

## **DBKL assessment hike – Klites right to be heard individually**

It needs to be remembered that City of Kuala Lumpur (KL) comes under Dewan Bandaraya Kuala Lumpur (DBKL) which is only a local government body and its rates are for providing local government services only which are enjoyed almost exclusively the people of KL. That is the basis anyway for the rates of local government bodies.

The Federal Territories Ministry is responsible for Putra Jaya, Labuan and also KL. Though there is geographic overlap in the case of KL only, (there is none in the case of the other areas), and more significantly, none in the case of services. The FT Ministry being responsible for the nation's capital and other territories, is funded by Parliament and its expenses are provided for in the annual, national budget.

In other words, the expenses of DBKL proper only may be recovered from KLites. It is clear from the items mentioned by the FT Minister to justify the increase that some of these things are not for the benefit of the people of KL only particularly the highways. Irrelevant things have been taken into account.

This principle is observed by the Constitution in the formula for making capitation grants with respect to roads-federal and state and the latter are said to be those that join places within the state only and therefore enjoyed more by the people than those from outside. Such a distinction is to be made in the case of purely local government services and those to be provided by the state government and those by the federal government. .

The DBKL budget needs to be re-examined in the light of the above principle; such a failure to observe the distinction is one of principle and

may be a sure ground for challenging the budget in Judicial Review proceedings in the Courts of Law, proposed against the rate hikes.

It would help if the FT Minister's comments were more clear as to what part of the FT he is talking about, better still if he stayed out of the matter as a whole; as a federal minister his concerns are inevitably wider than those of local government.

### **What is the Rate of the Hike?**

There is some contradiction as to the actual rate of the hike.

**“It's down 2%” was the front page in one of the widely circulated newspapers.**

*The Federal Territories Minister Datuk Seri Tengku Adnan said “that residential property owners will not be paying more than an additional 10% over what they have been paying. Commercial property owners, on the other hand, will not be paying more than an additional 35% over their current fee when the rates are implemented on Jan 1”.*

This statement was recorded by a news daily and published on Friday, 20.12.2013 in response to DBKL fixing 4% for assessment rates on residential property and 10% for commercial property, down from the current 6% and 12% respectively.

### **Case Study**

Let's see whether the statement holds true and accurate arithmetically:

*“that residential property owners will not be paying more than an additional 10% over what they have been paying. Commercial property owners, on the other hand, will not be paying more than an additional 35% over their current fee”*

**Eg: A: Residential holdings: Taman Desa, Jln Klang Lama link-house**

Yearly value RM6,480	Proposed revision RM 17400	
Yearly assessment (6%) RM388.80	Proposed assessment (6%) RM 1044.00	Proposed reduction (4%) RM696.00

From the case study above, the percentage **increase is 79 %** and obviously not '10% over what they (rate payers) have been paying'.

**Eg: B: Commercial holdings: Taman Segar, Cheras shophouse**

Yearly value RM19200	Proposed revision RM67800	
Yearly assessment (12%) RM2304.00	Proposed assessment (12%) RM8136.00	Proposed reduction (10%) RM6780.00

From the above, it is clear the percentage **increase is 294 %** and obviously not 'an additional 35% over their (rate payers) current fee'.

The above are real cases where the affected rate payers have approached us to make comparisons and to find the truth or otherwise of the statements. Perhaps, people in Government should not make confusing statements so that poorly informed people are not led astray. Is it one of those rhetorics?

### **Deciding the matter before the hearing?**

The FT Minister seems to have decided for himself, ahead of hearing the Objection Notices, that the rate of increase is now only 4%.

If he goes ahead with this, as he seems determined to do, then he is clearly treating the statutorily-given right as a mere *proforma* exercise. While he may reduce the rate before the hearing the Objection Notices, he should not however go with it just because he has already decided before hand then the Objection Notices are of no effect. It seems to have been pre-determined. And this is another point for the hearing of the Judicial Review proceedings.

**The FT Minister further stated *that “as of 17.12.2013 (the last day for the lodgment of Notice of Objections) DBKL has received 153,187 objection letters and the council will begin to filter the objections”.* “We may also gather residents from one particular area and hear their objections, in a town hall sort of a meeting” said Tengku Adnan.**

***“The panel set up to hear the objections of ratepayers will begin on January 6 and will go on until March 31 next year. It hopes to settle the hearings in three (3) weeks, instead of three (3) months.” he said.***

Now, let's dissect the Minister's statements and try to make sense of it.

### **Town Hall-type of meetings**

It is utterly irregular and not in conformity with the law. It is also highly impossible to conduct a Town Hall meeting to accomplish the task of 'hearing' each and every one's 'Notis Bantahan' (Notice of Objections) and to understand their respective grounds of arguments/ contention. The legislation clearly envisages an individual's Notice to be heard singly. This is obviously time-confusing. Bunching them according to areas to be dealt in a mass-meeting is not efficacious except for rushing the process.

The Objection Notices require careful, detailed examination and every case has its own characteristics and merits. In some cases privacy is needed.

Their respective contentions need not be revealed to others or they may cause embarrassment eg contention of OKU's and disabled persons.

DBKL cannot by a 'stroke of the pen' decide such matters. Gatherings of 5000 rate payers are not conducive; claims to have listened to all are palpably false. Will there be registration? Will each one of the 5000 be heard? Perhaps, just a handful of outspoken ones who make the most noise and selfishly monopolize the microphone in the Hall. Does listening to a few rate payers tantamount to 'having heard' their viewpoints?

The legislation is clear: **LOCAL GOVERNMENT ACT, 1976 (Act 171)**

Section 142. **Objections.**

*(1) Any person aggrieved on any of the following grounds-*

*(a) that any holding for which he is rateable is valued beyond its rateable value;*

*(b) that any holding valued is not rateable;*

*(c) that any person who, or any holding which, ought to be included in the Valuation List is omitted therefrom;*

*(d) that any holding is valued below its rateable value; or*

*(e) that any holding or holdings which have been jointly or separately valued ought to be valued otherwise,*

*may make objection in writing to the local authority at any time not less than fourteen days before the time fixed for the revision of the Valuation List.*

*(2) All objections shall be enquired into and the persons making them shall at such enquiry be allowed an opportunity of being heard either in person or by an authorized agent.*

**Hope to settle the hearings in three (3) weeks, instead of three (3) months ??**

With 153,187 Objection Letters, as reported, it constitutes more than 30% of property Holdings (500,000) that have lodged their official 'Notis Bantahan'. DBKL had previously stated that they are in the midst of setting up eight (8) panel groups to hear objections on the assessment rates revision.

Say, each DBKL's Jawatankuasa Pendengaran Bantahan can hear 30 cases (of Objections) each day and there are eight (8) panels sitting concurrently, it means that in one day they can accomplish 240 cases (8 x 30). In a week with five (5) working days, it will achieve a target of 1200 cases (240 x 5). In a month with four (4) weeks DBKL's panel would accomplish 4800 cases (4 x 1200). This is not even taking into consideration public holidays and off days.

With 153,187 'Notis Bantahan' it will probably take 32 months, that's more than two and a half year (2.5 years). Why should rate payers, who are going to suffer the brunt of the assessment hikes wish to hasten and facilitate the task of the panels? Wouldn't it be intelligent to delay the process so that the issue of the hikes could be prolonged, perhaps, until the next General Election?

### **What happens to those that did not submit Objections?**

There should be no double standard as it would create disharmony amongst the community. Many are ignorant, trusting and naïve with dosage of confusing and conflicting information from politicians and civil servants. The confusing information are compounded by the day. Some indulge in coffee shop gossips. Most are uneducated of their legal rights and entitlements. Ask the 'Mak Cik and Ah Sohs' and they don't know what the commotions all about until they receive the assessment billings next year.

### **Income tax, GST, higher electricity tariffs, increase in price of sugar and now higher local government rates**

If the government wishes to receive more money from the people because the expenses of government are mounting, it has a reciprocal duty to reduce waste and leakages. Trims the fats and rid of the deadwood civil servants with the objective to reduce the statics expenses. The DBKL Budget, 2014 has revealed that RM440.99 million will be allocated for emoluments for the 10,391 staff with an additional allocation of RM59.41 million for overtime allowance. That's quite a hefty figure to maintain. Most

private sectors had their workload automated and thus, less staff. Similarly, DBKL could undertake the exercise to off load those 'extras'.

The people have just been treated to the Auditor-General's Report on the waste and corruption of civil servants. It is dutiful upon the 'Enforcers of the Law' to jump into action to investigate the sweetheart deals between those in government and cronies and bring justice to the tax payers?

Our Prime Minister said those who do not pay their taxes to the government may be likened to people who do not do their duty to the nation. Can't it also be said that a government that does not spend public funds frugally, without waste and honesty betrays the people's trust in them?



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