

Adequate Compensation Valuation by Public Valuer and Private Valuer in Malacca

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Abstract: Unsatisfied compensation in land acquisition will caused the landowner appeal to Court for clamming their intended amount of compensation. However, the community may not have sufficient knowledge and their rights pertaining the land acquisition matters. To ensure that nobody is violated or suspects the acquisition of land is done by coercion, it will be pursuant to law and legal procedures. Article 13 of the Federal Constitution states that no person shall be deprived of his property except under law and no law may make provision for the taking or use or use of the property by force unless sufficient compensation. Any land acquisition should therefore be paid with sufficient compensation. Therefore, the factors of consideration that determine the adequacy of compensation by public and private valuers during the acquisition process are very essential to determine and understand. Secondly, to determine the composition of objection in Land Acquisition Act 1960, under Section 37, Form N apply by the landowner to the Court. This study conducted qualitatively by actual case studies. The valuation reported by public and private valuers and the amount of award by Land Administrator collected and analyzed to achieve the research objectives. The findings of this study outlined different factors of consideration in determining a compensation due to various parties involved in the valuation. The composition of objection which clearly outlined the ground of appeal also identified. To be more focus and precise, Malacca was selected to be a case study.

Keywords: Land acquisition, Adequate Compensation, Factors of Consideration, Compositions of Objection

1. Introduction

1.1 Research Background

Land acquisition is a process that the government takes possession of land from the landowners for various public purposes. In most cases, the intention of land acquisition is about the development of any project whether from the government or the private or public sector. According to Land Acquisition Act 1960, the term of public purpose is not specified in the Act. Therefore, the government may take any land that is deemed necessary for public purposes wherein theory and practice for land acquisition. Land acquisition was carried out by the federal government and state

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government to acquire all types of development and infrastructure, such as highways, airports, port, dams, and power stations.

Land acquisition involves many parties that will provide their own opinion of the amount that should be compensated to the owner. According to the legislation in Malaysia, the government needs to pay an appropriate amount of compensation to property or landowner; yet, the adequacy of compensation is not interpreted in the regulation (Alias *et al.*, 2006). Meanwhile, there is a broad definition for the award of an adequate compensation. Some of the related aspects will directly influence the amount of compensation, such as court decision, practice and order of legislation from the State Authorities. As a result, the amount that the landowner feels appropriate and the value to be awarded by the land office will be different (Omar, 2007). In general, the landlord brings their dissatisfaction to court due to the valuation gap by various parties to get an appropriate amount of compensation.

According to Land Acquisition Act 1960, Section 37(1), any person interested in land may object to the court in respect of the measurement of the land, the amount of the compensation, the persons to whom it is payable and the apportionment of the compensation. This objection can be made using Form N (Land Acquisition Act 1960) and is accompanied by a deposit of RM 3,000 or 10% of the amount claimed by whichever is less as security for the costs of reference and appeal.

1.2 Problem Statements

Adequate compensation for damage of landowners who are displaced or adversely impacted by land acquisition has been accepted as a common measure by the public. In a study conducted by Alias & Daud (2006) the amount of compensation for the acquisition of land was found to be contrary to the will of the landowner as laid down in Malaysian law. Alias & Daud (2006) therefore proposed that the monetary compensation element would be updated. A change in value represents a measure of the disparity in values that decide the various valuers as articulated or perceived (Boyd & Irons, 2002). Akinjare, Iroham and Oloke (2013), classified as endogenous and exogenous factors in Lagos, Nigeria as factors responsible for disparities in the values of professional valuers. The prevailing margin of variation between valuers in the field of study was attributed to the predominant use by valuers of various parameters such as yield, the use of different assessment methods, the lack of adequate market information and the influence on the valuation on clients (Olukolajo, M.A. (2019). Thus, the discrepancy of compensation amount between the will of the landowner and legal parties will cause objection incurred.

This situation may also have a detrimental impact on the land administration system. The public will also challenge the legitimacy of the State Authority in handling acquiring land. The public will believe that the State Authority are not effective and productive because the land acquisition is given a small amount of compensation. Therefore, the number of court proceedings in terms of compensation disputes will also increase. However, this issue will be overcome if the money intended by the landowner can be compensated at the level of the Land Office. Thus, the procedure will not be complex and suits the landowner (Omar, 2007).

Equivalent and appropriate compensation are necessary for land acquisition along with clear procedures (Alias, A., Yanning, P., & Hanif, N. R., 2011). Based on the Land Acquisition Act 1960 published in Malaysia as guidance for the matters of land acquisition has clarified the procedure of land acquisition. Yet, the familiarity of LAA 1960 in the community within the country may not be efficient and the community may not have sufficient knowledge to know the rights regarding land acquisition matters. A study conducted by Ige (2016) in Nigeria shown there was a distortion and misunderstanding that occurred in the community of coastal (Ige, V. O., Akintomide, A. J., & Adeola, T. O., 2016). The study indicates the misunderstanding of landowner in a compulsory land acquisition may affect the decision of landowners to make an appeal.

According to the Federal Court decision of *Kijal Resorts Sdn Bhd v Pentadbir Tanah Kemaman & Anor* (2016) 1 MLJ 544 has clarified that time to file a judicial review begins when the applicant has actual knowledge of a land acquisition decision. Hence, landowners should clearly know about the

matters that considered in determining compensation and the category of objection which are stated in LAA 1960 before they submit Form N to Land Administrator.

1.3 Research Questions

This study was conducted to answer the following research questions:

- (i) What are the consideration factors in determining adequate compensation by public and private valuer according to LAA 1960 First Schedule?
- (ii) What is the composition of objection in LAA 1960, under Section 37, Form N apply by landowner to the Court?

1.4 Research Objectives

Following that, the main objectives of this study are as follows:

- (i) To compare the consideration factors in determining adequate compensation by public and private valuer according to LAA 1960 First Schedule.
- (ii) To determine the composition of objection in LAA 1960, under Section 37, Form N apply by landowner to the Court.

1.5 Scope of the Study

The scope of this study is focused on the consideration factors in determining adequate compensation and determine the composition of objection in LAA 1960, under Section 37, Form N apply by the landowner to the Court. This research is focused on land acquisition cases occurring in the districts of Malacca. The target method for conducting the study is to collect past case study data, document review, case study area and research exploration where all data are analyzed and made into a solid and in-depth study.

1.6 Significance of the Study

The purpose of this study is about the equality afforded to the public regarding land acquisition and compensation so that there is no dissatisfaction and misunderstanding of the public about the land acquisition to maintain the harmony environment.

The study aims to make a positive impact on professionals and employees to maintain the harmony environment in this field. Hopefully, this study can serve as a guidance for assessors, valuers and all players in real estate industry to implement in land acquisition work.

2. Literature Review

Literature review aims to collect all relevant problems that related to this study from various sources. Literature review is a type of study that refers to articles published in professional journalists. This study focuses on the factors that determine adequate compensation and the composition of objection in Form N apply by the landowner. All information from books, journals, website, newspapers, magazines, articles, theses, and documentaries have been reviewed..

2.1 History and Background of the Land Acquisition Act 1960

The earliest legislation on land acquisition was introduced since the British colonial period through the Federated Malay States Enactment No. 20 of 1922 (Adnan, 2007). These legislations are known as the Adoption Enactment. The Land Acquisition Act 1960 took over the role of the legislature on matters pertaining to the land.

2.2 Definition of Land Acquisition

Land Acquisition can be defined as an action taken by the State Authority in taking back land that has been given to individuals, bodies or bodies for public purposes. A sovereign state should have the

power to acquire land as quoted in the book "Cripps On Compensation" stating "The sovereign power of every state has authority to appropriate for purpose of public utility, land situated within the limit of its jurisdiction, and with the advance of civilization it has been found necessary to delegate similar power should be exercised so as to interfere with in the enjoyment of private property, or that private property should be confiscated for public purposes without being required for public purpose or public or public interest payment upgrade to the owner of its fair value"

Federal Constitution clearly defends the landowner's rights and guarantees with the intent of the acquisition to be paid sufficient compensation: i. Article 13 (1) No person shall be deprived of the property except in accordance with law. ii. Article 13 (2) No law shall permit the acquisition of goods or property without adequate compensation.

2.3 Definition of Adequate Compensation

Article 13 of the Federal Constitution has provisioned and enforced the Land Acquisition Act, where the Federal Constitution provides that any land acquired for any public purpose by the government in real estate shall be compensated with an appropriate and adequate compensation. The actual definition of adequate compensation may vary according to its interpretation. Yet, the similarities of reasonable, fair and adequate compensation exist in the opinion of Randolph (1894) (Omar & Ismail, 2009). Regardless of the terms used in other nations, the compensation amount provided should according to the open market value of the scheduled land. (Omar & Ismail, 2009).

2.4 Principles of Determination of Compensation

Paragraph 2, First Schedule, Land Acquisition Act (1960), the Act states that in determining the compensation to be given for any land that is scheduled to be taken shall take into account the following:

- (i) Market value of land and buildings. A property is sold in the open market within a reasonable time to an informed buyer, the price of land will be the highest in terms of value or money which are known as open market value. (Omar & Ismail, 2009).
- (ii) Betterment. Additional fees paid to affected landowners based on open market value in addition to disruptive payments.
- (iii) Severance. Severance occurs when the land was taken is divided into two or more parts because some land has been taken.
- (iv) Injurious affection. Injurious affection occurs when the land acquired depreciation in value of remaining land due to planned use of the acquire portion
- (v) Disturbance (Incidental Costs). All transfer or other costs incurred during the relevant process will be incurred such as allocation costs, legal costs, agent costs, attorney's fees, or even loss of income due to land acquisition.
- (vi) Accommodation work (replacement). Accommodation work occurs when the remaining land is not taken into account and the value decreases as a result of work done by the person who acquire the land or the contractor.

In the case of *Collector Land Revenue v Looi Lam* (1981), compensation for injurious affection resulting from land acquisition was explicitly discussed. Meanwhile, injurious affection needs to be made in conjunction with market value claims under the Land Acquisition Act (1960) when the investigation is carried out rather than independently conducted.

2.5 Parties Involved in Process of Land Acquisition

The parties that involve in a land acquisition for public agencies are land office, public valuer and others related bodies. For private agencies are private valuer and land consultant.

2.6 Composition of Objection to The Award

Landowners may appeal and object their intended amount of compensation if that cause landowners unhappy and dissatisfied. Once the landowner received the award notice, the land owner could either to accept, accept with objection or protest the award. According to Land Acquisition Act

1960, under Section 37, the landowners can submit a written application through Form N to the Land Administrator within six weeks once the award is received. The landowner's objection is listed as following:

- (i) The measurement of land. Some of the land acquisition cases involve many lots of land, so that the land surveyor may confused and cause the landowner to appeal to the Court.
- (ii) The amount of the compensation. The landowner or person interested may appeal to the Court if the amount of award is insufficient due to the Land Administrator didn't consider the factors that may exist.
- (iii) The persons to whom it is payable. Person interested includes every person claiming an interest in compensation to be made on account of the acquisition of land under this Act but does not include a tenant at will.
- (iv) The apportionment of the compensation. The landowner or leaseholder may object to the Court for their intended compensation if there arises the problem of apportionment of the compensation result from land acquisition.

3. Research Methodology

The methodology of the study is a systematic way to address the issue of research. In other words, it describes how scientific research is conducted (Kothari, 2004). Methodological studies can also be described as a procedure by which researchers determine how to describe, analyze, and interpret their work (Rajasekar, Philominathan, & Chinnathambi, 2013). There is a way to collect data and analytical methods in each study objective. Research methodology is very important in getting the best results in a study.

The selected methodology is a qualitative method. The objectives of the study can be achieved more effectively with literature review. The methodology is to resolve research issues and achieve the objectives of research. By using the right techniques and methods, research can produce good results.

3.1 Research Stage Flow Chart

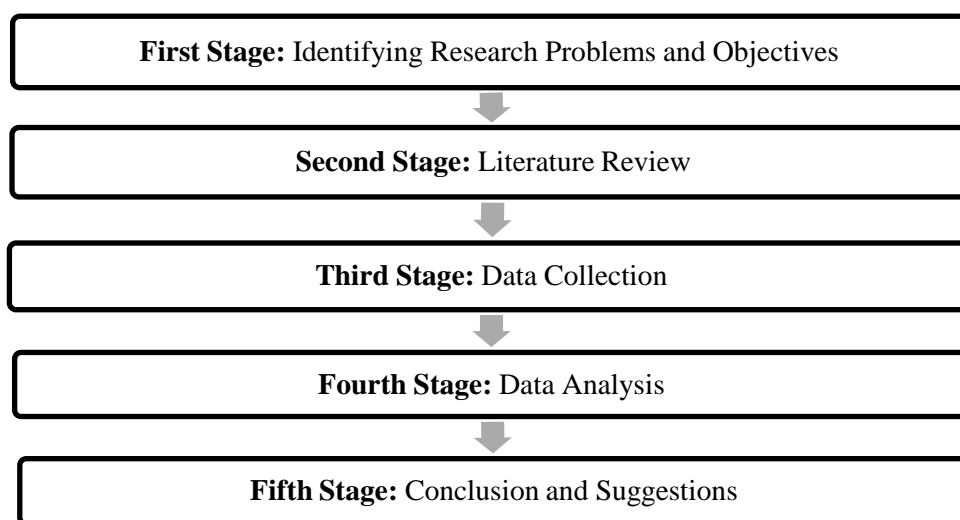


Figure 1: Research Stage Flow Chart

3.2 Research Approach

Qualitative approaches require unformal and inaccurate measures or statistics. Hoshmand (1999) argues that qualitative data should be clear in line with the actions of the researcher and that the researcher should build a community among those who share the same mindset. The credibility of

qualitative work in recent years has enhanced, due to a growth in the amount of supported and cited qualitative studies (Creswell, 2009). The term "qualitative analysis" includes the analysis methodologies which address phenomena by examining experiences, behaviors, and interactions without the use of statistics and math and numerical data processing (Merriam, 2009; Hennink et al., 2010).

Document review is defined as a systematic procedure for reviewing or evaluating a document for electronic or print materials. Like other qualitative methods, the analysis of analytical documents requires data to be reviewed and interpreted to elicit meaning, and to achieve a deeper understanding of knowledge (Corbin & Strauss, 2008). A comprehensive document review is done by the researcher so that the content and context do not deviate from the actual objective. For this study, qualitative method of document review is used to complete the study because this method is the most appropriate method for completing Objective 1 and Objective 2, which is the document review method.

3.3 Data Collection Techniques

In this study, the secondary data is collected. Researchers take steps to collect secondary data through research on books, journals, articles, internet, newspapers, magazines, theses, reports, documents and so on. The secondary data may be described as the sources of research information collected in books, documents, existing data as well as published or unpublished studies by intermediary or indirect media (Maulidi, 2016). The way to get secondary data is by going to any relevant data collection center such as land office, library, national archives and others.

3.4 Data Analysis Techniques

3.4.1 Thematic Network Analysis

There are many methods that can be used in the study, and one of them is through thematic analysis. Thematic analysis is a careful research or testing, critical to finding specific facts with specific steps or a systematic attempt to find scientific answers that solve a problem (Bornbaum, 2015). Thematic analysis is a way of identifying themes that are central to a phenomenon. These topics can be identified, inductively coded, as well as deduced, by theory or previous research based on the qualitative data (inter-transcripts, biographies, video recordings, etc.) (Boyatzis, 1998, inductive data).

The instrument used in this study to collect qualitative data in achieving the both objectives are by reviewing documents. Information obtained from the review of court case documents handled by the Malacca Valuation and Property Services Department (JPPH Melaka) whose cases include all land acquisition cases occurring within the State of Malacca by taking compensation information provided by the Court. Generally, the applicant of the case will hire a private valuer or agency to claim for their intended amount of compensation. The public valuer will review and reassess the valuation report provided by the private valuer. Thus, there will occur different factors of consideration in determining compensation due to various parties involved in the valuation. Moreover, the ground of appeal will also clearly be shown in Form N submitted by the applicant. The document review list of land acquisition cases and Form N will attach in the appendices.

4. Results and Discussion

4.1 Background of the Study Area

The study area is in the entire state of Malacca which has land acquisition cases. The area of the Malacca State is about 1,664 square kilometers (642 sq mi). Malacca has a total of three districts named Alor Gajah, Central Melaka and Jasin. In this study, there are eight land acquisition cases collected to achieve both objectives. The scope of the land acquisition cases collected is between years 2014 to 2018.

4.2 Findings of the study on Objective 1

Table 1: Difference of consideration factors in determining adequate compensation by public and private valuer

Case	Public Valuer (JPPH) (RM)	Private Valuer (RM)	Difference between JPPH and PV
1	Land: 1,718,460 (RM 30 per sqm) Injurious Affection: RM 47,625 Total Amount of Compensation: RM 1,766,085	Land: RM 3,322,356 (RM 58 per sqm) Injurious Affection: RM184,150 Total Amount of Compensation: RM 3,506,506	RM 1,740,421 (-98.55%)
2	Land: RM 241,500 (RM 14 per sqm) Injurious Affection: RM 8,953 Total Amount of Compensation: RM 250,453	Land: RM 414,000 (RM 24 per sqm) Injurious Affection: RM 46,044 Disturbance: RM 25,500 Total Amount of Compensation: RM 485,544	RM 235,091 (-93.87%)
3	Land: RM 1,294,720 (RM 32 per sqm) Total Amount of Compensation: RM 1,294,720	Land: RM 2,832,200 (RM 70 per sqm) Disturbance: RM 345,055 Total Amount of Compensation: RM 3,177,255	RM 1,882,535 (-145.40%)
4	Land: RM 110,240 (RM 520 per sqm) Injurious Affection: RM 13,000 Total Amount of Compensation: RM 123,240	Land: RM 265,000 (RM 1,250 per sqm) Total Amount of Compensation: RM 265,000	RM 141,760 (-115.03%).
5	Land: RM 6,020 (RM 35 per sqm) Total Amount of Compensation: RM 6,020	Land: RM 13,760 (RM 80 per sqm) Injurious Affection: RM 6,401 Total Amount of Compensation: RM 20,161	RM 14,141 (-234.90%)
6	Land not involved with TNB: RM 1,341,897 (RM47 per sqm) Land involved with TNB: RM 539,517 (RM 33 per sqm) Total Amount of Compensation: RM 1,881,414	Land not involved with TNB: RM 3,360,412 (RM 85 per sqm) Land involved with TNB: RM 387,673 (RM 72.25 per sqm) Disturbance: RM 80,000 Injurious Affection: RM 1,903,073 Severance: RM 1,727,421 Total Amount of Compensation: RM 7,458,579	RM 5,577,161 (-296.43%)
7	Land: RM 601,920 (RM 88 per sqm) Disturbance: RM 120,000 Total Amount of Compensation:	Land: RM 889,200 (RM 130 per sqm) Injurious Affection and Severance: RM 147,732	RM 500,727 (-69.36%)

	RM 721,920	Disturbance: RM 185,715	
		Total Amount of Compensation: RM 1,222,647	
8	Land: RM 129,210 (RM 15 per sqm)	Land: RM 206,736 (RM 24 per sqm)	RM 94,926 (-73.47%)
	Total Amount of Compensation: RM 129,210	Severance: RM 15,900	
		Disturbance: RM 1,500	
		Total Amount of Compensation: RM 224,136	

Table 1 shows the difference of consideration factors in determining adequate compensation by public and private valuers. According to the data shows the total amount of compensation of the acquired land assessed by the private valuer is normally 65% higher than the public valuer.

4.2.1 Factors of Difference Compensation between JPPH and PV

(a) Market Value Land Taken – S2(a) First Schedule LAA 1960

Table 2 shows and identified the factors that cause differences in the compensation of market value land taken by both valuers. Among all of the land acquisition cases, the main factor that affecting the discrepancies of the market value land taken is location and layer of land. Generally, the portion acquired which is located in the first layer of the main road will raise the market value of land due to the good accessibility. Meanwhile, the land was located near the developed or town area will also have a higher market value compared with the land in the rural area.

Table 2: Factors that cause differences in compensation valuation of market value

Factors	Cases							
	1	2	3	4	5	6	7	8
Location/Layer of Land	✓	✓	✓	✓	✓			✓
Comparable Properties		✓	✓				✓	✓
Zoning			✓					
Surrounding Factor		✓	✓					✓
Remaining Lease Term		✓						✓
Land Area					✓	✓		✓
Potential Value	✓						✓	
Time Factor				✓			✓	
Basis of Valuation					✓	✓		
Category of Land						✓		
Limitation of Land Use						✓		

Besides, the comparable properties for land taken is also one of the factors that contributed to the differences in market value land taken between both valuers. In some cases, there is no category of land use in the land title. Thus, there will arise various comparable properties due to different perceptions of valuers. The different perceptions of valuers arise because of the valuation date of comparable properties, category of land use of comparable properties, the land area of comparable properties and others.

Zoning is a development planning is a need that should be considered in the land acquisition process. A property can have different values because there are development plans for the property. This can be checked at the Local Planning Authority. If there is a development plan for the property, the potential value of development should also be taken into account in determining adequate compensation.

Moreover, the surrounding factor will also affect the market value of the land. For example, in Case 2 and Case 8, the entrance for the scheduled land is the red dirt road. As seen in Case 3, the acquired land is located in a rural area, so the accessibility and facilities of the land taken were poor. These situations will cause a drop in the market value of the land.

The remaining lease term is also one of the factors that the valuer takes into consideration during the market value valuation. The shorter the remaining lease term will cause the drop of market value because the public valuer might consider that the landowner would lose their ownership of land when the lease term ends.

The land area is also one of the factors that contribute to discrepancies in market value. Generally, the smaller portion of land acquired is easier to be handle. As a result, the market value of the land taken will be higher. Nevertheless, in some of the land acquisition cases like Case 8, the private valuer suggested the landowner settle outside the court due to the portion acquired is slightly small in size and that the professional fees will become a loss for the landowner if the final court decision claim is lower than the landowner intended.

Furthermore, the potential value is also one of the factors that should be considered in assessing market value. Both valuers will determine whether the acquired land exists the potential development value or not. The existence of potential value will raise the amount of compensation due to the landowner's loss of earnings and income in the future.

Time plays a very important role in determining the market value of compensation in the land acquisition process. In determining the market value of compensation, the valuers should assess choose the comparable properties with valuation date close to the date of the land taken gazetted due to the closer valuation date of comparable properties is more accurate.

The basis of the valuation is different for each valuer. Although the valuation of the land taken is based on the same factors, the value of the factors may differ according to the valuer's own perception. Views or valuation of the seriousness of a factor in determining adequate compensation will differ from each valuer. For example, in Case 5, the public valuer used the estate land as the valuation basis, while the private valuer used the smallholder land as the valuation basis. This is because the private valuer found that the portion of land acquired is less than 40 hectares. However, the public valuer assessed the whole land area as the estate land basis.

The difference in valuation is due to the category of land. As seen in Case 6, the land taken is rural regardless of the Registrar Title or Land Office Title with no category of land use, the use of this land is subject to the implied condition that is used for agricultural purposes only. According to National Land Code 1965, the public valuer decided to assess the acquired land based on agricultural land, while the private valuer assesses the acquired land based on building land. This arises a difference in the basis of valuation and comparable properties used by both valuers.

Meanwhile, in Case 6 also arose a decrease in market value due to the limitation of land use. This is because the high voltage transmission line of TNB had limited the land use for certain agricultural, industrial and building conditions.

(b) Betterment – S2(b) First Schedule LAA 1960

Among all the land acquisition cases collected, the factor consideration of betterment does not exist. However, in the researcher's opinion, the betterment exists in Case 7. The purpose of land acquisition in Case 7 is to upgrade Kampung Paya Redan roads. Thus, the betterment is existing in this case due to the enhancement of the actual construction. There is an increase in the value of land that should be deducted for the compensation payable due to the existence of betterment.

(c) Severance – S2(c) First Schedule LAA 1960

Another factor that contributes to a difference in the compensation amount is severance. In Case 6, Case 7 and Case 8, the private valuer considered there exist damages to the remaining land after the land acquisition. However, the public valuer's thought is the severance is not existence. From the

perception of the private valuer, the remaining of the land taken has been separated become an odd shape so they decided to assess for the severance claims in these cases.

(d) Injurious Affection – S2(d) First Schedule LAA 1960

Injurious affection claim is also one of the factors affecting the amount of compensation. In Case 1, Case 2 and Case 6, both valuers consider the factor of injurious affection. However, there arose a huge gap in the valuation of injurious affection claim. From the perception of the private valuer, the remaining land is depreciating of value due to the damages that the transmission line of TNB led to, which are the long-term health concern, visual unattractiveness, unsafe structures and disturbing sound and electrical equipment interference. However, from the perception of the public valuer, there only existed the damages for visual unattractiveness and depreciating of value due to noise

The depreciation of the land value due to the noise of the vehicles passed by is also one of the factors for injurious affection claim. In Case 5 and Case 7, the purpose of acquiring the land is for construction and upgrading the road. Thus, the private valuer considered the noise of vehicles after the land was developed and assessed for the injurious affection claim.

(e) Disturbance – S2(e) First Schedule LAA 1960

During the implementation of land acquisition, all of the transfer or other costs incurred during the relevant process that will be incurred are counted as the disturbance claims. In Case 2, Case 3 and Case 7, the private valuer considered the incidental costs existing in these cases such as cost of loss of income, cost of development, cost of the plantation, cost of removal and so on. From the perception of the public valuer, these incidental costs are not existing. Furthermore, there are also cases that claim for professional fees included in the land acquisition case. As seen in Case 6 and Case 8, the private valuer had assessed the professional fees such as the fees for the valuer, town planner, civil, engineering and so on. In the researcher's opinion, the valuer's fees should not take into consideration of disturbance claim. In Case 4, the public valuer considered the land taken existed a small shop and assessed for the disturbance claim. From the perception of the public valuer, the erected small shop caused the landowner loss of earnings.

(f) Accommodation works – S2(f) First Schedule LAA 1960

Accommodation work occurs when the remaining land is not taken into account and the value decreases as a result of work done by the person who acquires the land or the contractor. The accommodation works factor is not taken into account in all the land acquisition cases the researcher had reviewed.

In conclusion, after comparing the consideration factors in determining adequate compensation by public and private valuer outlined that there are different factors of consideration in determining compensation due to various parties involved in the valuation. However, both valuers did not propose the consideration factors for the betterment and accommodation works in the cases collected in this study.

4.3 Findings of the Study on Objective 2

Table 3: The Composition of Objection of Cases Applied by the Landowner in Form N

Composition of Objection in Form N	Cases							
	1	2	3	4	5	6	7	8
The measurement of the land								
The amount of compensation	✓	✓	✓	✓	✓	✓	✓	✓
The person to whom it is payable								
The apportionment of the compensation								

Based on the data as Table 3 shows the composition of the objection of cases applied by the landowner in Form N respectively. According to the data above indicates all of the land acquisition cases' landowner had applied for the composition of the objection because an insufficient amount of compensation. Among the cases reviewed, there were no cases for the composition of the objection for another reason which are the measurement of the land, the person to whom it is payable and the apportionment of the compensation. Thus, this signifies the landowners in the study area are generally dissatisfied with the amount of compensation awarded by the Land Administrator.

Quoting the words of Sr Zulkefili Bin Abd Rahman, the State Valuation Director of Malacca Valuation and Property Services Department during the data collection session with him stating;

“Generally, the landowners in Malacca made objections due to the insufficient amount of compensation. This situation has arisen because recently, the land acquisition cases that happened in Malacca are for development purposes. The compositions such as the measurement of the land, the person to whom it is payable and the apportionment of the compensation seldom applied by the landowner in Malacca because these will only happen when there is a divorce case or a mistaken measurement on the land taken.”

In conclusion, the landowners within the study area are generally dissatisfied with the amount of compensation awarded by the Land Administrator.

5. Conclusion

The study was conducted to achieve the first and second objectives. Both objectives are achieved through document review method. The results of data collection also have been analyzed and formulated. This study shows the difference of consideration factors in determining adequate compensation by public and private valuers. The difference in compensation valuation between public and private valuers may cause the landowners to be dissatisfied and appeal to the Court. The difference in compensation valuation occurred because of the different factors of consideration in determining compensation by various parties. Furthermore, this research has shown the composition of the objection of cases applied by the landowner in Form N is the amount of compensation. In addition, hopefully, this study can provide an overview of the compensation received by the landowner as well as provide information about the application of objection to the landowners involved in the land acquisition process.

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Appendices A

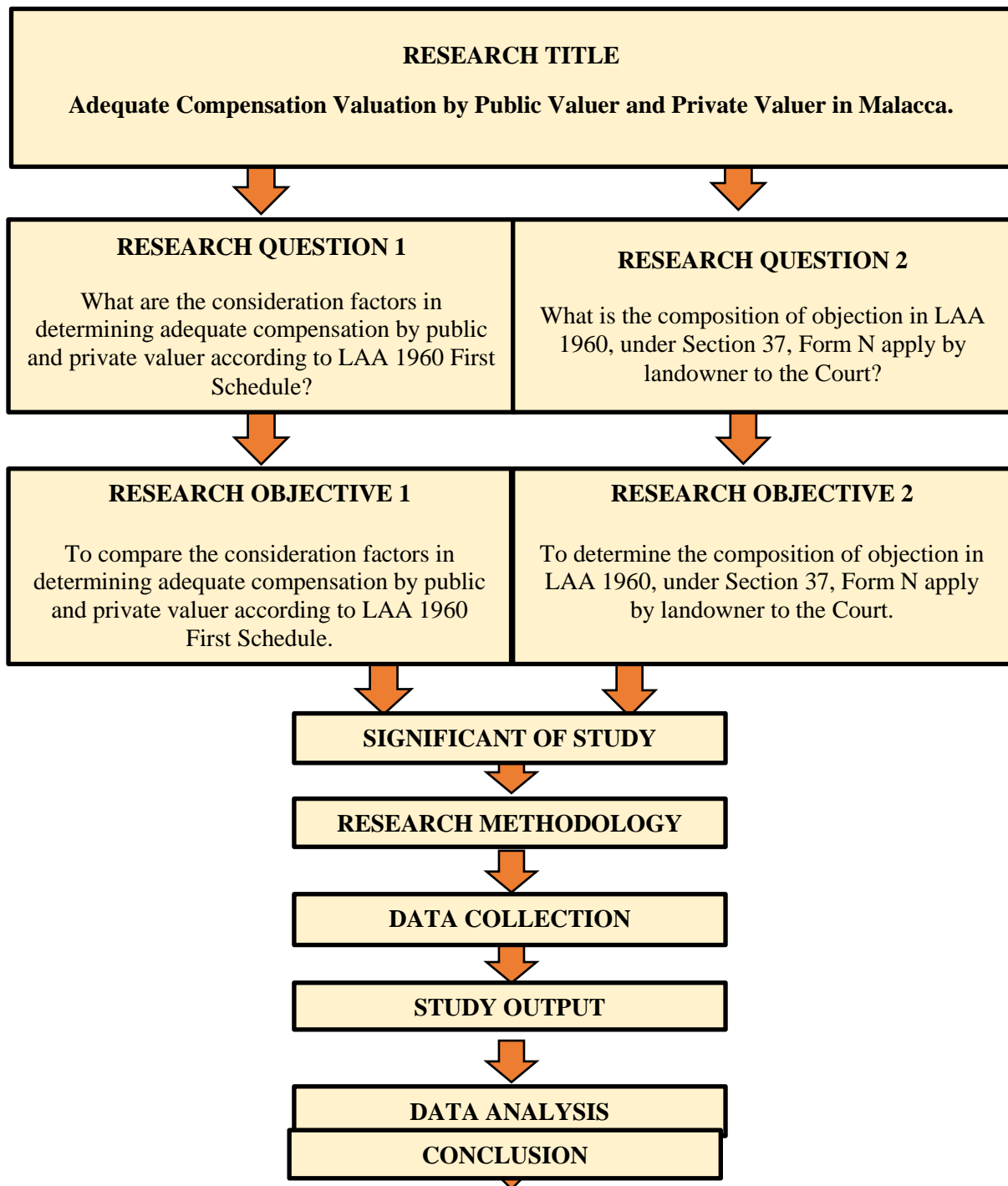


Figure 1: Study Flow Chart

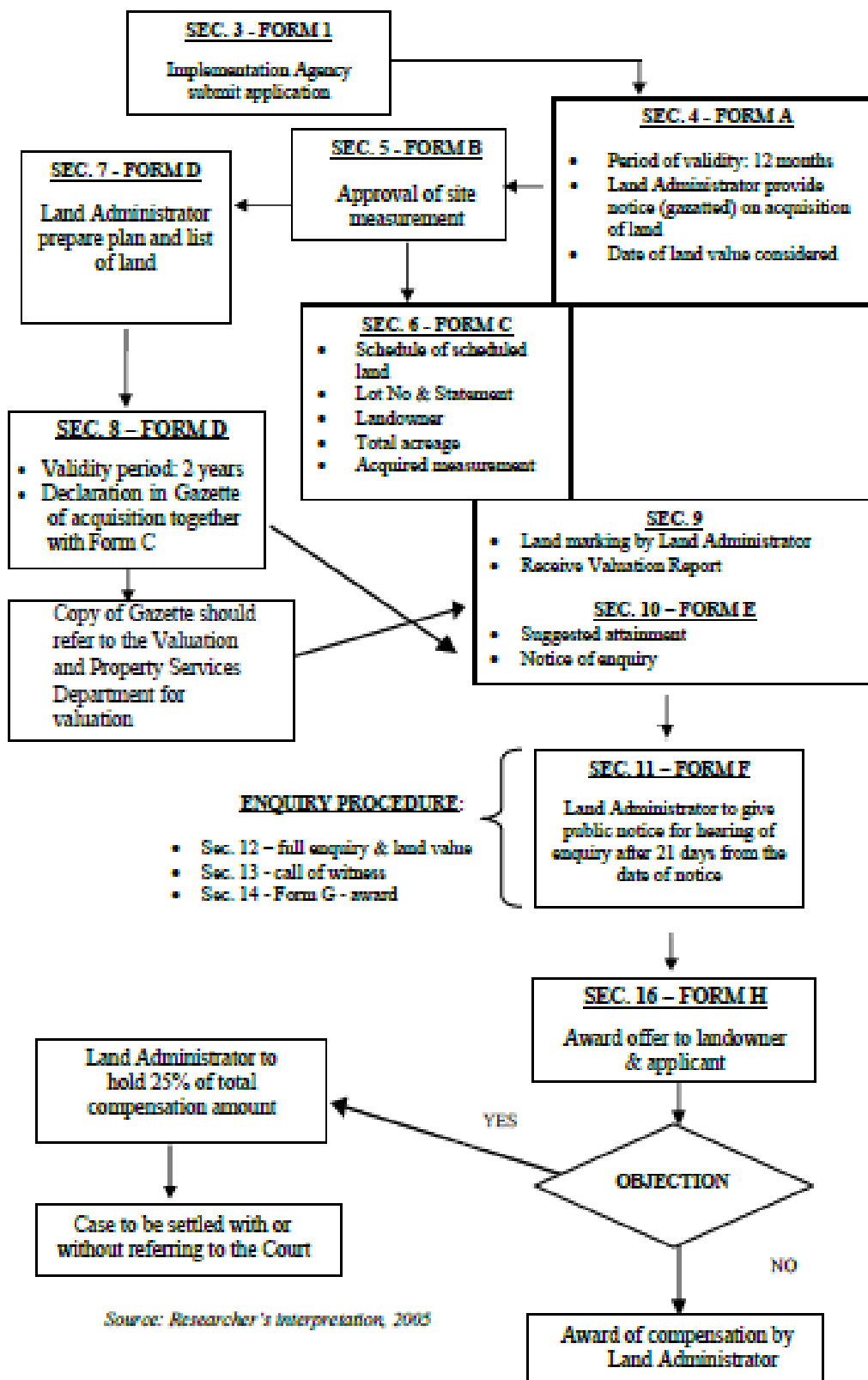


Figure 2: Land Acquisition Procedure Chart
(Official Portal of Department of Director General of Lands and Mines (JKPTG))

Table 1: Monthly Report of the Case Object to the Court (Form N and Form O) from 1 January 2019 until 30 October 2019 in Malaysia

No.	States	Department of Director General of Lands and Mines (JKPTG) Stage				High Court Stage		
		Total of Form N accepted (a)	Total of Form O referred to the Court (b)	Form O balance outstanding c = a-b	Percentage of Completion Form O d = (b/a) x 100%	Completed (Based on the Court Order Date) (e)	Balance of cases pending in the Court f = b - e	Percentage of Completion g = (e/b) x 100%
1	WPKL	22	9	13	40.91%	0	0	0.00%
2	Perak	1	1	0	100.00%	0	-	0.00%
3	Kelantan	27	27	-	100%	0	0	0.00%
4	Pulau Pinang	32	32	0	0.00%	-	-	0.00%
5	Melaka	13	13	0	100.00%	4	9	30.76%
6	Pahang							
	Kuantan	63	63	0	100.00%	19	44	30.16%
	Temerloh							
	Raub	13	13	0	100.00%			
7	Terengganu	343	343	-	100.00%	317	26	92.42%
8	Selangor	27	15	12	55.55%	-	-	0.00%
9	Negeri Sembilan	118	118	-	100.00%	85	33	73.00%
10	Perlis	172	172	-	100.00%	172	-	100.00%
11	Kedah							
Total		831	806	25		597	112	

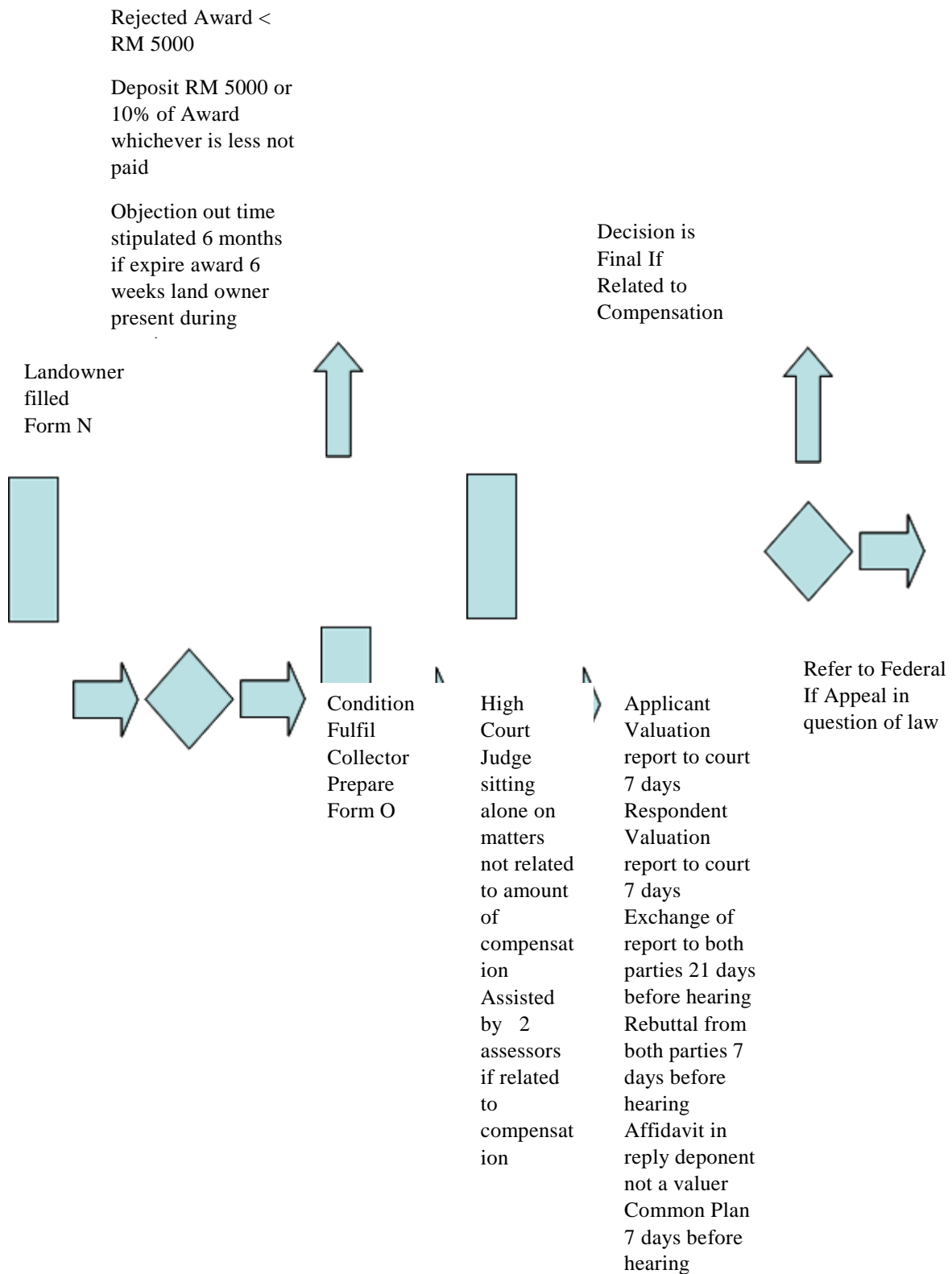


Figure 3: Objection Flow Chart
(Monograph on Land Acquisition, 1999)

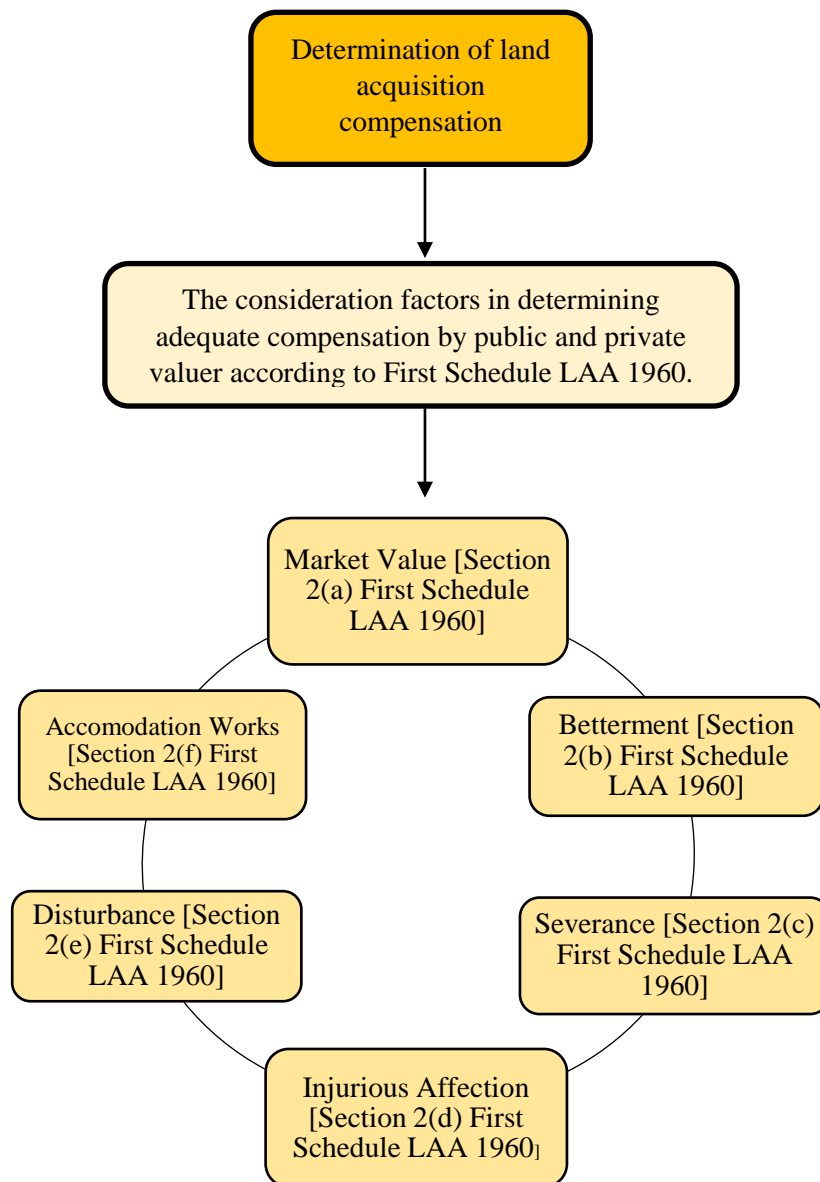


Figure 4: Thematic analysis is used as a method of data analysis for Objective 1

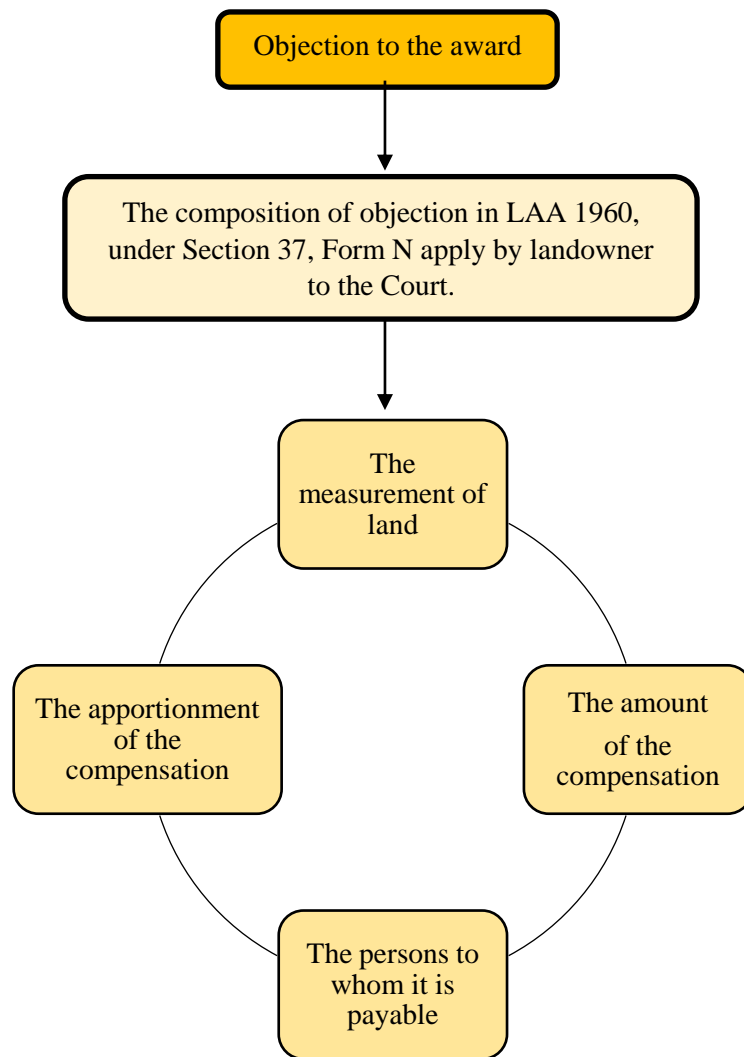


Figure 5: Thematic analysis is used as a method of data analysis for Objective 2

Table 2: Document Review List of Land Acquisition Cases

Case	Revised Cases Document	Purpose of Land Acquisition	Year	Source
1	Glm Emerald Industrial Park (Jasin) S/B Vs. Jasin District and Land Office	Transmission line of TNB 132kv DC-LILO from Jasin-Tangkak to PMU Lipat Kajang under Section 3(1)(b) LAA 1960	2016	JPPH
2	Eng Kim Leong, Eng Siong Sin and Eng Siong Sin Vs Jasin District and Land Office	Transmission line of TNB 132kv DC-LILO from Jasin-Tangkak to PMU Lipat Kajang under Section 3(1)(b) LAA 1960	2016	JPPH
3	Ramli Bin Yunus Vs Land Administrator, Alor Gajah	Proposed Sungai Jernih water dam project under Section 3(1)(b) LAA 1960	2016	JPPH
4	Lee Kim Wan Vs Central Melaka District and Land Office	Development of public facilities (Pencahaya-an) under Section 3(1)(a) LAA 1960	2017	JPPH
5	Lim Kim Chew and Tan Aik Seng Vs Jasin District and Land Office	Construction of road storage under Section 3(1)(a) LAA 1960	2018	JPPH
6	Hartawan Development Sdn. Bhd. Vs Central Melaka District and Land Office	Construction of main entrance for TNB substation site under Section 3(1)(b) LAA 1960	2014	JPPH
7	Koh Eng Koon Vs Department of Director General of Lands and Mines (JKPTG) of Malacca	Upgrade Kampung Paya Redan roads under Section 3(1)(a) LAA 1960	2014	JPPH
8	Chong Ngian Fook/The Chen Chang Vs Land Administrator, Alor Gajah	Building a new road from Percha forest to Pekan Tebong under Section 3(1)(a) LAA 1960	2018	JPPH

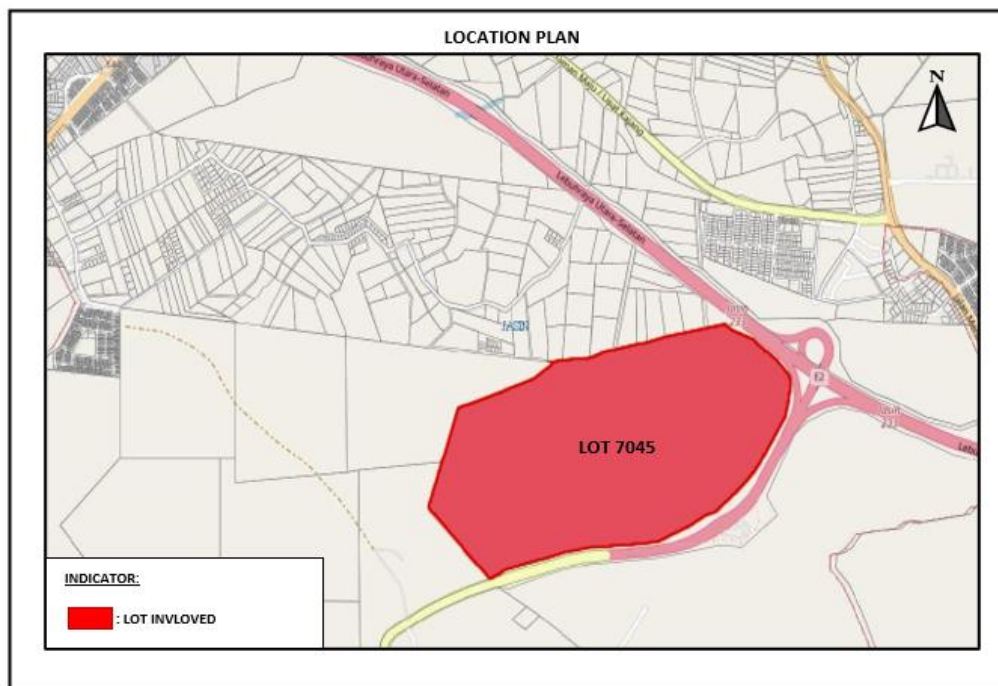


Figure 6: Location Plan of Case 1

Table 3: Brief details of Gln Emerald Industrial Park (Jasin) S/B Vs. Jasin District and Land Office

Lot/Mukim/District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
7045/Jasin/Jasin	10 November 2016	Land: RM 30 per sqm Injurious Affection: RM 47,625 Total Amount of Compensation: RM 1,766,085	Land: RM 58 per sqm Injurious Affection: RM 184,150 Total Amount of Compensation: RM 3,506,506	- 49.63%	Land: RM 30 per sqm Injurious Affection: RM 47,625 Total Amount of Compensation: RM 1,766,085	Land: RM 40 per sqm Injurious Affection: RM 63,500 Total Amount of Compensation: RM 2,354,780

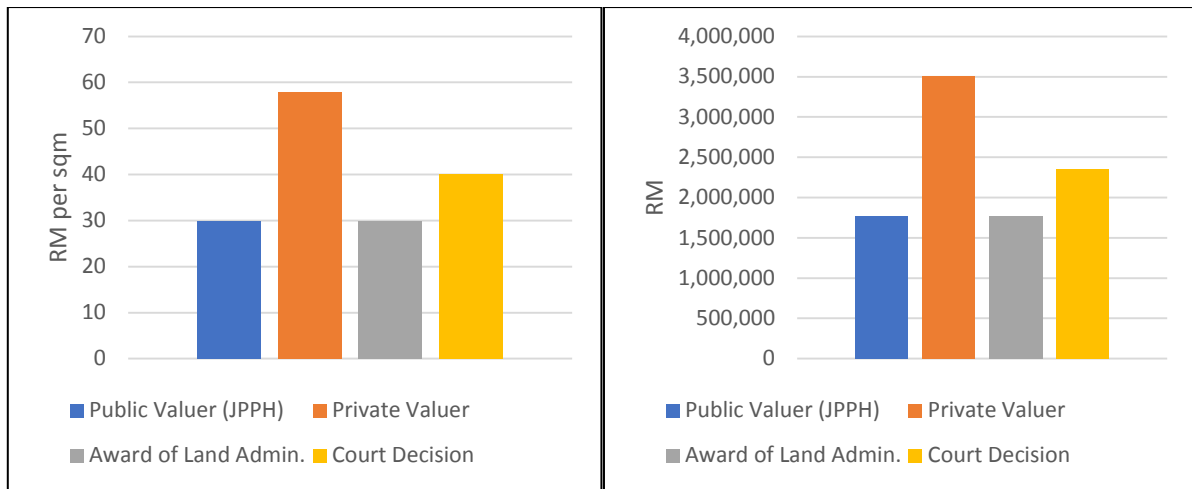


Figure 7: Differences in the land value and total amount of compensation in Case 1

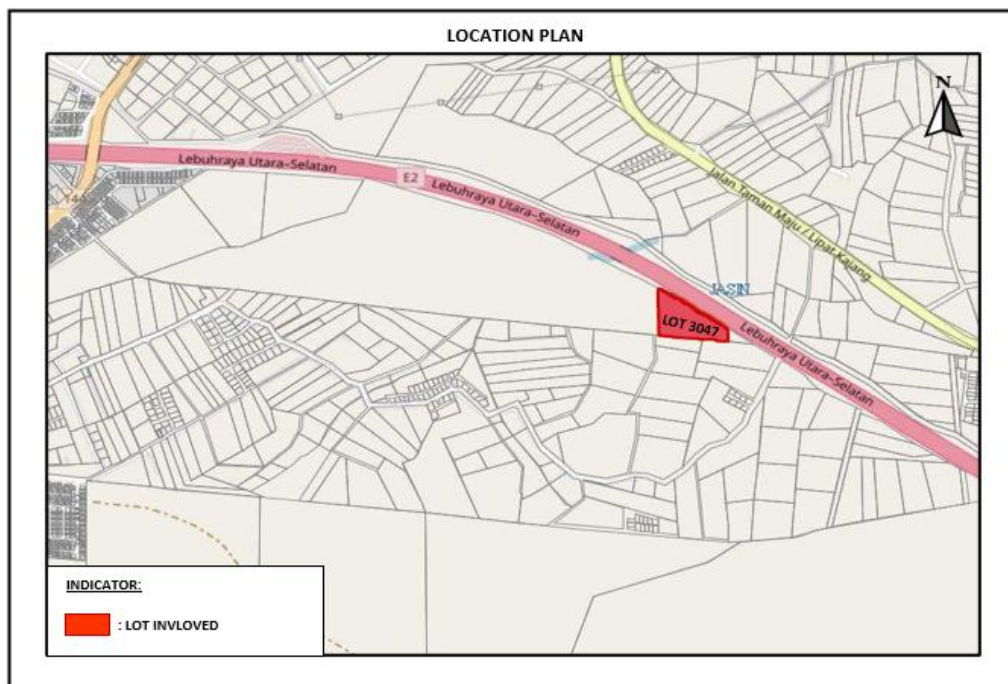


Figure 8: Location Plan of Case 2

Table 4: Brief details of Eng Kim Leong, Eng Siong Sin and Eng Siong Sin Vs Jasin District and Land Office

Lot/Mukim /District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
3047/Jasin/Jasin	10 November 2016	Land: RM 14 per sqm Injurious Affection: RM 8,953 Total Amount of Compensation: RM 250,453	Land: RM 24 per sqm Injurious Affection: RM 46,044 Disturbance: RM 25,500 Total Amount of Compensation: RM 485,544	- 48.42	Land: RM 14 per sqm Injurious Affection: RM 8,953 Total Amount of Compensation: RM 250,453	Land: RM 20 per sqm Injurious Affection: RM 8,953 (remained) Total Amount of Compensation: RM 353,953

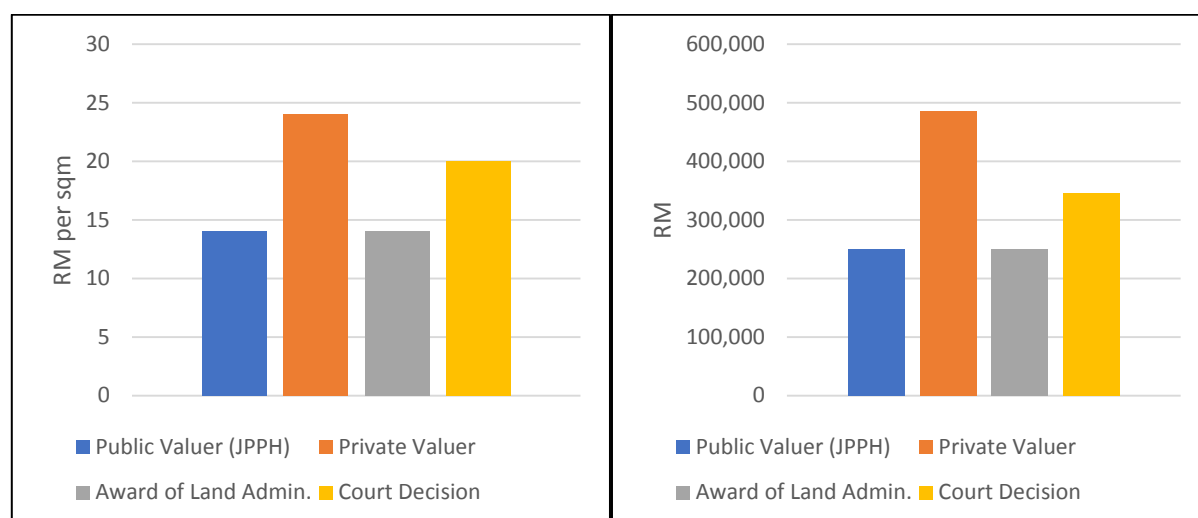


Figure 9: Differences in the land value and total amount of compensation in Case 2

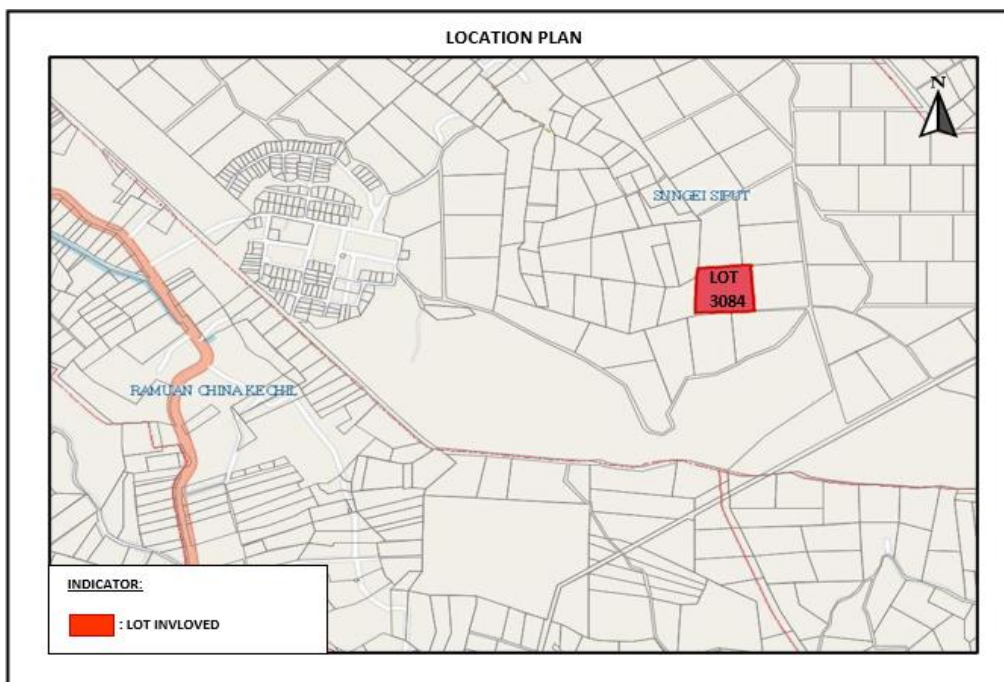


Figure 10: Location Plan of Case 3

Table 5: Brief details of Ramli Bin Yunus Vs Land Administrator, Alor Gajah

Lot/Mukim/ District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
3084/ SungeiSiput/ Alor Gajah	27 October 2016	Land: RM 32 per sqm Total Amount of Compensat ion: RM 1,294,720	Land: RM 70 per sqm Disturbance: RM 345,055 Total Amount of Compensatio n: RM 3,177,255	- 59.25	Land: RM 35 per sqm Total Amount of Compensat ion: RM 1,424,100	RM 0

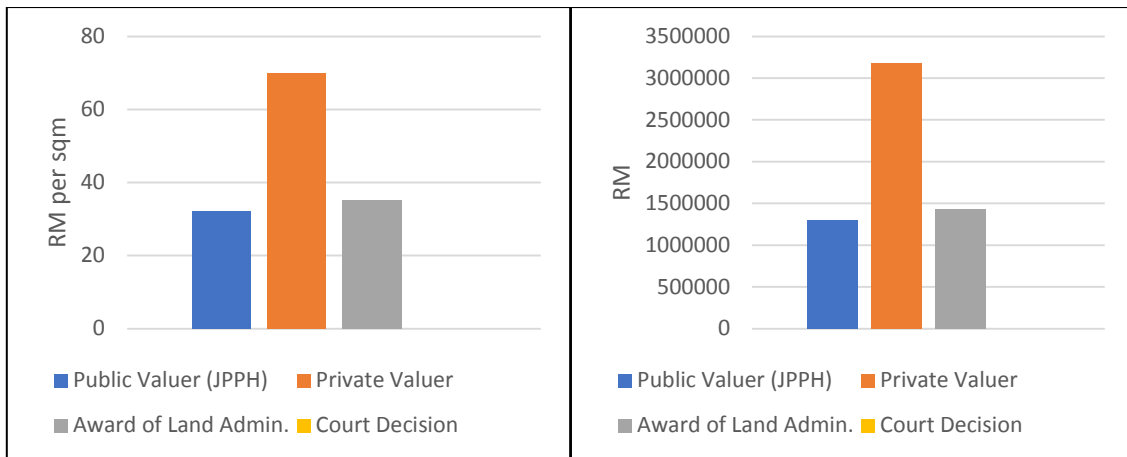


Figure 11: Differences in the land value and total amount of compensation in Case 3

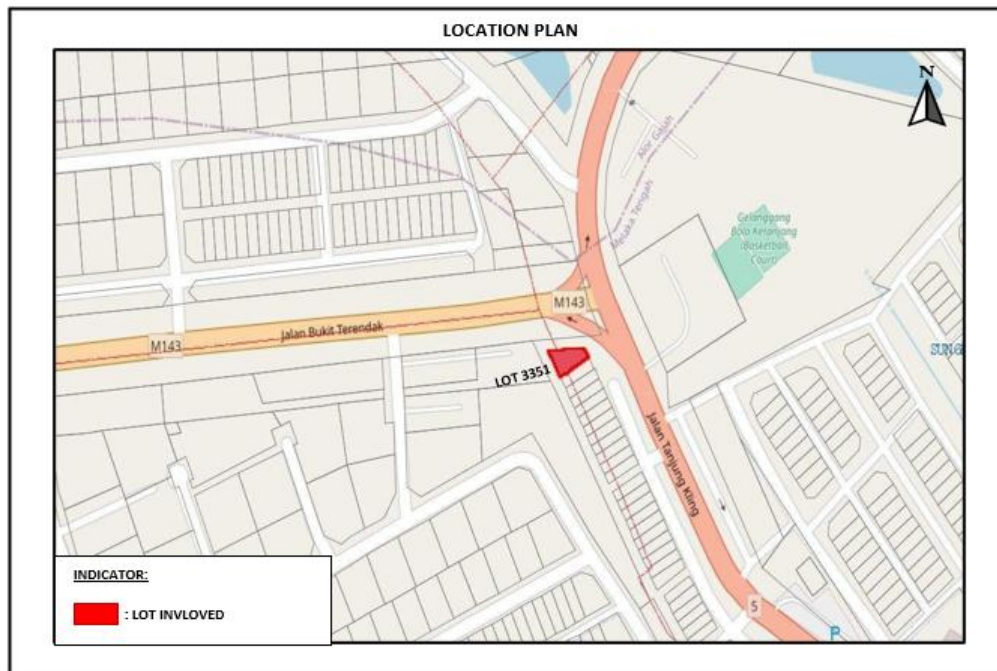


Figure 12: Location Plan of Case 4

Table 6: Brief details of Lee Kim Wan Vs Central Melaka District and Land Office

Lot/Mukim/ District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
3351/Pekan Sungei Udang/ Central Melaka	30 March 2017	Land: RM 520 per sqm Disturbance: RM 13,000 Total Amount of Compensatio n: RM 123,240	Land: RM 1,250 per sqm Total Amount of Compensat ion: RM 265,000	- 53.49	Land: RM 520 per sqm Total Amount of Compens ation: RM 110,240	Land: RM 775 per sqm Total Amount of Compensat ion: RM 164,300

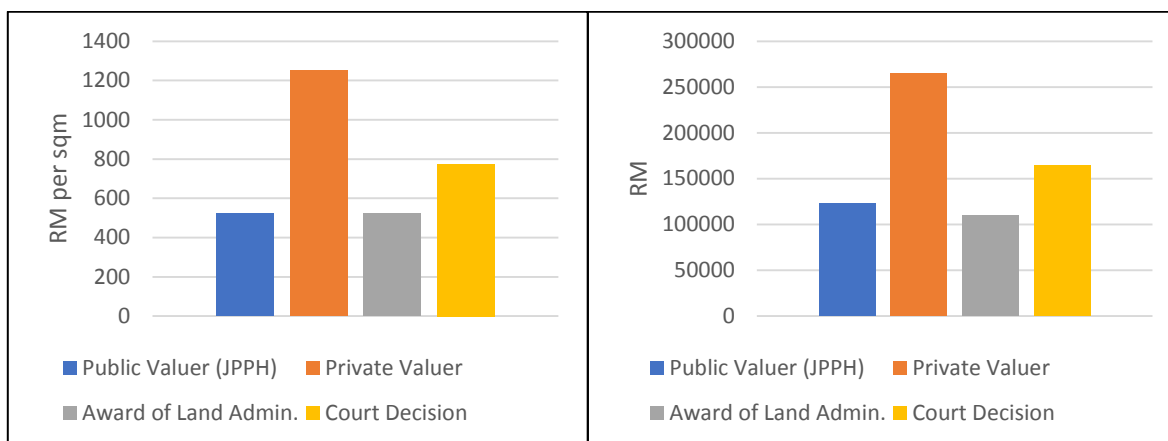


Figure 13: Differences in the land value and total amount of compensation in Case 4

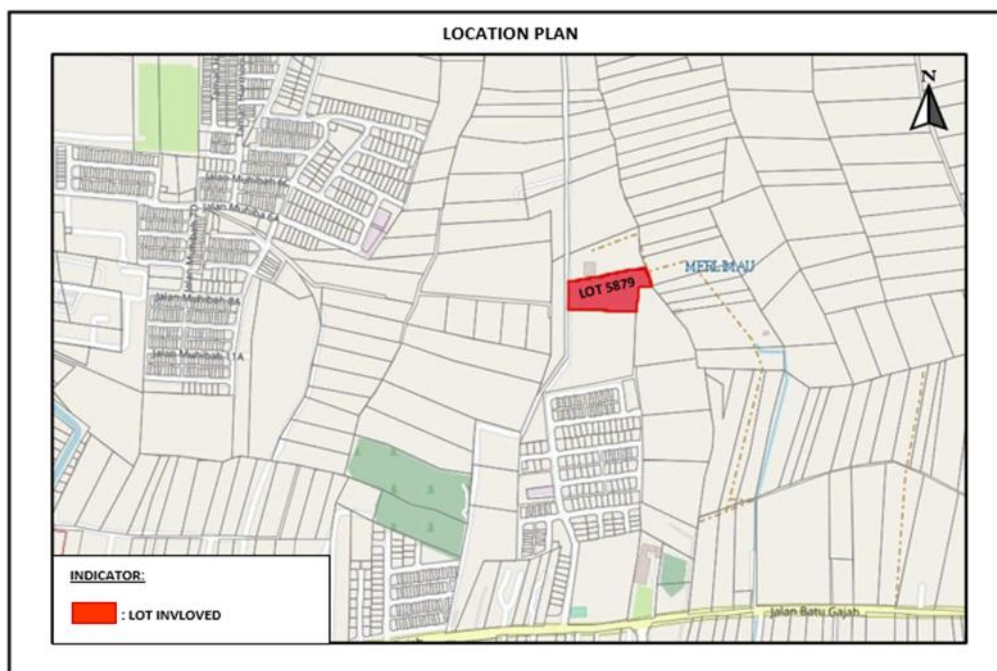


Figure 14: Location Plan of Case 5

Table 7: Brief details of Lim Kim Chew and Tan Aik Seng Vs Jasin District and Land Office

Lot/Mukim/ District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
5879/ Merlimau/ Jasin	12 April 2018	Land: RM 35 per sqm	Land: RM 80 per sqm	- 70.33	Land: RM 35 per sqm	Land: RM 47.50 per sqm
		Total Amount of Compensat ion: RM 6,020	Injurious Affection: RM 6,401 Total Amount of Compensat ion: RM 20,161		Total Amount of Compensat ion: RM 6,020	Total Amount of Compensat ion: RM 8,170

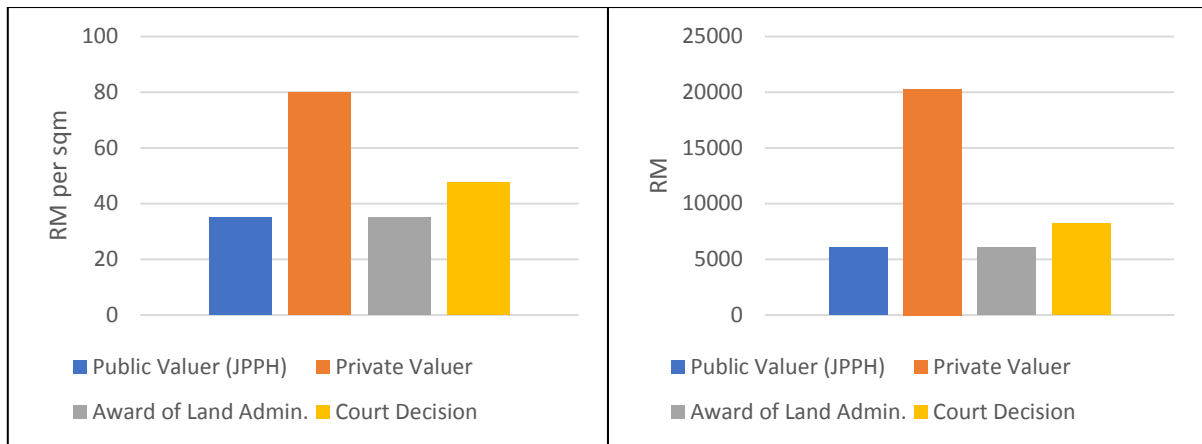


Figure 15: Differences in the land value and total amount of compensation in Case 5

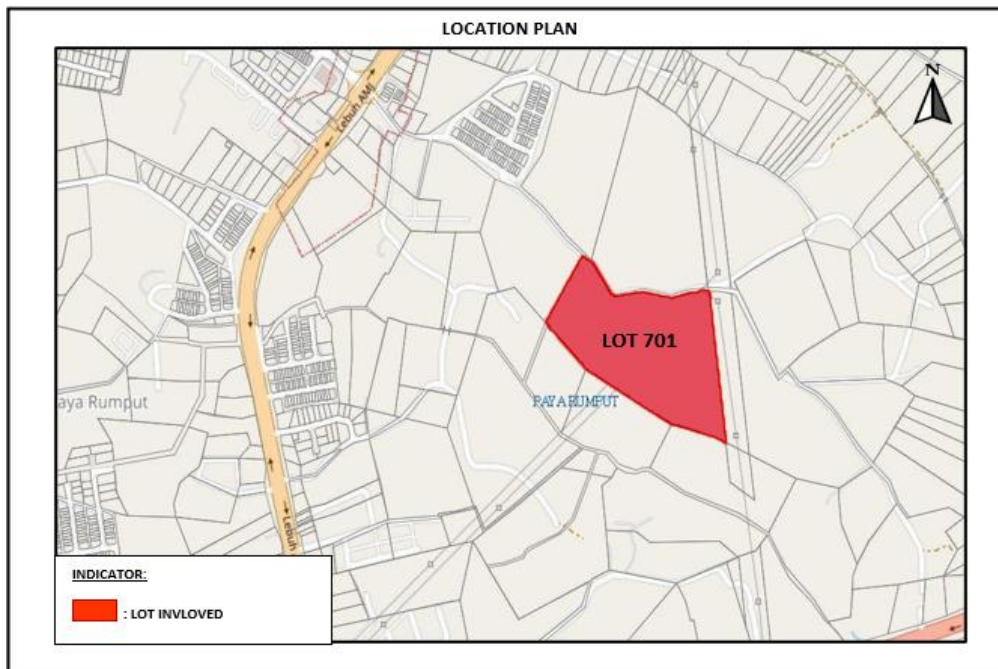


Figure 16: Location Plan of Case 6

Table 8: Brief details of Hartawan Development Sdn. Bhd. Vs Central Melaka District and Land Office

Lot/Mukim/ District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Differenc e values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
701/ Paya Rumput/ Central Melaka	12 August 2014	Land not involved with TNB supply line: RM 47 per sqm	Land not involved with TNB supply line: RM 85 per sqm	- 74.78	Land not involved with TNB supply line: RM 48 per sqm	Land: RM 67 per sqm Disturbance : RM 161,038 (remained)
		Land involved with TNB supply line: RM 33 per sqm	Land involved with TNB supply line: RM 72.25 per sqm		Land involved with TNB supply line: RM 33.60 per sqm	Total Amount of Compensati on: RM 3,169,338
		Total Amount of Compensat ion: RM 1,881,414	Disturbance: RM 80,000 Injurious Affection: RM 1,903,073 Severance: RM 1,727,421 Total Amount of Compensati on: RM 7,458,579		Disturbance: RM 161,038 Total Amount of Compensatio n: RM 2,238,972	

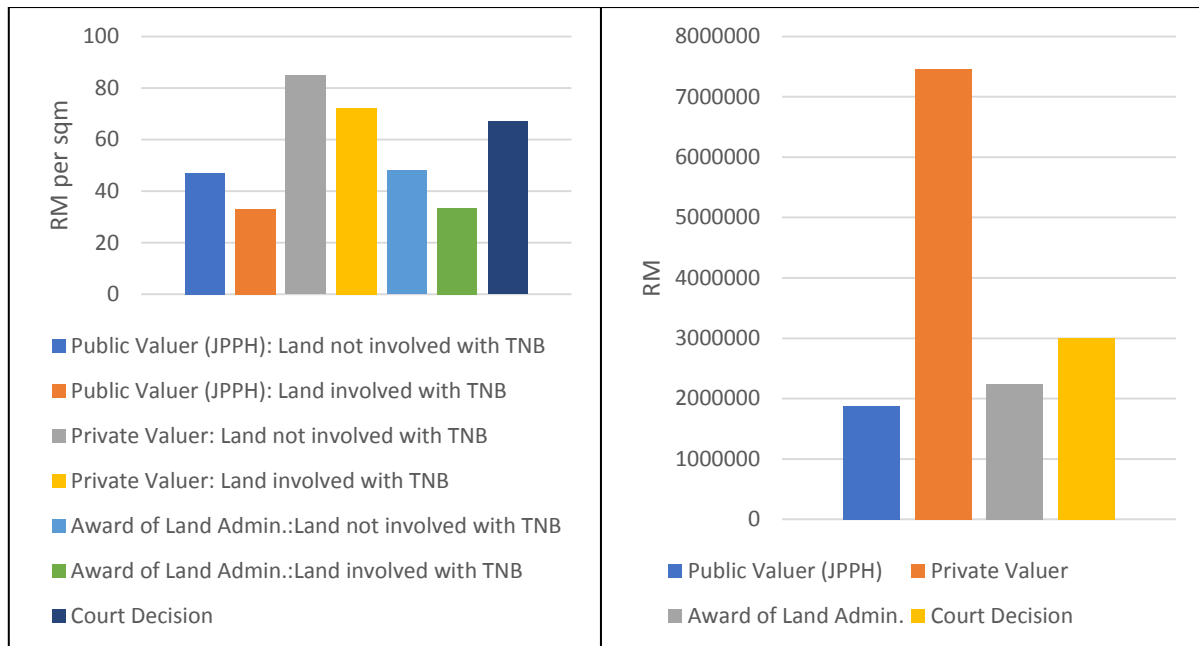


Figure 17: Differences in the land value and total amount of compensation in Case 6

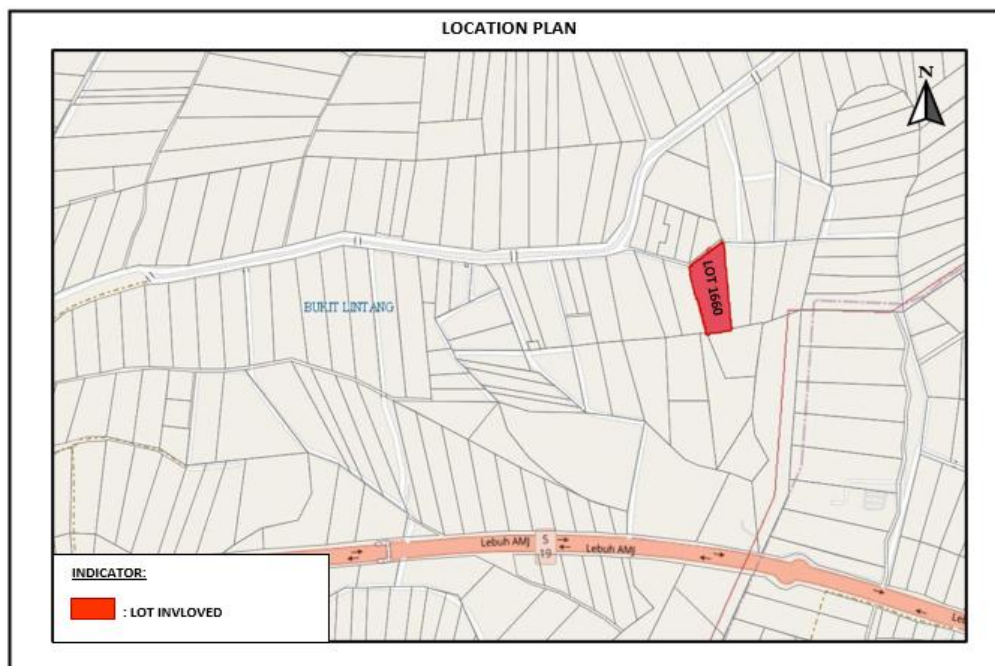


Figure 18: Location Plan of Case 7

Table 9: Brief details of Koh Eng Koon Vs Department of Director General of Lands and Mines (JKPTG) of Malacca

Lot/Mukim/ District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Court Decision (RM)
1660/ Bukit Lintang/ Central Melaka	21 August 2014	Land: RM 88 per sqm Disturbance: RM 120,000 Total Amount of Compensation: RM 721,920	Land: RM 130 per sqm Injurious Affection and Severance: RM 147,732 Disturbance: RM 185,715 Total Amount of Compensation: RM 1,222,647	- 40.95	Land: RM 96.80 per sqm Injurious Affection and Severance: RM 27,500 Disturbance: RM 136,384 Total Amount of Compensation: RM 825,996	Land: RM 100.50 per sqm Injurious Affection and Severance: RM 42,548 Disturbance: RM 136,384 (remained) Total Amount of Compensation: RM 866,352

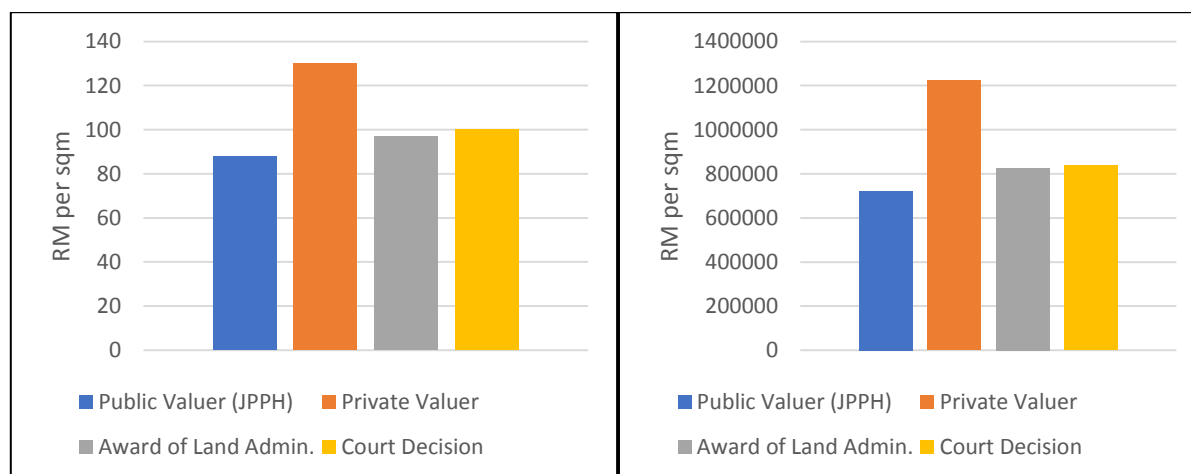


Figure 19: Differences in the land value and total amount of compensation in Case 7

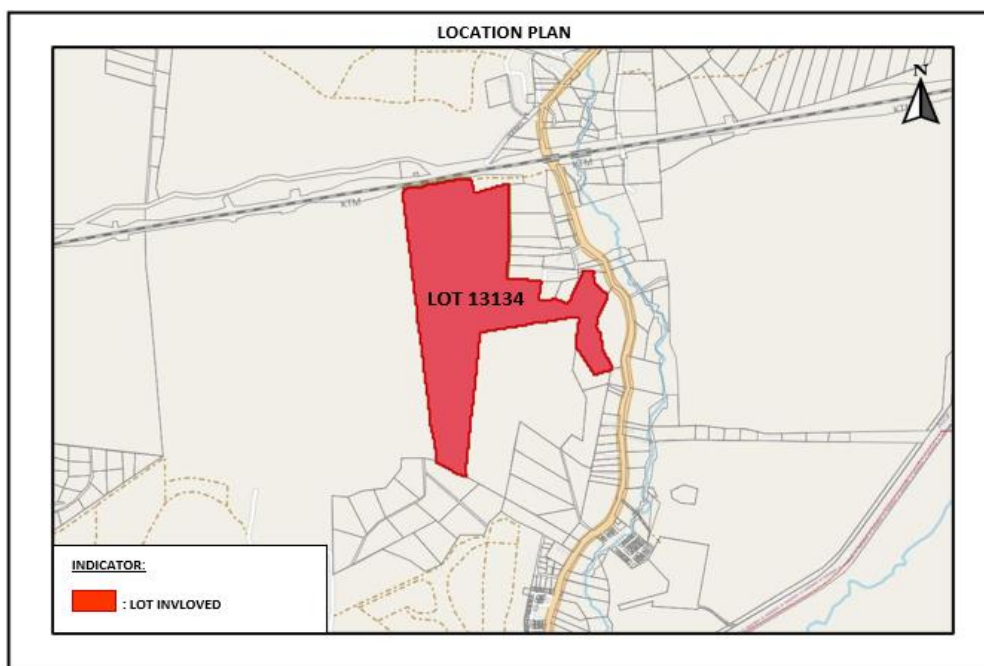


Figure 20: Location Plan of Case 8

Table 10: Brief details of Chong Ngian Fook/Teh Chen Chang Vs Land Administrator, Alor Gajah

Lot/Mu kim/District	Date of Gazette (under Section 8)	Public Valuer (JPPH) (RM)	Private Valuer (PV) (RM)	Difference values between JPPH and PV (%)	Award of Land Admin. (RM)	Decision of Negotiation (RM)
13134/ Tebong / Alor Gajah	18 January 2018	Land: RM 15 per sqm Total Amount of Compensation: RM 129,210	Land: RM 24 per sqm Severance: RM 15,900 Disturbance: RM 1,500 Total Amount of Compensation: RM 224,136	- 42.35	Land: RM 15 per sqm Total Amount of Compensation: RM 129,210	Additional compensation: RM 1,800 (let's say 15.20 per sqm) Total Amount of Compensation : RM 131,010

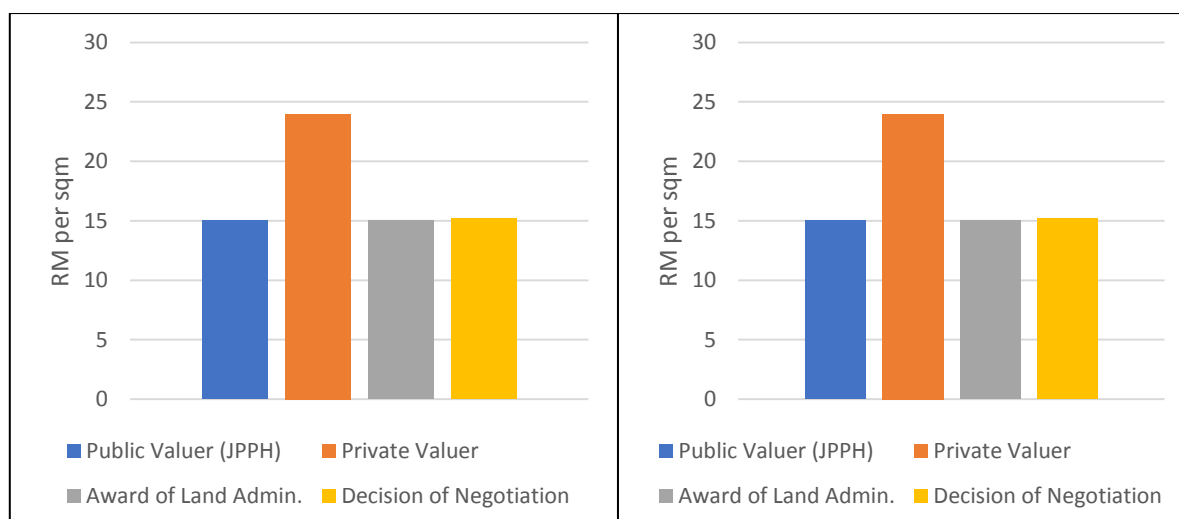


Figure 21: Differences in the land value and total amount of compensation in Case 8

Table 11: Document Review List of Form N

Case	Revised Document	Year	Source
1	Form N of Case Glm Emerald Industrial Park (Jasin) S/B Vs. Jasin District and Land Office	2016	JPPH
2	Form N of Case Eng Kim Leong, Eng Siong Sin and Eng Siong Sin Vs Jasin District and Land Office	2016	JPPH
3	Form N of Case Ramli Bin Yunus Vs Land Administrator, Alor Gajah	2016	JPPH
4	Form N of Case Lee Kim Wan Vs Central Melaka District and Land Office	2017	JPPH
5	Form N of Case Lim Kim Chew and Tan Aik Seng Vs Jasin District and Land Office	2018	JPPH
6	Form N of Case Hartawan Development Sdn. Bhd. Vs Central Melaka District and Land Office	2014	JPPH
7	Form N of Case Koh Eng Koon Vs Department of Director General of Lands and Mines (JKPTG) of Malacca	2014	JPPH
8	Form N of Case Chong Ngian Fook/Teh Chen Chang Vs Land Administrator, Alor Gajah	2018	JPPH

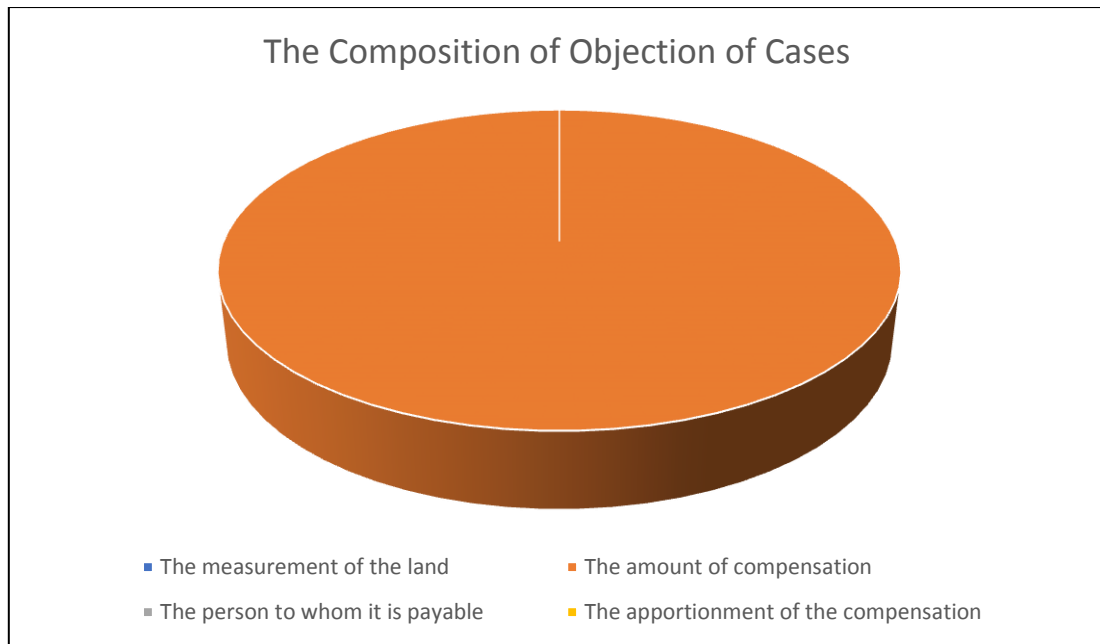


Figure 22: The Composition of Objection of Cases Applied by the Landowner in Form N