



## REASONABLE PRICE INDICATORS IN COLLECTION OF BPHTB SALE AND PURCHASE BY BAPENDA MALANG CITY

Aulia Faza Regista<sup>1</sup>, Muktiono<sup>2</sup>, Supriyadi<sup>3</sup>

<sup>1,2,3</sup>Universitas Brawijaya, Malang

Corresponding E-mail: [gistafaza10@gmail.com](mailto:gistafaza10@gmail.com)

### Abstract

The purpose of this research is to analyze and describe the indicators used by Bappenda in determining the fair transaction price for buying and selling land in Malang City in collecting BPHTB. This type of research is a socio-legal research with a juridical-sociological approach. This research was conducted at the Malang City Regional Revenue Agency. The results of the analysis show that based on the results of interviews with Bapenda, it states that a fair transaction price has the same meaning in determining market value, but for buying and selling transactions, Bapenda determines it in several ways in the form of a sales price submitted by the taxpayer as the seller, the previous documents where there are similarities in certain districts or sub-districts, can also be seen by neighboring houses that are next door and around it. Of these 3 things, Bapenda takes the average to determine a fair transaction price. The use of the price contained in the Bappenda tax database is used as a measure to find out whether the stated transaction price is a reasonable transaction price. Considering that many taxpayers include the transaction price on the Sale and Purchase Deed and SSPD BPHTB which does not match the actual price to minimize the amount of BPHTB owed.

**Keywords:** *Normal price, BPHTB*

### 1. INTRODUCTION

The state administration system in a legal state is based on the rule of law (Airlangga, 2019). Referring to Achmad Ali's view of law, he views law as manifested in the form of law as *sollen* and law as *sein*. Continuing from this, it is known that the law in reality cannot be separated from the law as a rule (legal norm) (Ali, 2015). The existence of law is used to create a safe and orderly atmosphere in relations between individuals and/or within society (Hadi, 2017). A safe condition means the creation of a state that is free from disturbance, free from danger, a state that is certain and peaceful (KBBI, 2016). Therefore referring to conventional teachings, law aims to fulfill justice, benefit and certainty (Airlangga, 2019). Land is a fixed object with high economic value (Sudiro & Putra, 2021). This can be understood because there is an imbalance between human needs for land and available land. Land can also be seen as a tool to achieve prosperity and well-being. Basically, land is controlled by the state based on "rights of control from the state". Even so, the state can grant land rights to legal subjects, namely people and legal entities. It is this land right that is used as a basis by legal subjects to exercise control over land.

Land rights are obtained for two reasons, namely the act of transferring rights and granting rights. Focusing on the cause of the transfer of rights, one of the legal actions is buying and selling. Transactions of buying and selling land are different from buying and selling other immovable objects. The legal action of buying and selling land needs to be stated in an authentic deed made by the Land Deed Making Officer (PPAT). The authentic deed is needed by the parties to arrange the transfer of land rights from the seller to the buyer at the local land office. In addition, the occurrence of the sale and purchase of land raises the obligation to pay the tax "Land and Building Rights Acquisition Fee" (BPHTB). One of the tax law enforcers at the district/city level is the Regional Revenue Agency. Referring to the provisions of Article 2 paragraph (1) Malang Mayor

Regulation Number 79 of 2019 concerning Position, Organizational Structure, Duties and Functions and Work Procedures of the Regional Revenue Agency (Perwali Kota Malang Number 79 of 2019), it has been regulated regarding the position of the Regional Revenue Agency, namely as following:

"The Regional Revenue Agency is a Regional Apparatus that carries out supporting functions for the implementation of government affairs in the financial sector, especially in managing Regional Tax revenues and other assistance tasks, having a position under the Mayor." Referring also to the provisions of Article 4 of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, it has been regulated that BPHTB is one of the taxes collected by district/city governments. Based on the position of the Regional Revenue Agency (Bapenda), as the enforcer of tax law at the regional level, Bapenda is obliged to comply with and apply the legal provisions that apply to the collection of BPHTB. In accordance with applicable legal provisions, BPHTB tax payments are 5 (five) percent of the transaction price after deducting the Acquisition Value of Non-Taxable Tax Objects (NPOPTKP). BPHTB tax payments in the field often encounter fraud, namely by listing a lower transaction price to minimize BPHTB tax obligations (Afriyandi, 2018). Responding to this, the City Government of Malang through Regional Regulation Number 15 of 2010 concerning Fees for Acquisition of Land and Building Rights gives obligations to Regional Heads or appointed officials to carry out audits of the SSPD (Regional Tax Payment Letter) from taxpayers. Through this obligation,

However, such a situation will cause confusion for sellers and buyers when they have no intention of defrauding the BPHTB tax payment nominal. The parties who have submitted the SSPD according to the actual transaction price will be confused when asked to adjust the price contained in the Bapenda database. The adjustments that need to be made allow for additional BPHTB tax fees to exceed the taxes that should be paid by the parties based on the transaction price (NJOP). Such a situation tends to cause losses to the buyer and seller because it can affect the existing agreement. In addition, there is also no transparency regarding prices contained in the Bapenda database. Through Regional Regulation Number 15 of 2010 concerning Fees for Acquisition of Land and Building Rights (Perda BPHTB Malang City), regulates the obligations of Regional Heads or appointed officials to "conduct an examination of the SSPD (Regional Tax Deposit Letter) from taxpayers." Through this obligation, the authorized official will carry out a simple check if the nominal tax in the SSPD is deemed insufficient and/or not in accordance with the database owned by the Regional Revenue Agency (Bapenda). In such an event, it creates uncertainty and losses for taxpayers, because the imposition of BPHTB for sale and purchase on the basis of NPOP from Bapenda tends to result in a larger amount of BPHTB. The parties who have submitted SSPD according to the actual transaction price, will be confused when asked to adjust the price contained in the Bapenda database. Such circumstances tend to cause losses for buyers and sellers due to the emergence of new prices outside the agreement. In addition, there is also no transparency/disclosure regarding the prices contained in the Bappenda database, so that the sellers and buyers do not know the prices adopted or set by Bappenda.

Furthermore, when referring to previous research, it is known that the Regional Government actually does not have the authority to determine the selling price in land buying and selling transactions (Afriyandi, 2018). In addition, there is also no transparency/disclosure regarding the prices contained in the Bappenda database, so that the sellers and buyers do not know the prices adopted or set by Bappenda. Furthermore, when referring to previous research, it is known that the Regional Government actually does not have the authority to determine the selling price in land



buying and selling transactions (Afriyandi, 2018). In addition, there is also no transparency/disclosure regarding the prices contained in the Bappenda database, so that the sellers and buyers do not know the prices adopted or set by Bappenda. Furthermore, when referring to previous research, it is known that the Regional Government actually does not have the authority to determine the selling price in land buying and selling transactions (Afriyandi, 2018).

Uncertainty on the basis of the imposition of the BPHTB Sale-Purchase tax has also created obstacles in the field of Notary/PPAT services. Referring to the provisions of Article 24 paragraph (1) of the BPHTB Law, it has been regulated as follows: "The Land Deed Deed Official/Notary can only sign the deed of transfer of land and/or building rights when the Taxpayer submits proof of tax payment in the form of a Letter of Deposit for Land and Building Rights Acquisition Fees." The community has the right to know the value set by the government in terms of tax collection. This is in line with what is stated in the Indonesian constitution, which stipulates that taxes must be regulated by law. The constitution is a social contract, meaning that the things contained in the constitution are an agreement between the community and the state or government that regulates them (Sinaga, 2015). On the other hand, tax matters are part of government administration affairs which should also be guided by "General Principles of Good Governance (AUPB)". Referring to "Law Number 30 of 2014 concerning Government Administration" (hereinafter referred to as the Government Administration Law), in the provisions of Article 1 number 17 it can be seen that "General Principles of Good Governance, hereinafter abbreviated as AUPB, are the principles used as a reference for the use of Authority for Government Officials in issuing Decisions and/or Actions in administering government."

In the case of tax collection, these principles also apply because a tax assessment letter is a decision issued by a TUN official within the scope of the Tax Service Office. In connection with the problem of determining the tax object imposition value in BPHTB tax collection in Malang City, it is felt to be injurious to AUPB, especially the principle of openness which is defined by the Government Administration Law as "the principle that serves the public to gain access and obtain correct, honest, and not discriminatory in the administration of government while still paying attention to the protection of personal, group and state secret human rights." In addition, it is necessary to study further about what indicators are used by Bappenda in determining the land transaction price per square meter. This is intended as an effort to achieve legal certainty guarantees in the collection of BPHTB Sale-Purchase.

## 2. LITERATURE REVIEWS

### 2.1 Tax

According to Rochmat Soemitro, he defines taxes as people's contributions to the state treasury based on law (which can be enforced) without receiving lead services (contrast) that can be shown directly and which are used to pay public expenses.(Rochmat, 2011). The meaning of being enforceable is that if there is a tax debt that is not paid, then the debt can be collected using force, namely using forced letters and confiscations, as well as taking hostages. Even though certain reciprocal services cannot be shown for paying taxes. This is different from levies, where reciprocal services can be directly felt or can be appointed by the payer of levies(Zuraida & Advianto, 2011). Referring also to Soemarso's thoughts, he defines taxes as the embodiment of state obligations and the participation of members of the public in meeting the needs of state financing and national development in order to achieve social justice and equitable prosperity, both material and spiritual.(Soemarso, 2007)

Based on the definition of tax above, several characteristics or characteristics of taxes can be taken as follows:

- a. Tax collection is based on laws or implementing regulations;
- b. There is no direct reward for paying taxes;
- c. Taxes are collected by the state, both central and regional governments;
- d. The results of tax revenues are used to finance government expenditures, both routine expenditures and development expenditures, and if there is an excess, the remainder is used for public investment.

## 2.2 BPHTB

Referring to the provisions of Article 1 point 1 of Law Number 20 of 2000 concerning Amendments to Law Number 21 of 1997 concerning Fees for Acquisition of Land and Building Rights (UU BPHTB), it is known that Land and Building Rights Acquisition Fees are defined as taxes imposed on the acquisition of land and/or building rights, hereinafter referred to as taxes. According to Article 6 paragraph (3) of the BPHTB Law stipulates that if the Acquisition Value of the Tax Object is unknown or lower than the Sales Value of the Tax Object (NJOP), then the tax base used is the Selling Value of the PBB Tax Object, the NJOP PBB is stated in the Tax Return. Land and Building Tax Payable Tax (SPPT PBB) issued by the Land and Building Tax Service Office in the area where the object is located. If the NJOP PBB referred to in Article 6 paragraph 3 has not been determined, the amount of the NJOP PBB can be requested to the Minister of Finance to stipulate it. The amount of tax payable is calculated by multiplying the 5% (five percent) rate by the Acquisition Value of Taxable Tax Objects (NPOPKP). The formula for calculating the amount of BPHTB is:

$$\text{BPHTB} = (\text{NPOP}-\text{NPOPTKP}) \times 5\%$$

In Article 2 of Government Regulation Number 111 of 2000 concerning the Imposition of Fees for Acquisition of Land and Building Rights due to inheritance and testamentary grants that the BPHTB owed for the acquisition of rights due to inheritance and grants received by individuals who are still in blood relations in a straight line of descent above or one degree down with beneficiaries including husband and wife is 50% (fifty percent) of the BPHTB that should be owed. At the request of taxpayers, a BPHTB reduction can be granted, this is regulated by the Decree of the Minister of Finance of the Republic of Indonesia Number 518/KMK.04/2000 concerning the Granting of BPHTB Reductions, which was then followed up by the Director General of Taxes by issuing a Director General of Taxes Decree Number KEP-531/PJ / 2000 concerning Procedures for granting BPHTB reductions.

## 2.3 Regional Revenue Agency

Referring to the provisions of Article 2 paragraph (1) Malang Mayor Regulation Number 79 of 2019 Concerning Position, Organizational Structure, Duties and Functions and Work Procedures of the Regional Revenue Agency, it is regulated that the Regional Revenue Agency is a Regional Apparatus that carries out supporting functions for the implementation of government affairs in the field of finance, especially in the management of Regional Tax revenues and other assistance tasks, domiciled under the Mayor.



### 3. RESEARCH METHODS

This research is a type of socio-legal research, namely research that is a hybrid research based on normative law and law in the perspective of society (Bedner et al., 2012). Referring to the opinion of Wheeler and Thomas, defining socio-legal studies as an alternative approach that examines doctrinal studies of law (Bedner et al., 2012). This research will be carried out at the Malang City Regional Revenue Agency because the Regional Revenue Agency is a tax law enforcer in the field of BPHTB regional taxes. Primary data sources were obtained from direct interviews. Secondary data used in this research includes legal documents, books, previous research, decisions and expert opinions, laws and regulations. The population in this study are Malang City Revenue Agency, Notary/PPAT in Malang City, and Taxpayers. The sampling technique in this study used a purposive sampling technique, namely the research sample, in this case the respondents (subjects) were chosen deliberately based on certain characteristics determined by the researcher according to the research needs. The technique used to analyze the research data is descriptive qualitative, namely data analysis is carried out by describing and interpreting the data that has been collected so that a general and comprehensive picture of the actual situation is obtained.

### 4. RESULTS AND DISCUSSION

Tax collection is a series of activities starting from collecting data on tax objects and subjects, determining the amount of tax owed to collecting taxes from taxpayers and supervising their deposit. Based on the provisions contained in the Law on Regional Taxes and Regional Retributions, regional tax collection cannot be wholesaled in the sense that the entire process of tax collection activities cannot be handed over to third parties, but cooperation with third parties is possible in the context of the tax collection process. With the enactment of a law, legally it has legality which guarantees that a state or government action in collecting taxes is legally valid. Thus, in the implementation of BPHTB collection which is also one of the state revenues originating from taxes, it must also be based on legal provisions of laws and regulations in the sense that these laws and regulations apply as positive law in Indonesia. Which of these requires a reasonable price in collecting the tax. Fair price itself has the meaning of the price or profit that occurs in transactions carried out by parties who do not have special relationships that fulfill the principles of business custom and fairness.

Based on the results of an interview with Bappenda, stating that a fair transaction price has the same meaning in determining market value, but for sale and purchase transactions Bappenda determines it in a number of ways in the form of a sales price submitted by the taxpayer as the seller, previous files where there are similarities certain sub-districts or kelurahan areas, can also be seen by neighboring houses that are next to each other and around them. Of these 3 things, Bapenda takes the average to determine a fair transaction price. Taxpayers stated that they did not know the fair price in each sale and purchase transaction for the purchase of land and buildings. Taxpayers feel that the transaction price comes from the agreement of the parties, not from Bapenda. The price they set is of course based on the PBB and the surrounding market value. However, in fact, Bapenda has its own price and does not disclose this information to taxpayers. So every price they submit is always re-verified or commonly called field verification. So that there are obstacles for them every sale and purchase transaction at a fair price issued by Bapenda is not in accordance with the agreement between the seller and the buyer. Taxpayers admit that this can

hinder the process of signing the sale and purchase deed because the costs incurred for the transaction are greater,

This condition causes a potential conflict between the PPAT and the taxpayer when the land sale and purchase cancellation occurs. Some of the researchers' findings that this cancellation is because one of the taxpayers stated to cancel in the process of buying and selling activities. Taxpayers feel that Bapenda's database is very detrimental if only a very large amount of money is spent on the buying and selling process. For the cancellation, the PPAT asks the taxpayer to make a cancellation statement stating that the BPHTB process that has been running cannot be continued. Then the letter is given to Bappenda and Bappenda agrees if the transaction is cancelled. PPAT can only sign the deed of transfer of land and building rights after the taxpayer submits proof of tax payment and the tax is complete. For the PPAT, if a sale and purchase transaction is canceled and the BPHTB process is still ongoing, then in accordance with Article 1381 of the Civil Code it states "The agreement is deleted due to cancellation or cancellation". Then the sale and purchase process and the sale and purchase deed are canceled, the impact on the PPAT is that a sale and purchase transaction is not achieved. Bappenda also stated that if the taxpayer can cancel the buying and selling process and if he wants to continue, of course he can do it, but to continue the tax payment process that cannot be done. Because Bappenda needs this data, if the price submitted is above the NJOP, it is in accordance with the year of acquisition.

There are several factors that affect the fair price. In general, there are several factors that affect the increase in land prices, namely:

1. Physical factor

a) Natural Conditions (environment)

• Soil structure / type

The type of land can certainly influence the selling price of the land. Sandy soil will cost differently than marshy soil or peaty soil.

• Temperature / temperature

Physical values tend to be interpreted as factors that can be seen, touched and felt. Temperature / temperature is a factor that can cause a feeling of comfort in the place of residence. Many people prefer places that have cool temperatures or air compared to areas that have hot air or vice versa depending on the use of the land.

• Contour / slope of the land

A good soil condition for building a house is land that is not too sloping and tends to be flat because to obtain a better level of soil stability so that buildings standing on the land can be safer. For soils that have low stability, soil reinforcement is usually given and buildings on sloping land are given retaining walls.

• Free flood

Flood-free land conditions are an important concern in determining a location as a place to live to fulfill aspects of comfort and safety. Of course, every location of residence must really be in a location that is free from flood disasters.

b) Land and building area

The wider the land and buildings, the greater the selling value.

c) Building design

The ideal house building is a building that is designed according to its designation and meets the aspects of strength, quality and aesthetic aspects. A house like this certainly has a better selling value.



d) Position / location of the building (center / corner)

The influence of the position/location of the building at the housing location is due to differences in the area of land in a housing block. Houses that are at the corner and in the middle of a housing block usually have a different land area. Houses that are located on a street corner in a housing block usually have a slightly larger and more strategic area than the house in the middle. This is what causes people to be more interested in the location of the house which is on the corner of the street so that the value is higher than usual.

2. Economic Factors

a. Request

Population density factors, distance to the city center, road width, road conditions, availability of bus/public transport public transportation facilities, and finally, flood-free environmental factors greatly influence land value as the location of land research objects that have economic strength where the value or Land prices are highly dependent on supply and demand. The price of land in a certain area will depend on demand factors, such as people's purchasing power, people's income levels and interest rates.

b. Offer

Amount of available land The amount of land is relatively constant while the increasing demand for land makes land a scarce object. This scarcity of land is marked by the increasing difficulty of obtaining land to meet needs, especially in big cities elsewhere which continue to experience population growth. This tends to lead to an increase in land prices.

c. Land benefits

Land has uses for each owner because each owner can use the land to build houses, shelters, and other buildings that are important to the lives of the owners and those around them. Landowners can also use land as a factor of production, status symbol, and various other uses. In addition to land, buildings are objects that are very useful for humans because various human activities are carried out in buildings.

3. Social Factors

a. Total population

The population has an impact on the amount of demand for a land in housing, this has an influence on the selling value of land and buildings in a housing.

b. Population density

The level of population density which correlates with the number of workers, wage levels, income levels and purchasing power, of course influences the demand for and supply of goods or services.

c. Level of education

The level of education is one of the variables that can indicate the characteristics of the population which will then form a pattern of land use in an area. The level of community education also influences the pattern of valuation of land and buildings.

The tax potential of BPHTB in Malang City is also very high, because it is supported by the increasing economic sector in the property sector and continues to increase every year, making Malang City a potential city in realizing BPHTB according to targets set by the local government. Because the need for housing is quite high and is also one of the factors for the continued increase

in Land and Building Rights Acquisition Fees (BPHTB) taxes, it should also be followed by an increase in BPHTB taxes on every buying and selling transaction and can increase the effectiveness of BPHTB revenues in Malang City. In addition to the efforts made by Bappenda to Increase Revenue from Land and Building Rights Acquisition Fees (BPHTB) in Malang City, researchers also found factors that occur in determining fair prices in the implementation and application of BPHTB collection, these factors are as follows following :

- a. The condition factor of each location of the object to be appraised and the object of comparison greatly influences the determination of the market price of an object, because the appropriate and profitable use of the object depends on the location and environment in which the property is located, including the supporting facilities placed at the location. good and appropriate, therefore the services that may be produced either in the form of comfort or income from the object in question will continue to experience changes in line with the changes experienced by the environment. Therefore environmental stability is the main factor that must be analyzed when conducting site evaluations.
- b. The Land Area factor states that the larger the land area owned, the easier it will be to use the land for commercial use, on the other hand if the area is not too large, then its use tends to be limited, becoming land for settlements only.
- c. The Land Form Factor states that the physical form of an object also plays a role in determining the value of an object. Especially for vacant lands and lands that have the potential to be developed. Soil that is rectangular in shape is of course easier to build than soil that has a pentagonal shape or that has an irregular shape. Land that has an area that may have a different value if the shape of the land is different.
- d. The slope factor of the land is that the soil conditions that are good for building houses are land that is not too sloping and tends to be flat because to obtain a better level of soil stability so that buildings standing on the land can be safer. For soils that have low stability, soil reinforcement is usually given and buildings on sloping land are given retaining walls. From this causes the price around can be very expensive.
- e. The accessibility factor affects the price of land, for example: the distance to markets, hospitals, government offices, distance to schools and roads has a negative correlation, which means that the farther the distance from the land parcel to the object, the cheaper the price of the land. While the width of the road has a positive correlation, which means that the wider the road near a plot of land, the higher the price of the land.
- f. Assessment Factors for Buildings/Basic Materials, Buildings The valuation approach used to determine the NJOP of buildings uses a cost approach, namely by calculating the overall costs incurred to acquire buildings in new conditions according to the appraisal date, reduced by the depreciation that occurs in buildings according to the results of direct observation of the building aspect. physical depreciation, function and economy.
- g. Land use factor, namely land has uses for each owner because each owner can use the land to build houses, shelters, and other buildings that are important for the life of the owner and those around him. Landowners can also use land as a factor of production, status symbol, and various other uses.
- h. Demographic factors (population) namely population factors that can affect household consumption are the number of residents and the composition of the population. As the population increases, household consumption expenditure also increases even though the average expenditure per person or family is lower. A country's household consumption





expenditure will be very large if the population is very large and the amount of expenditure per capita is high. Total population is one of the determining factors for the disparity of regional original income. Population addition is a thing that is needed, and not a problem, but as an important element that can stimulate development and economic growth.

From the results of the interviews above, the authors see that the steps taken by Bappenda in determining a fair price are usually done so with the aim only for the welfare of the taxpayer or the community, but many taxpayers do not agree with what was done by Bappenda in determining the fair price.

## 5. CONCLUSION

The conclusion results show that the Malang City Bapenda factor in determining a reasonable price is a physical factor: Bapenda assesses from the building design or basic building materials, the location or position of the house where if the house has strategic value such as on the roadside, in housing, city center and free from Floods can affect house prices to increase. Economic factor: people use the land to build houses, shelters, and other buildings that are important for the owner's life. Social factors: Bappenda uses survey results every year to follow the population density of Malang City which affects the value of the land they occupy and also follows the density of people living in housing. So that the recommendations resulting from this research are that people who want to process buying and selling transactions are advised to actively seek information regarding fair prices from Bapenda.

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