



**Bar Malaysia
Malaysian Bar**

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**Circular No 003/2017
Dated 5 Jan 2017**

To Members of the Malaysian Bar

**Update on Imposition by Local Authorities of Requirement of Licences
for Premises and/or Signboards (5 Jan 2017)**

We refer to [Circular No 051/2015](#) dated 11 Mar 2015, entitled “Imposition by Local Councils of Requirement of Licences for Premises and/or Signboards”, which informed Members that the Ministry of Urban Wellbeing, Housing and Local Government (“Ministry”) had officially communicated to the Bar Council that law firms are not required to pay for licences for their premises. However, the Ministry had stated that law firms must apply for signboard licences from the local authorities.

We also refer to [Circular No 116/2016](#) dated 17 May 2016, entitled “Update on Imposition by Local Authorities of Requirement of Licences for Premises and/or Signboards”, which informed Members that the Bar Council notified Dewan Bandaraya Kuala Lumpur (“DBKL”) and Majlis Bandaraya Shah Alam (“MBSA”) of the Bar Council’s position that law firms are regulated under the Legal Profession Act 1976 and the Legal Profession (Publicity) Rules 2001, and do not come within the definition of “trade, business or industry” under the Local Government Act 1976, and as such there is no requirement for law firms to apply for licences for their signboards.

Engagement with DBKL

In a letter to DBKL dated 16 May 2016, the Bar Council requested a meeting in order to explain its position concerning DBKL’s requirement that law firms obtain licences for premises and/or signboards. Regrettably, there has been no response from DBKL despite several verbal and written reminders.

It has come to the Bar Council’s attention that several law firms based in Kuala Lumpur have been served with a notice from DBKL requiring them to obtain a business licence for their offices, in light of the Licensing of Trades, Businesses and Industries (Federal Territory of Kuala Lumpur) By-Laws 2016 (“By-Laws 2016”, accessible in Bahasa Malaysia and English [here](#)), which came into effect on 1 Sept 2016.

The Bar Council wrote a letter to DBKL dated 8 Nov 2016, requesting an urgent meeting be held on 16 Nov 2016 in order to resolve this issue, and then made several follow-up telephone calls. We managed to contact DBKL on the morning of 16 Nov 2016, and was informed that the proposed meeting would not proceed as requested, and that DBKL would respond to us in due course.

Subsequently, the Bar Council wrote a letter dated 17 Nov 2016 requesting a moratorium on the requirement that law firms apply for licences from DBKL, until the matter is resolved. A copy of this letter is attached for your reference.

DBKL finally responded to the Bar Council by letter dated 5 Dec 2016, stating that the By-Laws 2016 stipulate that premises that carry out activities of a managing office, which includes law firms, must be licensed. DBKL also requested that the Bar Council inform and encourage law firms to apply for licences for their premises and signboards. A copy of this letter is attached for your reference. Please note that “lampiran A”, mentioned in the second paragraph of the letter, refers to the Schedule in the By-Laws 2016.

Bar Council’s Position

We wish to draw Members’ attention to section 102 of the Local Government Act 1976, which provides, in relevant part, as follows:

102. General power to make by-laws.

In addition to the powers of making by-laws expressly or impliedly conferred upon it by any other provisions of this Act every local authority may from time to time make, amend and revoke by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good order and government of the local authority area and in particular in respect of all or any of the following purposes —

...

(s) to control and supervise, by registration, licensing or otherwise, including in proper cases by prohibition, a trade, business or industry which is of an obnoxious nature or which could be a source of nuisance to the public or a class of the public;

The Bar Council maintains its position that Members of the Bar constitute a profession, and that law firms — which are regulated under the Legal Profession Act 1976 and the Legal Profession (Publicity) Rules 2001 — should not be classified as a “trade, business or industry”. Hence, the Bar Council is of the view that law firms are not required to apply for licences for their premises or signboards, despite the stance of the local authorities to the contrary.

The Bar Council is of the view that the By-Laws 2016 is *ultra vires* the primary legislation (ie the Local Government Act 1976) insofar as the legal profession is concerned, and therefore invalid to that extent.

The Bar Council will continue to seek to meet with DBKL and the relevant authorities in order to arrive at a conclusive resolution of this matter.

For enquiries, or if Members encounter any difficulties in respect of this matter, please contact Marianna Laureen Tan, Executive Officer, by telephone at 03-2050 2086, or by email at ml.tan@malaysianbar.org.my.

Thank you.

Karen Cheah Yee Lynn
Secretary
Malaysian Bar



**Majlis Peguam
Bar Council Malaysia**

Saya/Kami mengakui penerimaan dokumen ini:

Nama: *Hgclp*

Jawatan:

Tandatangan: *[Signature]*

Tarikh: *[Signature]*

Waktu Penerimaan:

Cop:

TERIMA
17 NOV 2016
UNIT PENTADBIRAN
DAN KEWANGAN
JPPP

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Rujukan kami: BC/PA/L3/2016

Rujukan tuan: (8) dlm.DBKL/& PPP.2013/8-S/14 Bhg 1

YBhg Dato' Ibrahim bin Yusoff

Pengarah

Jabatan Perlesenan dan Pembangunan Penjaja

Dewan Bandaraya Kuala Lumpur

Tingkat 4, Menara DBKL 2

Jalan Raja Laut

50350 Kuala Lumpur

(U/P: Puan Nurlaili Najwa binti Ramli

Penolong Pegawai Undang-Undang)

17 November 2016

MUSTAHAK
DENGAN KADAR SEGERA

Serahan Tangan

YBhg Dato'

Per: Notis Makluman melesenkan premis yang digunakan untuk aktiviti komersial di bawah Undang-Undang Kecil (UUK) Perlesenan Tred, Perniagaan dan Perindustrian 1986

Dengan hormatnya, kami merujuk kepada surat kami bertarikh 8 November 2016, yang memohon supaya satu mesyuarat mustahak dan segera diadakan pada 16 November 2016 pada jam 3:30 petang di pejabat YBhg Dato' berkenaan dengan isu tersebut di atas. Sesalinan surat tersebut dilampirkan di sini untuk rujukan pejabat YBhg Dato'.

Kami ingin merakamkan bahawa pihak kami masih belum menerima apa-apa maklumbalas daripada pejabat YBhg Dato' dan apabila pihak kami menghubungi pejabat YBhg Dato', kami telah dimaklumkan bahawa pihak Dewan Bandaraya Kuala Lumpur (DBKL) tidak bersetuju untuk mengadakan mesyuarat tersebut dan pihak YBhg Dato' akan memberi maklumbalas pada masa yang akan datang.

Sepertimana yang telah diuraikan dalam surat-surat kami sebelum ini, kami telah dimaklumkan oleh beberapa ahli kami bahawa firma mereka akan dikenakan denda dalam masa terdekat sekiranya mereka tidak memperolehi lesen premis yang dituntut oleh pejabat YBhg Dato'.

Justeru itu, kami dengan ini memohon pada kadar segera supaya pihak YBhg Dato' dapat memberi tarikh dan masa yang sesuai bagi mengendalikan satu mesyuarat untuk menyelesaikan perkara tersebut yang kini jadi semakin runsing.

Sehingga mesyuarat tersebut diadakan, dan buat sementara waktu ini, kami berharap agar satu moratorium diimplementasikan ke atas notis-notis yang dikeluarkan kepada firma-firma guaman sehingga perbincangan dan penyelesaian dapat dicapai.

Sehubungan dengan ini, pihak Majlis Peguam akan mengeluarkan satu surat pekeliling kepada ahli-ahli kami untuk menasihatkan mereka berkenaan dengan perkara tersebut di atas.

...2/-

Pihak kami amat berbesar hati sekiranya pihak YBhg Dato' dapat memberi maklum balas pada kadar segera berkenaan dengan tarikh yang sesuai untuk mesyuarat dan juga tentang moratorium tersebut.

Sekian terima kasih.

Yang benar



Karen Cheah Yee Lynn
Setiausaha
Bar Malaysia

Lamp.

cc. 1) Brendan Navin Siva & Sarengapani s/o K. Rajoo
Pengerusi Bersama
Jawatankuasa Profesion Undang-Undang



ديوان بندر كوالالمپور

DEWAN BANDARAYA KUALA LUMPUR

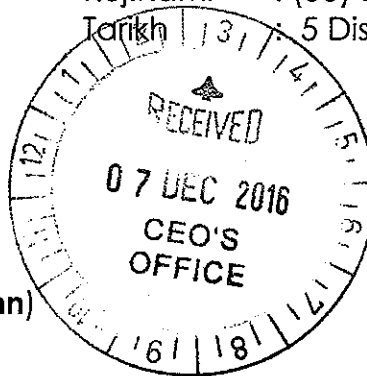
JATAN PELESENAN DAN PEMBANGUNAN PENJAJA

Lingkat 4, 5 dan 9
Menara DBKL 2
Jalan Raja Laut
50350 Kuala Lumpur
Peti Surat 11022



PEMENANG ANUGERAH
Novasi PBT 2010

Ruj.Tuan : BC/PA/L3/2016
Ruj.Kami : (33) DBKL.JPPP.13-1/4.Jld 2
Tarikh : 5 Disember 2016



Majlis Peguam Negara
Bar Council Malaysia
15, Leboh Pasar Besar
50050 Kuala Lumpur



(u.p: Puan Karen Cheah Yee Lynn)

Puan,

PER: NOTIS MAKLUMAN MELESENKAN PREMIS YANG DIGUNAKAN UNTUK AKTIVITI KOMERSIAL DI BAWAH UNDANG-UNDANG (UUK) PELESENAN TRED, PERNIAGAAN DAN PERINDUSTRIAN 1986

Dengan segala hormatnya saya di arah merujuk kepada perkara yang tersebut di atas dan surat puan bertarikh 17 September 2016 & 8 November 2016 adalah berkaitan.

2. Untuk makluman puan, dalam pindaan baru Undang-Undang Kecil Tred, Perniagaan dan Perindustrian (WPKL) 2016 (P.U.(A) 230) yang telah diwartakan pada 1 September 2016 telah menetapkan bahawa premis yang menjalankan aktiviti pejabat urusan perlu dilesenkan. Aktiviti pejabat urusan telah dikenalpasti termasuk firma guaman dengan fii lesen sebagaimana yang dinyatakan dalam lampiran A.

3. Tujuan Dewan Bandaraya Kuala Lumpur melesenkan lima (5) aktiviti baru termasuk pejabat urusan adalah berdasarkan kepada justifikasi seperti yang berikut:-

- Memperluaskan pemberian lesen tidak hanya kepada jenis tred, perniagaan dan perindustrian yang berisiko tinggi (obnoxious atau nuisance) sahaja;
- Memudahkan kawal selia oleh DBKL ke atas jenis-jenis perniagaan tersebut

...2/-

PER: NOTIS MAKLUMAN MELESENKAN PREMIS YANG DIGUNAKAN UNTUK AKTIVITI KOMERSIAL DI BAWAH UNDANG-UNDANG (UUK) PELESENAN TRED, PERNIAGAAN DAN PERINDUSTRIAN 1986

- iii. *Data collection* bagi tujuan perancangan pembangunan akan datang di kawasan aktiviti perniagaan tersebut;
- iv. Bagi mengenal pasti kemudahan infrastruktur yang diperlukan di kawasan aktiviti perniagaan seperti tempat letak kereta, pusat penjaja dan jajaran siar kaki;
- v. Memudahkan proses kelulusan ubahsuaian bangunan premis yang hendak dilaksanakan oleh pemegang lesen;
- vi. Bagi memastikan sesuatu premis adalah sesuai untuk dijalankan aktiviti tersebut; dan
- vii. Membantu agensi berkaitan yang mengawal *standard* atau etika perkhidmatan perniagaan tersebut dengan membekalkan data atau maklumat premis perniagaan; dan
- viii. Mengenal pasti impak daripada aktiviti perniagaan kepada persekitaran dari segi kesesuaian dan keperluan.

4. Sehubungan, pihak Dewan Bandaraya Kuala Lumpur amat berharap agar pihak puan dapat memaklumkan serta menggalakkan semua firma guaman memohon lesen premis dan lesen papan tanda premis. Kerjasama dan jasa baik pihak puan amatlah dihargai.

Sekian, terima kasih.

"BERKHIDMAT UNTUK NEGARA"
"BERSEDIA MENYUMBANG BANDARAYA CEMERLANG"



(DATO' IBRAHIM BIN YUSOFF)
b.p. Datuk Bandar
Dewan Bandaraya Kuala Lumpur