spatial planning, where business permits may be issued by both the Batam City Trade Office and the BP Batam One-Stop Integrated Service Directorate (PTSP). This condition highlights the need for synchronization between regulations issued by the two institutions in order to avoid legal uncertainty (Umar, 2021). From a theoretical perspective, this dualism also raises questions regarding whether BP Batam Regulations hold a higher, equal, or lower legal status

compared to Batam City Regional Regulations (Peraturan Daerah). Therefore, an analysis of legal hierarchy becomes essential in addressing this issue (Rosyadi, 2016).

When examined through the theory of delegated authority, Perka BP Batam falls within the category of a sub-delegated regulation or tertiary legislation. Article 38 of Government Regulation No. 41 of 2021 on the Administration of Free Trade Zones and Free Ports expressly stipulates that procedures concerning business licensing, management, and supervision shall be regulated through the Head Regulation of BP Batam (Harianto & Cornelis, 2022). This provision provides a direct legal basis for BP Batam to enact technical implementing regulations. Pursuant to Article 8 paragraph (2) of Law No. 12 of 2011, regulations established under such delegated authority possess legally binding force. Accordingly, although Perka BP Batam is not included in the formal hierarchy under Article 7, it remains normatively recognized. Substantively, Perka BP Batam functions to implement the mandate of higher-level regulations within the administrative scope of Batam as a special zone.

The distinction between Regional Regulations (Perda) and the Head Regulation of BP Batam lies in their formation mechanisms and scope of applicability (Mursalin & Irawan, 2025). Perda is a legal product jointly enacted by the Regional House of Representatives (DPRD) and the regional head, general in nature and applicable to all residents within its administrative territory. In contrast, Perka BP Batam is an internal regulatory instrument issued by an institutional authority and applies in a limited manner within the Batam Free Trade Zone and Free Port Area (KPBPB Batam) (Effendi & Sutarto, 2019). Procedurally, Perda follows the legislative stages stipulated under Law No. 12 of 2011, including planning, deliberation, and promulgation. Meanwhile, Perka BP Batam is formulated internally through mechanisms such as harmonization, public consultation, and formal enactment by the Head of BP Batam. Despite differences in procedure, both instruments share a similar function namely, to regulate policy implementation within their respective jurisdictions based on authority conferred by higher-level regulations (Muzwardi, 2021).

Therefore, the normative position of the Head Regulation of BP Batam constitutes a valid implementing regulation grounded in the principle of delegated authority. Its existence is recognized under Law No. 12 of 2011 as long as it is established pursuant to higher-level regulations and does not contradict prevailing legal norms (Prianto, 2024). In the context of the Batam Free Trade Zone and Free Port Area, Perka BP Batam carries binding legal force as it derives its authority from Government Regulation No. 41 of 2021.

Meanwhile, the Batam City Regional Regulation remains legally superior in matters of general government administration outside the special zone. Accordingly, the relationship between these two regulations is complementary and functional rather than hierarchical, as each governs distinct spheres of authority within the national legal framework

2. The Validity of BP Batam's Action in Demolishing Purajaya Hotel from the Perspective of Legal Certainty

Purajaya Hotel is one of the buildings constructed on land under the status of Right of Land Management (Hak Pengelolaan Lahan/HPL) held by the Batam Indonesia Free Trade Zone and Free Port Authority (BP Batam). The owner of Purajaya Hotel, PT Dani Tasha Lestari (DTL), merely possessed a land-use permit issued by BP Batam and failed to renew such permit after its validity period expired (Sirait & Purba, 2025). This condition created non-compliance with the applicable administrative requirements within the Batam authority area. In administrative law practice, the absence of permit renewal results in the loss of legal basis for the permit holder to continue controlling the land. Therefore, BP Batam considered the existence of the Purajaya Hotel building to lack valid administrative legality. This issue became the initial trigger for the dispute between BP Batam and the hotel owner (Putra & Darmawan, 2025).

In response to various licensing violations within its jurisdiction, BP Batam in 2022 issued a Head Regulation (Perka) of BP Batam governing the regulation and enforcement of buildings constructed on land whose agreements had expired or whose legal basis was unclear. In this case, PT DTL was deemed to have violated BP Batam Head Regulation No. 27 of 2017 on the Administration of Land Allocation, as amended by Head Regulation No. 3 of 2020 (Zainuddin & Hasanah, 2025). Article 38 of the regulation stipulates that land allocation terminates when the term stated in the allocation document expires or when no extension is pursued. By referring to this provision, BP Batam concluded that PT DTL had lost its right to manage the land. Accordingly, the enforcement action undertaken by BP Batam was based on the Perka as an administrative legal basis regulating the relationship between the zone administrator and land users (Prasetyo et al., 2025).

In implementation, BP Batam issued a series of warning letters to PT DTL prior to the demolition. Official records indicate that BP Batam issued the first warning letter (SP1) on 2 April 2019, the second warning letter (SP2) on 28 May 2019, and the third warning letter (SP3) on 10 July 2019, followed by a termination letter of land allocation on 22 August 2019. Although PT DTL claimed it had submitted a business plan in November

2019, BP Batam assessed that the proposal failed to meet the requirements stipulated under internal regulations. After these warnings were not acted upon, BP Batam determined that the land reverted to HPL status and was subsequently allocated to PT Pasifik Estatindo Perkasa (PEP) as the new right holder. BP Batam maintained that such administrative actions had followed a valid process and complied with the principle of legality in governmental administrative law.

Nevertheless, PT DTL argued that the revocation of the land allocation and the demolition of Purajaya Hotel were not conducted in accordance with due procedure. In its lawsuit filed before the Administrative Court (PTUN) of Tanjungpinang in 2020, the former Head of BP Batam, Lukita Dinarsyah Tuwo, testified that the revocation had not followed the appropriate internal mechanisms. However, in the first-instance decision, the cassation stage before the Supreme Court, and the judicial review proceedings in 2022–2023, the panels of judges concluded that BP Batam's actions were lawful and had obtained final and binding legal force. These rulings confirmed that, from the perspective of state administrative law, BP Batam's actions satisfied the element of formal authority. Even so, success in administrative litigation does not automatically resolve debates concerning substantive legality and broader legal certainty (Harianto & Cornelis, 2022).

Following its defeat in the administrative law forum, PT DTL filed a civil lawsuit before the Batam District Court, alleging an unlawful act (*perbuatan melawan hukum*) arising from the demolition of Purajaya Hotel. This lawsuit emphasized that the demolition was carried out while the case was still ongoing, without a court judgment explicitly ordering execution (Pratama et al., 2025). The demolition carried out by contractor PT Lamro Martua Sejati (LMS), based on a work order issued by PEP on 21 June 2023, was regarded as inconsistent with the principle of due process of law. In the 2024 hearings, witnesses for the plaintiff asserted that the building assets remained owned by PT DTL. This fact strengthened the allegation that BP Batam had effectively carried out an administrative execution, which should properly fall under judicial authority. Thus, although it may have administrative legitimacy, the demolition continues to raise doubts from the standpoint of legal certainty.

From the perspective of the hierarchy of laws and regulations, the legal position of Perka BP Batam must be critically examined. Under Article 8 paragraph (1) of Law No. 12 of 2011 on the Formation of Laws and Regulations, regulations other than those listed in Article 7 paragraph (1) include regulations enacted by institutions or bodies established under statutes (Prianto, 2024). BP Batam indeed derives authority under Law No. 36 of

2000 as amended and Government Regulation No. 46 of 2007. However, Perka does not form part of the primary legislative hierarchy such as statutes, government regulations, or presidential regulations (Tari, 2022). Therefore, Perka BP Batam may be viewed as administrative and internal in nature, rather than a regulation that can serve as a direct legal basis for public-scale enforcement actions such as the physical demolition of buildings.

In theory, Perka BP Batam may be classified as a limited form of regulation (*beleidsregel*), functioning to govern technical implementation within BP Batam's scope of authority rather than to establish new general legal norms (Ivana et al., 2024). Under Hans Kelsen's *stufenbau* theory, each regulation must originate from and must not contradict higher legal norms (Prianto, 2024). Accordingly, the use of Perka as the legal basis for demolishing a building without support from higher legal grounds (such as a government regulation or a court order) raises juridical concerns. BP Batam's action potentially violates the doctrine of *lex superior derogat legi inferiori*, whereby higher law prevails over lower law (Wijayanti et al., 2024). Thus, from the perspective of legal certainty, BP Batam's action may be considered normatively weak even though it appears administratively valid within internal governance.

In conclusion, BP Batam's demolition of Purajaya Hotel occupies a position of legal uncertainty. On the one hand, BP Batam holds administrative authority over land management through HPL and is supported by internal regulations (Perka) governing land governance. On the other hand, the demolition of a building that constitutes a valuable asset and remains subject to legal dispute should, in principle, be conducted through judicial execution mechanisms to ensure legal certainty for all parties. Therefore, BP Batam's action may be regarded as administratively lawful, yet it does not fully satisfy the principle of substantive legal certainty as mandated under Article 1 paragraph (3) of the 1945 Constitution, which affirms Indonesia as a state governed by the rule of law (*rechtstaat*) (Pratama & Sekar, 2024).

Conclusion

The governance of Batam City is characterized by a dualism of authority between the Batam City Government and the Batam Indonesia Free Zone Authority (BP Batam), particularly in matters of licensing, land administration, and transportation, which frequently results in overlapping regulations. Within the legislative hierarchy, the Head Regulation of BP Batam (Perka BP Batam) falls outside the provisions of Article 7 paragraph (1) of Law No. 12 of 2011, yet its existence remains legally recognized under

Article 8 paragraph (1) of the same law, insofar as such regulation is enacted by an institution granted authority by higher-level laws and regulations. Nevertheless, the demolition case of Purajaya Hotel demonstrates the relative weakness of Perka BP Batam when used as the sole legal basis without support from higher-level regulations or a court ruling.

Therefore, greater clarity is required regarding the hierarchical status of regulations outside Article 7 paragraph (1) of Law No. 12 of 2011, particularly to strengthen the legal position of BP Batam Head Regulations so as to avoid legal confusion. In addition, policy coordination and regulatory harmonization between the Batam City Government and BP Batam must be intensified, especially in the economic sector, to prevent regulatory overlap. This is crucial given Batam's designation as a Free Trade Zone and Free Port Area with strategic national importance, where legal certainty and regulatory alignment play a decisive role in establishing effective governance.

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DEKLARASI KEPENTINGAN

Penulis menyatakan bahwa tidak ada konflik kepentingan dalam penerbitan artikel ini.

INFORMASI PENDANAAN

Tidak ada

PENGHARGAAN

Para penulis berterima kasih kepada peninjau anonim artikel ini atas komentar dan umpan balik mereka yang berharga.

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