

IS IT POSSIBLE TO START BUILDING WORKS EARLY WITHOUT APPROVAL?

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Any project – housing development, commercial building, or a simple warehouse will require approval from the respective *Pihak Berkuasa Tempatan*/ Local Authority (LA) at various stages of its development. Legally, construction should not commence on site until approval of all development plans has been obtained. The start work notification must be submitted within the validity period of the approvals of all development plans as follows;

- i. Development order/ planning permission
- ii. Earthwork, road and drainage plans
- iii. Building plans
- iv. Landscape plans

After all approvals of the above have been obtained from LA, the Principal Submitting Person (PSP) or Submitting Person (SP) shall notify the respective LA on work commencement on site. According to By-law 22 of the Uniform Building By-laws (UBBL) 1984, Form B shall be submitted to the LA as a '**Notice of Work Commencement/ Resumption of Building Operations**'^[1]. The notification above shall be deposited simultaneously for each development to the respective LA whilst complying with their requirements, to be distributed to relevant departments as provided in Subsection 70 (9) and Subsection 70A (2) of Act 133.

The appointed Principal Submitting Person (PSP) or Submitting Person (SP) shall prepare and submit a copy of the detailed structure plan of the building together with structure calculation directly to the LA's Building Department before building erection began, in line with the requirements of Subsection 70 (9A) of Act 133 and By-law 16 of UBBL 1984. The PSP or SP must advise the client and contractor to ensure that no construction work shall start without the start work notification.

IS THERE AN OPTION OF START WORK EARLY WITHOUT APPROVAL?

Nevertheless, several LAs do allow work commencement on-site prior to building plan approval. The respective LA may give special permission to start work (early work commencement) before building plan approval, under one condition which is the LA must receive the building plan application from the appointed PSP or SP, in accordance with By-law 13 of UBBL 1984.

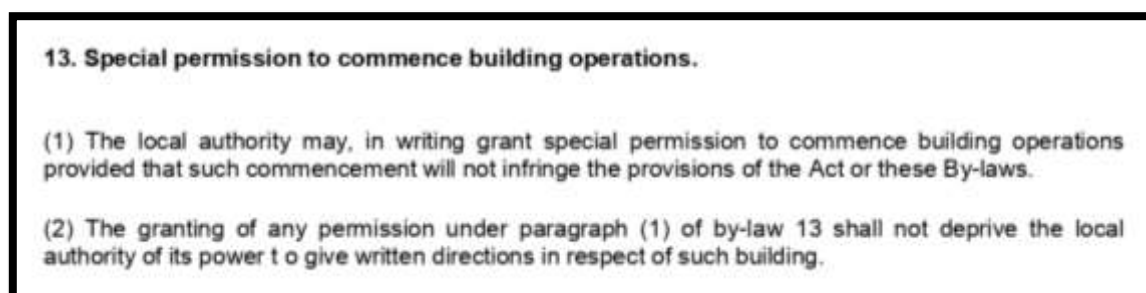


Figure 1: Special permission to commence building operations^[1]

In 2020, Majlis Bandaraya Pulau Pinang (MBPP) announced that construction projects in Penang Island will be given 24-hour approval to start work as part of the MBPP economic stimulation package. MBPP allows certain categories of construction to start work 24 hours after the start work application is submitted for building permission and commencement of work. Contractors may submit the application with an undertaking letter, and within 24 hours, they will be allowed to commence work.



Early commencement of work may give flexibility to the development project, however there will also have implications if the submitted development plans do not follow related laws and regulations and eventually rejected by LA, and resubmission needs to be done. This may result in reconstruction on site, following the right requirements, laws, and regulations. Due to the circumstances, most of LA nowadays do not grant early start work approval anymore.

WHAT ARE THE IMPLICATIONS OF START WORK WITHOUT APPROVAL BY LA?

For LA that does not allow early work commencement, a fine will be imposed on the project owner on development that starts work before any approved development plans or permits are obtained. The amount of the fine is calculated by charging a minimum of ten times of the processing fee paid for the building submission with reference to the First Schedule of UBBL 1984 or shall be not less than five times but not exceeding twenty times with reference to the Subsection 70 (14) of Act 113 [2]. However, with discretion by the LA, the fine imposed can be appealed for an amount reduction.

That being said, submission of start work notification is still required to be submitted by the PSP or SP as a notification to the LA. Without start work notification, the LA has the right to issue a stop work order as the construction shall be categorized as illegal construction. Moreover, proof of start work notification (Form B) submission to the LA is one of the mandatory conditions by the LA before any Certificate Of Completion And Compliance (CCC) inspection can be held and any CCC documentation can be deposited.

PSP or SP shall aware that all development approval plan validity periods must be renewed if no start work notification is submitted. Once the start work notification is submitted to the LA, normally there will be no expiration period for the approval plan obtained. However, this expiration period may vary or be limited according to each LA's requirements and regulations.

CONCLUSION

In any development project, time is one of the key factors to ensure efficiency in any project delivery. Compliance with all regulations somehow will consume much time, cost, and energy, but these are important procedures to ensure the development is being constructed according to the approved development plans and to follow all imposed requirements, laws, and regulations.

As a professional building consultant, it is important to check with the LA on their regulations on this matter and to advise the client accordingly. Any development project that has started work on site without the submission of start work notification by PSP or SP, or without any permits and early start work approval, a fine and stop work notice may be imposed by the LA.

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References:

[1] *Uniform Building By-laws 1984*

[2] *Street, Drainage and Building Act 1974 (Act 113)*