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The Review Legal Legislation and Regulatory

In conducting the research is necessary to identify legislation and regulations that govern:

Legislation of RI number 23 of 2014 on Regional Government.

In Act No. 23 of 2014 Part Four Article 283 paragraph one states that the Regional Financial Management is an integral part of the implementation of Government Affairs which is the authority of the region as a result of the submission of Government Affairs. In addition, paragraph two states that the Regional Financial Management as referred to in paragraph (1) shall be conducted in an orderly manner, in compliance with the provisions of legislation, efficient, economical, effective, transparent, and accountable with due regard to the sense of justice, decency, and benefit to the community.

Article 285 states that paragraph one determined that the source of regional income consists of the original income of the territory, which includes; regional tax, regional retribution, result of separated area wealth management, and other original regional revenue. While, article 286 paragraph 1 states that local taxes and levies are stipulated by legislation that implementation in the regions shall be further regulated by local regulations. And paragraph 3 states that the results of the management of the separated area of wealth as referred to in Article 285 paragraph one letter a number 3 and other legal revenues as referred to in Article 285 paragraph one letter a number 4 shall be stipulated by a regional regulation guided by the provisions of legislation.

Whereas, Article 287 paragraph two states that the proceeds of levies or other titles imposed by the regional heads outside which regulated in the legislation as referred to in paragraph one shall be deposited entirely to the state treasury.

Government Regulation (*Peraturan Pemerintah/ PP*) Number 27 Year 2014 on the Management of State / Regional Goods

Article 5 in PP RI number 27 of 2014 paragraph one states that the Governor / Regent / Mayor is the holder of the power management of the Regional Property. Moreover, paragraph two states that the holder of the authority of the management of Regional Property is authorized and responsible:

- a. to stipulate the management policy of regional property.
- b. to stipulate the use, utilization or transfer of regional property in the form of land and / or building.
- c. to establish security policy and maintenance of regional property.
- d. to establish the official who administers and keeps the property of the region.
- e. to submit proposals for the transfer of regional property which requires the approval of the regional house of Representatives.
- f. to approve the proposals for the alienation, destruction and removal of regional property in accordance with the limits of their authority.
- g. to approve the proposed utilization of regional property in the form of part of land and / or building and other than land and / or building.
- h. to approve the proposal of utilization of regional property in the form of cooperation of provision of infrastructure.

Article 5 in PP RI number 27 year 2014 paragraph three states that the regional property manager is authorized and responsible:

- a. to examine and approve the planned needs of the Regional Property.
- b. to examine and approve the planned maintenance / maintenance needs of Regional Property.
- c. to submit proposals for Utilization and Transfer of Regional Property which requires the approval of the Governor / Regent / Mayor.
- d. to regulate the implementation of Use, Utilization, Destruction, and Elimination of Regional Property.
- e. to regulate the implementation of the Transfer of Regional Property which has been approved by the Governor / Regent / Mayor or the Regional House of Representatives.
- f. to coordinate in the implementation of Inventory of Regional Property.
- g. to conduct supervision and control over the management of Regional Property.

Government Regulation Number 50 Year 2007 Concerning Procedures for Implementation of Regional Cooperation.

In Article one, paragraph two states that regional cooperation is an agreement between the Governor and the Governor or between the Governor and the Regent / Mayor or between the Regent / Mayor with other Regents / Mayors and / or Governors, Regents / Mayors with third parties, made in writing as well as incurring rights and obligations. While, paragraph three states that the third party is a Department / Non-Departmental Government Institution or other designation, a private company incorporated as a legal entity, State-Owned Enterprises, Regional Government-Owned Enterprises, Cooperatives, Foundation and other domestic institutions with legal status.



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Article two states that regional cooperation is done by principles; Efficiency, Effectiveness, Synergy, Mutual Benefit, Common Agreement, Goodwill, prioritizing the national interest and territorial integrity of the Unitary State of the Republic of Indonesia, equality authority, Transparency, Justice, and Certainty.

Minister of Home Affairs Regulation No. 17 of 2007 on Management of Regional Property

Article 2 explains that the management of regional property as part of the regional financial management is carried out separately from the management of state property. Article three paragraph two states that the goods referred to in paragraph (1) letter b include:

- a. Goods obtained from grants / donations or the like.
- b. Goods obtained as the implementation of the agreement / contract.
- c. Goods obtained under the provisions of legislation.
- d. Goods obtained under a court decision that has obtained permanent legal force.

Article 4 paragraph one explains that the management of regional property is implemented based on functional principle, legal certainty, transparency and openness, efficiency, accountability, and certainty of value. Paragraph two states that the management of regional property includes; Planning needs and budgeting, Procurement, receipt, storage and distribution, use, administration, utilization, security and maintenance, appraisal, deletion, alienation, coaching, supervision and control, financing and compensation claims.

Article 6 paragraph one explains that the Head of Region as the holder of the management authority of regional property, which has the authority:

- a. to establish the policy of management of regional property.
- b. to determine the use, utilization or alienation of land and buildings.
- c. to establish the policy of securing local property.
- d. to propose the transfer of goods belonging to the regions which require the approval of the Regional House of Representatives.
- e. to approve the proposed alienation and deletion of the property of the Region in accordance with the limits of its authority.
- f. to approve the proposed use of regional property other than land and / or building.

Furthermore, paragraph four explains that the Head of the Regional Device Work Unit as the user of the property belonging to the region, authorized and responsible:

- a. to submits a plan for the needs of regional property for the regional apparatus unit he leads to the Head of Region through the manager.
- b. to apply for the determination of status for the control and use of regional property obtained from the burden of APBD and other legal acquisition to the Head of Region through the manager.
- c. to do the recording and inventory of property owned by the region that is in his control.
- d. to use goods owned by the region that is in his control for the interests of the implementation of the main duties and functions of the work unit of the region he leads.
- e. to secure and maintain property belonging to the area that is in his control.
- f. to submit proposals for the alienation of regional property in the form of land and / or buildings which do not require the approval of the Regional House of Representatives and other regional property other than land and / or building to the Head of Region through the manager.
- g. to hand over land and buildings that are not utilized for the purpose of implementing the main duties and functions of the regional apparatus unit he leads to the Head of Region through the manager.
- h. to conduct supervision and control over the use of property owned by the region in their control.
- i. to repair and submit the Report of Semester Used Goods (LBPS) and Annual User Goods Report (LBPT) under its control to the manager.

Regulation of the Minister of Home Affairs of the Republic of Indonesia number 13 of 2006 on guidelines for the management of regional finances

Article 4 states that the general principles of regional financial management are:

- a. Regional finances are managed based on legislation orderly, effectively, efficiently, economically, transparently and accountably due regard to the principles of fairness, abiding, decency, and benefit to the community.
- b. Orderly as referred to in paragraph (1) is that regional finances are managed in a timely and appropriate manner supported by reliable administrative evidence.
- c. Subject to the legislation and regulations referred to in paragraph (1) is that the management of regional finances shall be guided by legislation and regulations.
- d. Effective as referred to in paragraph (1) is the achievement of program results with a predetermined target, that is by comparing the output with the results.



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- e. Efficient as referred to in paragraph (1) represents the achievement of maximum output with a particular input or the lowest input use to achieve a certain output.
- f. Economical as referred to in paragraph (1) shall be the acquisition of inputs with certain quality and quantity at the lowest price level.
- g. Transparent as referred to in paragraph (1) is a principle of openness which enables the public to know and gain access to information as widely as possible about regional finances.
- h. Responsible as referred to in paragraph (1) is a manifestation of a person's obligation to account for the management and control of resources and the implementation of the policies entrusted to him in the context of achieving the objectives.
- i. Justice as referred to in paragraph (1) shall be the balance of distribution of authority and its funding and / or balance of distribution of rights and obligations based on objective considerations.
- j. The sufficiency as referred to in paragraph (1) shall be an action or an attitude which is done fairly and proportionally.
- k. The benefit to the community as referred to in paragraph (1) is that regional finance is prioritized to meet the needs of the community.

The Regulation of the Minister of Finance No. 33 of 2012 on Procedures for Implementation of Leases of State Property/*Barang Milik Daerah* (BMN)

- (1) The value of land as referred to in Article 22 letter c is the fair value of the land.
- (2) Exempted from the provisions referred to in paragraph (1), as long as the book value of BMN in the form of part of land and / or building to be rented with book value up to Rp. 500,000,000.00 (five hundred million rupiah), the use of the value in the proposal lease proposed by the users of goods: may be used the book value recorded in the User Users / Proxy List or User Users / Proxy Reports, as long as the fair value of the land as referred to in paragraph (1) does not exist and an indication of value that may reflect the estimated value of the land, as long as the fair value as referred to in paragraph (1) and the book value as referred to in letter a does not exist.

- (3) The land value is calculated in Rupiah per square meter.
- (4) In the case of land to be rented abroad, the value of land per square meter can be calculated using the local currency units.

The Main Rental of Building Rental is stipulated in Article 26, namely:

- (1) The lease tariff for BMN in the form of a building as referred to in Article 21 paragraph (1) letter b is the result of multiplication of: variable factor of building lease; Building area (LB); building value.
- (2) In the case of a building lease including building infrastructure, the rental cost of building cost shall be added to the basic lease of building infrastructure.

In addition, Article 27 explains that:

- (1) The variable of building lease as referred to in Article 26 paragraph (1) letter a shall be set at 6.64% (six point sixty four percent).
- (2) The change of the variable factor of the building rental as referred to in paragraph 1 shall be determined by the Director General on behalf of the Minister of Finance.

Moreover, Article 28 explains that:

- (1) The building area as referred to in Article 26 paragraph (1) letter b represents the floor area of the building according to the drawings in square meters.
- (2) In the case that the leased building is only part of the building, the building area as referred to in paragraph (1) is the floor area of the leased part of the building.
- (3) In the case that the utilization of the leased portion of the building has an impact on the rest of the building, the building area as referred to in paragraph (1) may be added a certain amount of building area believed to be affected by the utilization.

Furthermore, Article 29 explains that:

- (1) The value of buildings as referred to in Article 26 paragraph (1) letter c represents the fair value of buildings.
- (2) Exempted from the provisions referred to in paragraph (1), as long as the book value of BMN in the form of land and / or buildings to be leased up to Rp. 500,000,000.00 (five hundred million rupiah), the use of value in the proposed lease made by the Users of Goods:
  - a. It can be used the price of building unit, as long as the fair value of the building as referred to in paragraph (1) does not exist.
  - b. It may be possible to use the book value recorded in the User List / Proxy of User or User Users / Proxy Report as long as the fair value as referred to in paragraph (1) and the price of building standard as referred to in letter a does not exist.





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c. An indication of the value reflecting the estimated value of the building, to the extent the fair value as referred to in paragraph (1), the standard price of the building to calculate the unit price of the building as referred to in letter a and the book value as referred to in letter b does not exist.

- (3) Building value is calculated in Rupiah per square meter.
- (4) In the case of buildings to be rented abroad, the value of buildings per square meter can be calculated using the local currency unit.

Article 30 explains that the price of building units as referred to in Article 29 paragraph

- (2) letter a is multiplication of: standard building price/*harga standar* (HS); And the residual value of the building/*nilai sewa bangunan* (NSB).

Article 31 explains that:

- (1) The price of standard building units as referred to in Article 30 letter a shall be the standard unit price of building according to the classification / type in the new circumstances calculated based on the decision of the local government of the regency / municipality in the year concerned.
- (2) In case of building to be leased more than 1 (one) floor, then the price of standard building unit as referred to in paragraph (1) multiplied by the number of floors of the building.
- (3) The calculation of the number of building floors as referred to in paragraph (2) shall be conducted in accordance with the provisions as regulated in the Attachment which become an inseparable part of this Regulation of the Minister of Finance.

Article 32 explains that:

- (1) The value of the remaining building as referred to in Article 30 letter b represents the residual value of the building in percentage after the depreciation is calculated.
- (2) Depreciation as referred to in paragraph (1) refers to the provisions of statutory regulations concerning depreciation of BMN.
- (3) In the event that the depreciation provision as referred to in paragraph (2) does not yet exist, the calculation of depreciation shall be calculated:
  - a. For permanent buildings of 2% (two percent) per annum.
  - b. For semi-permanent buildings by 4% (four percent) per year.
  - c. For emergency buildings of 10% (ten per cent) per year.
- (4) Depreciation as referred to in paragraph (2) and paragraph (3) shall be the maximum of 80% (eighty percent).

Article 33 explains that:

- (1) The lease tariffs for BMN in the form of land and buildings as referred to in Article 21 paragraph (1) letter c shall be the sum of the basic tariff of land and building rental tariff.
- (2) The calculation of the basic tariff of land rent as referred to in paragraph (1) letter a shall apply *mutatis mutandis* provisions in Article 22 to Article 25.
- (3) The calculation of the cost of building rental as referred to in paragraph (1) letter b shall apply *mutatis mutandis* provisions in Article 26 to Article 32.

In addition, Article 34 defines Lease Rental of Building Infrastructure. The basic tariff of Rental for building infrastructure as referred to in Article 26 paragraph (2) is the result of multiplication of variable factors of lease of building infrastructure and building infrastructure value / *Nilai Prasarana Bangunan* (NP).

Article 35 explains that the variable factors of Rent of building infrastructure as meant in Article 34 letter a shall be determined in large respects by the variable factor of Rent of building. Article 36 states that: (1) the value of the building infrastructure as referred to in Article 34 letter b is the fair value of the building infrastructure. (2) Excluded from the provisions referred to in paragraph (1), the use of value in the proposal submission of Rental by Users of Goods : The book value of building infrastructure recorded in the List of Users of User Power Users or User Usage / Power of Attorney, as long as the fair value of the building as referred to in paragraph (1) does not exist; Or an indication of value which may reflect the estimated value of the building infrastructure, as long as the fair value as referred to in paragraph (1) and the book value as referred to in letter a does not exist. (3) The value of building infrastructure is calculated in rupiah. (4) In the case that the building to be rented is abroad, the value of the building's infrastructure can be calculated using the local currency unit.

Article 39 describes the rental adjustment factors, namely:

- (1) The rental adjustment factor as referred to in Article 20 paragraph (1) letter b shall cover: type of business of tenant; the institutional form of the tenant; Rent periodicity.
- (2) The rental adjustment factor as referred to in paragraph (1) shall be calculated as a percentage.
- (3) Renter adjustment factor in the type of business activities of tenant as referred to in paragraph (1) letter should be stipulated as high as 100% (one hundred percent). Tenant Business Activities are regulated in Article 40 as follows: (1) The types of business activities as referred to in Article 39 paragraph (1) letter a are grouped into: business activities; Non-business activities; And social activities.

Article 42 explains that the institutional forms of tenants as referred to in Article 39 paragraph (1) letter b, are grouped as follows:



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- a. Category I, including: Private, except foundations and cooperatives, State-Owned Enterprises, Regional-Owned Enterprises, State-owned legal entities and Foreign educational institutions.
  - b. Category II includes: Foundations, Cooperatives, Formal Education Institutions and Non Formal Education Institutions.
  - c. Category III includes: social institutions, humanitarian agencies, religious institutions, and supporting units of government and state administration activities.
- (2) The institutional form of the lessee as referred to in paragraph (1) shall be supported by documents issued by the authorized institution.
- (3) The documents as referred to in paragraph (2) and plan of leasing activity shall be submitted at the time of submission of the lease proposal.

Article 44 contains:

- The amount of rental adjustment factor for business type of business activities is set at 100% (one hundred percent).
- (2) The amount of rental adjustment factor for the Group Type of non-business activities is defined as follows: Category I of 50% (fifty percent); Category II by 40% (forty percent); And Category III by 30% (thirty percent).
  - (3) The magnitude of adjustment factor Rents for groups of types of social business activities are defined as follows: Category I of 10% (ten percent); Category II of 5% (five percent); And Category III of 5% (five percent).
  - (4) The amount of adjustment factor of Rent for Rental Periodicity as referred to in Article 39 paragraph (1) letter c shall be stipulated as follows: per annum of 100% (one hundred percent); Per month of 130% (one hundred and thirty percent); Per day by 160% (one hundred and sixty percent); Per hour by 190% (one hundred and ninety percent).

Article 45 explains that the change of the amount of Rental Adjustment factor as referred to in Article 44 is stipulated by the Director General on behalf of the Minister of Finance.

## 2. Methods

### 2.1 Data

- a. **Primary data** was obtained through interviews to several speakers, among others:
  - a) Persons or institutions who are competent with Land and Property Tax/ *Pajak Bumi dan Bangunan (PBB)* issues. This is related to how Sale Value of Tax object/ *Nilai Jual Objek Pajak (NJOP)* determines and changes.
  - b) Persons or institutions competent with issues of cooperation and manner of determining the amount of land rent.
  - c) Persons or institutions relating to the management of land and premises leased to third parties.
- b. **Secondary Data** was obtained by conducting literature study, that is:
  - a) Legislation and Regulations related to research objective, regional regulations about land lease and its implementation in regencies / cities or other provinces.
  - b) Cooperation document between the institution managing the land and building with the third party.

### 2.2 Data Sources

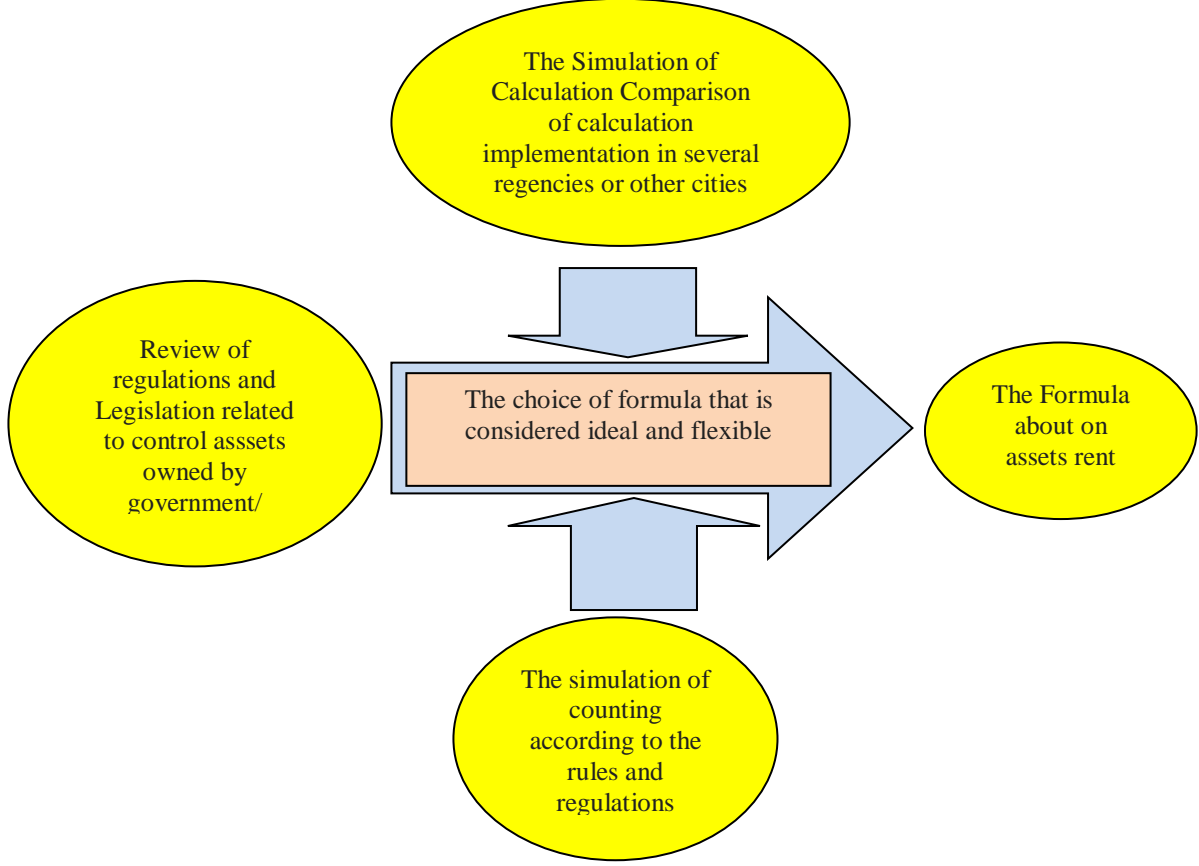
- The data is obtained by conducting literature study, that is:
- a. Legislation and Regulations related to the purpose of the research being undertaken (land lease).
  - b. Regional Regulation / *Peraturan Daerah* (Perda) on land lease and its implementation in regencies / cities or other provinces.
  - c. Cooperation document between the institution managing the land and building with the third party.

### 2.3 The Method of Analysis

- 1. The method of analysis is done by preparing the formula and cost structure in accordance with the legislation.
- 2. Simulation of various formulas was then selected the formula that best suits the existing conditions.
- 3. Identifying special events occurred on asset rent by Semarang Regional Government.
- 4. Identifying determinant factors (drivers) of the amount of asset lease in Semarang.

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**The Method of Analysis**



**3. Results**

**The Rent Cost Structure of Asset belongs to Regional Government (Formula)**

No	The types of land	Allocation	Formula
1	The former of government land for village apparatus ( <i>bekas tanah bengkok</i> )	Agricultural land	$0.33 \% \times NJOP \times \text{land area} \times \text{harvest time}$
2	Vacant land	Agriculture and livestock business	75 % from (3.33% the area values).
		Industry and Trade Scale <i>UMKM</i> bussiness sector	75 % from (3.33% market price/ harga pasaran umum (HPU) and <i>NJOP</i> ).
		The medium scale business and trade business	80 % from (3.33% HPU and <i>NJOP</i> ).
		The business of large scale industry and trade	3.33% <i>HPU</i> and <i>NJOP</i>
		Religious social activities	50 % from (3.33% multiple the land values).
		The implementation unit of the activities of government administration	50 % from (3.33% multiple the land values)
		BUMN/BUMD	3.33% multiple the land values
3	Vacant land and the building	The foreign owned enterprises	150 % from (3.33% multiple the land values).
		The business of agriculture and livestock sector	75 % from (3.33% multiple the land values then add 6.64% the building values).
		The business sector of industry and trade scale <i>UMKM</i>	75 % from (3.33% multiple Market Price and <i>NJOP</i> ). Then add 6.64% multiple the



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No	The types of land	Allocation	Formula
			buildings values).
		The Medium Scale Business and Trade Business	80 % from (3.33% multiple HPU and NJOP). Then, add 6.64% multiple the building values).
		The business of Large Scale Industry and Trade	3.33% multiple HPU and NJOP then 6,64% multiple the building values.
		Religious social activities	50 % from (3.33% multiple the land values 6.64% multiple the building values).
		The implementation unit of the activities of government administration	50 % from (3.33% multiple the land values, then add 6.64% multiple the building values
		BUMN/BUMD	3.33% multiple the land values , then add 6.64% multiple the building values.
		The foreign owned enterprises	150 % from (3.33% multiple the land values , then add 6.64% multiple the building values.
4	Vacant land	Antenna for microcell	This formula is made of 2 stages: a. The first step on the soil surface with a pyramid shape that is: $1/3$ (base area x height of the antenna mast) b. The second step is: $2/3$ (space volume under the ground). c. rental value formula = $(1/3$ (basic area x the antenna mast height)) + $(2/3$ (space volume under the ground)) * $2 / 10,000 * 365$
5	Vacant land	Underground	$2/3 * (\text{space volume}) * 2/10.000 * 365$
6	Vacant land	Upground	$150 \% * (\text{space volume}) * 2/10.000 * 365$
7	Land and its building	The activities or activities where income depends on fluctuating visitors (market, shop, and sports arena).	It was predicted on the basis of income, ie the predicted visitor times the applicable tariff or business feasibility study.

**4. Conclusions**

The research found some conclusions dealing with the structure and amount of rent rates of assets owned by Semarang Regional Government as follows:

- a. The asset value or price develops dynamically by market price. NJOP value is relatively more stable, if it is based on the NJOP will face problem that is gap with market rent value.
- b. The figures coefficient was obtained from the multiply factor which was static while the price realities dynamically develop it will be the difference between the values of the calculated results of the formula compared with market rent.
- c. The coefficient rate will make it difficult to adjust the amount of the tariff, because of the different types and extent of the leased land and its designation.
- d. Each type and location of the land has different characteristics both the existing condition of the land and its designation. Therefore, the formula will not be generally applicable to all land types and locations.

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