

Authority of The Notary Honorary Assembly In Construction And Issuance of Recommendations For Inspector Calls

Moh. Saleh, Dyah Chandra Kirana*

Faculty of Law Narotama University Surabaya, Indonesia

*E-mail: dyahcandr@gmail.com

Article History: Received: April 01, 2022; Accepted: May 15, 2022

ABSTRACT

Notaries are public officials appointed by the Government to assist the public in making authentic deeds for civil acts. A position held by a notary has the characteristics that have been regulated in the Law on the Position of a Notary and its Amendments. Notaries are not necessarily immune from the law, it may be possible for him to become a suspect if he fulfills elements and can be prosecuted civilly if he makes a mistake. In the event that the investigator will conduct an investigation of the notary, he will first apply for permission in writing to the regional honorary assembly, which will then be carried out with procedural law procedures in accordance with the Law on Notary Positions. It has been found a case of state administrative law relating to the issuance of a letter of recommendation issued by the honorary assembly of the notary area to be investigated in this legal research. The purpose of this legal research is none other than as a means of increasing knowledge in the field of state administrative law and notary science which is expected to be useful for notaries and legal practitioners. This research is normative legal research using a conceptual approach, legislation and a case approach (referring to a decision that has permanent legal force). The results of this study are: In the framework of the function of supervising the position of a notary, an honorary assembly was formed consisting of elements of the notary, government, and academics. The authority of the honorary assembly is the attribution authority which is an authority born from law. The main task of the notary honorary council is to carry out the guidance of a notary and the obligation to give approval or rejection for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a notary to attend an examination related to the notary deed or protocol that is in the notary's storage. The legal product issued by the Honorary Council is in the form of a letter of recommendation containing the rejection or approval of the summons of a notary for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a notary to attend an examination related to the deed or Notary Protocol which is in the Notary's custody. The legal product is an act of determination that gives birth to a State administrative decision in accordance with the regulations and the AUPB. That the honorary assembly did not immediately give permission for summons, but first a meeting was held with the notary concerned to hear his statement.

Keywords: Notary, notary honorary council, investigator

1. INTRODUCTION

The word profession comes from the word profession (English) which has a meaning of being able or expert in a form of work. (Suprihatiningrum jamil, professional teacher: 2014). that the profession can be defined as a job or position that requires expertise obtained from certain education and training supported by a scientific discipline not just common sense, there is a code of ethics that guides the behavior of members along with strict sanctions against violators of the professional code of ethics itself. For example, legal professions in Indonesia such as lawyers or notaries/PPAT. The legal profession is an honorable profession because it has a code of ethics for



everyone who carries it, basic ethical values namely honesty, independence, being neutral, honest, and so on. (Abdulkadir Muhammad, *Ethics of the Legal Profession*: 2001). The notary profession has existed since the Dutch East Indies which was regulated by regulations in the colonial era, currently the notary profession is regulated by the Law of the Republic of Indonesia Number 30 of 2004 concerning Notary Positions (hereinafter referred to as UUJN) jo. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions (hereinafter referred to as UUJN-P), the Notary Position Act is a legal regulation that revokes the provisions of Reglement op Het Notary Ambt in Indonesia (S.1860 No. 3) regarding the Regulation of Notary Position (hereinafter referred to as PJN) which is no longer in accordance with legal developments and community needs.

With the promulgation of the Law on the Position of Notary, it is hoped that it can provide legal protection, both to the community and to the Notary itself and is also expected to be better than the legislation it replaces. Based on Article 1 point 1 of the Law on Notary Positions, it is stated that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. The aim is that the deed can be used as strong evidence if one day there is a dispute between the parties or there is a lawsuit from another party. If this happens, it is possible that the Notary will be involved in the matter. Notaries as officials who are based in the realm of law (such as advocates, judges, prosecutors, police) make Notaries directly or indirectly have the right in addition to making authentic deeds, inheritance deeds/for inheritance, as well as deeds in the company sector as well as to maintain the smooth process. the law that occurs, including those relating to the judicial process, both in criminal and civil courts. The judicial process referred to here is closely related to evidence, both written evidence and also evidence by testimony (Abdul Ghofur Anshori, *Indonesian Notary Institute, Legal and Ethical Perspectives*: 2009).

A Notary in carrying out his work must be careful, because his negligence can cause legal problems in the future so that the Notary can be brought before the judicial process. In accordance with Article 66 paragraph (1) of the Notary Position Law and its amendments that for the purposes of the judicial process, investigators, public prosecutors, or judges with the approval of the Notary Honorary Council are authorized to take photocopies of the Minutes of Deed and/or letters attached to the Minutes of Deed or Notary Protocols in the Notary's custody, Calling the Notary to be present in the examination related to the Deed or Notary Protocol which is in the Notary's custody, the Notary who has made negligence cannot immediately refuse to provide information on the grounds of secrecy of position. In accordance with Article 67 paragraph (2) of the UUJN that in carrying out the supervision as referred to in paragraph (1) the Minister shall establish a Supervisory Council. Supervision of Notaries is carried out by the Minister by forming a

Supervisory Council consisting of the Central Supervisory Council (MPP), Regional Supervisory Council (MPW), and Regional Supervisory Council (hereinafter referred to as MPD). These provisions are then regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Notary Honorary Council.

The Notary Honorary Council is a body that has the authority to carry out the guidance of a Notary and the obligation to give approval or rejection for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a Notary to attend an examination related to the Notary deed or protocol that is in the Notary's custody. . Based on the provisions of Article 66 A of the UUJN-P and Article 20 of the Regulation of the Minister of Law and Human Rights Number 7 of 2016 concerning the Notary Honorary Council, in the process of giving approval, the MKN must conduct an examination first. The examination carried out is by conducting a hearing for the implementation of the position of a Notary against a Notary. After the examination has been carried out, the final result of the MKN examination is stated in the form of a Decree which contains approval or rejection of the request of the Investigator, Public Prosecutor or Judge. decision MKNW in the form of a State administrative law product or called KTUN, according to the Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration in Article 1 point 7, Government Administration Decree which is also called a State Administrative Decree is a written decision issued by the National Administration Agency. and/or Government Officials in the administration of government. In the event that the party who is the subject of the KTUN feels aggrieved by the KTUN, they can file a lawsuit through the State administrative court. As one example, a notary filed a lawsuit filed through the Administrative Court against a letter of recommendation for an investigation into alleged forgery of a letter.

The case has been decided in the Pekanbaru Administrative Court Decision Number 31/G/2018/PTUN.PBR, the parties in the case are Dr. Khalidin, SH, MH against the Chairman of the Honorary Council of Notaries for the Riau Province. As for the object of dispute, the object of the dispute being sued is the letter of the chairman of the Honorary Council of Notaries for the Riau Province, Number: UM.MKNW. 01.18-1871, May 09, 2018 regarding the Approval of the Call for a Notary Examination of Dr. Khalidin, SH, MH that according to the plaintiff, the procedure carried out by the Riau MKNW was not procedural and harmed the plaintiff. The decision deserves to be a topic of legal research because not all notaries have an understanding of MNKW and state administrative procedural law, therefore this legal research was written with the title Authority of The Notary Assembly Authority In The Matter of Counseling And Issuance of Recommendations For Invisitors Calling.

2. RESEARCH METHOD

This legal research uses a normative legal research type, namely research that is able to provide a systematic explanation by emphasizing on regulations governing legal categories in order to analyze the relationship or relationship between regulations/regulations (Peter Mahmud Marzuki, Legal Research: 2011). The approach used in writing this law is an approach based on legislation, a conceptual approach, and a case approach. The compilers through this legal approach look for the ratio legis and the ontological basis for the birth of the Notary Position Law and other regulations used in this legal research. The purpose of studying the ratio legis and the ontological basis of a law is so that the compiler is able to capture the philosophical content behind the law, then the compiler can conclude whether there is a philosophical conflict between the law and the issues at hand. In this study, where the author uses various rules or sources of legal materials, namely:

Primary Legal

Materials Primary legal materials used as references in this legal research refer to:

1. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 About Notary Position;
2. Law No. 30 of 2014 concerning Government Administration
3. Regulation of the Minister of Law and Human Rights Number 7 of 2016 concerning the Notary Honorary Council and its amendments;
4. Legislations related to the theme of this legal research

Secondary Legal Materials. Secondary

Legal materials in this legal research consist of covering scientific books in the field of law, papers, scientific journals and scientific articles.

The formulation of the problem to be discussed in this paper can be formulated as follows, namely:

1. Authority of the Honorary Consul in the Context of Issuing a Letter of Recommendation for Summoning a Notary.
2. Issuance of the Honorary Council Recommendation Letter as a State Administrative Decision

3. RESULTS AND DISCUSSION

3.1 The Authority of the Honorary Consul in the Context of Issuing a Letter of Recommendation for Calling a Notary

Notary comes from the word Notarius which is a title for people who carry out writing work. The name Notarius gradually means those who make notes in fast writing, such as today's stenographers (R. Soegono Notodisoerjo, Notary Law in Indonesia An Explanation: 1993). based



On article 1 paragraph 1 of Law no. 2 of 2014 concerning the Position of a Notary, it is stated that a Notary is a public official who is authorized to make an authentic deed and has other authorities as referred to in this Law or based on other laws. The main task of a Notary is regulated in Article 1 number 1 UUJN, namely making authentic deeds and other authorities as referred to in the UUJN. Meanwhile, the authority of a Notary in Article 15 paragraph (1) of the UUJN, namely "The Notary has the authority to make an authentic deed regarding all acts, agreements, and provisions required by laws and regulations and/or required by the interested parties to be stated in an authentic deed, guaranteeing the certainty of the date. making the deed, keeping the deed, providing grosse, copies and quotations of the deed, all of that as long as the making of the deed is not assigned or excluded to other officials or other people stipulated by law. According to Lumban Tobing GHS, the authority of a Notary includes 4 things, namely:

- a. The notary must be authorized as far as the deed is made. The point is that not all deeds can be made by a notary;
- b. The notary must be authorized as long as it concerns the people for whom the deed was made;
- c. The notary must be authorized as long as it concerns the place where the deed was made
- d. The notary must be authorized as long as the time of making the deed is concerned. The point is that a Notary may not make a deed while on leave or be fired from his position, similarly, a Notary is not authorized to make a deed before obtaining a Letter of Appointment (SK) and before taking an oath of office. (GHS Lumban Tobing, Notary Position Regulations: 1983)

If one of the requirements for authority is not fulfilled, the deed made by or before a Notary does not have the status of an authentic deed and only has the power of proof such as a private deed if the deed is signed by the parties. Notaries in carrying out their duties in addition to being given authority, are also required to obey the obligations regulated by UUJN and the Notary Code of Ethics and are required to avoid restrictions in carrying out their positions. In addition to having obligations, a Notary must comply with the prohibition norms regulated in the provisions of Article 17 of the UUJN, including:

- a. Running a position outside the area of office
- b. Leaving his/her area of office more than 7 (seven) consecutive working days without a valid reason
- c. Concurrently as a civil servant
- d. Concurrently as a State official
- e. Concurrently serving as an advocate

- f. Concurrent positions as leader or employee of a state-owned enterprise, regional-owned enterprise or private enterprise
- g. Concurrently serving as Land Deed Making Officer and/or Class II Auction Officer outside the notary's domicile.

In UUJN sanctions against Notary Deeds and against Notaries are regulated (collected) in articles 84 and 85 of the Notary Position Law, while in the Notary Position Law and its amendments the sanctions are directly included in the relevant article so that if there is a violation of the article for which there is no sanction, then it is already Of course, there are no sanctions for Notaries and their deeds (Habib Adjie, Thematic Interpretation of Indonesian Notary Law: 2015). The types of sanctions regulated in UUJN are civil sanctions and administrative sanctions. Civil sanctions are sanctions in the form of the deed in question only having the strength of the evidentiary value under the hand, and this can be used as an excuse for the parties (appearers) listed in the deed that suffered losses to demand reimbursement of costs, compensation, and interest to a Notary. Administrative sanctions are sanctions given to Notaries who in carrying out their duties and positions there are certain requirements and certain actions that are not carried out or not fulfilled by the Notary in accordance with the Notary Position Law, such as:

- a. Verbal warning
- b. Written warning
- c. Temporary suspension
- d. Dismissal with honor
- e. Disrespectful dismissal

In order to maintain the dignity and worth of a notary, supervisory actions are carried out, what is meant by Supervision is the process of observing the implementation of all organizational activities to ensure that all work being carried out goes according to a predetermined plan (Sujamto, Aspects of Supervision in Indonesia). : 1987). According to P. Nicolai, supervision is a preventive measure to enforce compliance. According to Lord Acton's opinion, supervision is an act of controlling the power held by state administration officials (government) which tends to be misused. The purpose of supervision is to limit the government from using power outside the normal limits that are contrary to the characteristics of the rule of law, to protect the public from the government's discretionary actions and to protect the government from exercising power properly and correctly according to law or not violating the law (Diana Hakim Koentjoro, Administrative Law). Country: 2004).

It is none other than that the purpose of monitoring the actions of a notary is so that the notaries when carrying out their duties and positions do not violate the law. Prior to the enactment of the UUJN and UUJN and their amendments, the supervision of the examination and imposition

of sanctions on Notaries was carried out by the existing judicial bodies at that time based on several rules, namely (Habib Adjie, Civil and Administrative Sanctions against Notaries as Public Officials: 2008):

- a. Article 14 Reglement op de Rechterlijke Organisatie en Het Der Justitie (Stbl.1847 no.23)
- b. Article 96 Reglement Buitengewesten
- c. Article 3 Ordonnantie Buitengerechtigde Verrichtingen, State Gazette of 1946 Number 135
- d. Article 32 and Article 54 of Law Number 13 of 1965 concerning Courts in the General Court and Supreme Court.

With the enactment of the UUJN, based on Article 67 paragraph (1) of the UUJN, supervision of Notaries is carried out by the Minister of Law and Human Rights. Article 67 paragraph (2) of the UUJN explains that to carry out such supervision, the Minister establishes a Notary Supervisory Board. With the existence of a Supervisory Board which was specifically formed to supervise Notaries, it is hoped that supervision can be carried out optimally. Based on Article 67 paragraph 5 of the UUJN, the supervision of Notaries carried out by the Minister includes supervision of the behavior of Notaries and the implementation of Notary positions. The first order mentioned is the supervision of the Notary's behavior because the Notary's behavior is closely related to the Notary Code of Ethics, so that the Notary's ethics in carrying out his duties and positions is very prioritized. Then to enforce the rules of the Law on the Position of a Notary, a notary honorary assembly was formed which in this case contained elements of the government. The rules regarding the authority of the honorary assembly in the Law on Notary Positions are regulated in several articles, namely:

- a. Article 66
 - (1) For the purposes of the judicial process, investigators, public prosecutors, or judges with the approval of the Honorary Notary Council are authorized to:
 - a. take a photocopy of the Minutes of Deed and/or letters attached to the Minutes of Deed or the Notary Protocol in the Notary's depository; and
 - b. summon a Notary to attend an examination related to the Deed or Notary Protocol which is in the Notary's custody.
 - (2) Taking a photocopy of the Minutes of Deed or documents as referred to in paragraph (1) letter a, an official report of the submission is made
 - (3) The Notary Honorary Council within a maximum period of 30 (thirty) working days from the receipt of the letter of request for approval as referred to in paragraph (1) must provide an answer to accept or reject the request for approval

- (4) In the event that the Notary Honorary Council does not provide an answer within the period as referred to in paragraph (3), the Notary Honorary Council is deemed to have accepted the request for approval.

The provisions of the UUJN are then regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2021 concerning Duties and Functions, Terms and Procedures for Appointment and Dismissal, Organizational Structure, Work Procedures, and Budget of the Honorary Council of Notaries. In this regulation it is stated that the main task of the Notary Honorary Council is to examine applications submitted by investigators, public prosecutors, or judges, give approval or rejection of requests for approval to take a photocopy of the minutes of deed and summon a Notary to be present in the investigation, prosecution and judicial process. , conduct training in order. maintain the dignity and honor of the Notary in carrying out his profession and provide protection to the Notary related to the Notary's obligation to keep the contents of the deed confidential.

Issuance Of Recommendation Letter For The Honorary Assembly As A State Administrative Decision

As described in the next chapter, that the function of supervision and control of the Notary Position Law is delegated to the Notary Honorary Council as a body established under the Notary Position Law and its amendments, based on the Regulation of the Minister of Law and Human Rights Republic of Indonesia Number 17 of 2021. Prior to conducting an examination, investigators must first process a letter to the Chair of the Regional Notary Honorary Council, then Article 26 (1) states that In conducting an examination of a Notary, the chairman of the Regional Notary Honorary Council forms an Investigating Council consisting of 3 members. (three) people consisting of each member of the Regional Notary Honorary Council. The duties of the Examining Council are to examine, request documents needed, and make an inspection report to be decided in the plenary meeting of the Notary Honorary Council. Each result of the examination by the Examining Council is reported to the chairman of the Regional Notary Honorary Council. Procedures prior to summoning a Notary by the investigator, public prosecutor, or judge to attend the examination include:

1. The investigator sends a letter of application to the chairman of the Regional Notary Honorary Council in accordance with the work area of the Notary concerned. The request is submitted in writing in Indonesian and a copy is submitted to the Notary concerned. The request must contain at least the name of the Notary, the address of the Notary's office, the number of the deed and/or letter attached to the minutes of the deed or the Notary Protocol in the Notary's depository, the subject matter of the alleged case.

2. The Chairperson of the Regional Notary's Honorary Council is obliged to provide an answer in the form of approval or rejection of the investigator's request within a maximum period of 30 (thirty) Days from the date of receipt of the application.
3. In the event that the Regional Notary Honorary Council does not provide an answer within 30 days, the Regional Notary Honorary Council is deemed to have received the request for approval.
4. In conducting an examination, the Investigating Panel has the authority to summon a Notary based on a request from an investigator, public prosecutor, or judge. The summons to the Notary Public is carried out through a letter signed by the chairman of the Regional Notary Honorary Council. In an urgent situation, a summons can be made by facsimile and/or electronic mail which is immediately followed by a summons. The summons to the Notary shall be made at the latest 5 (five) Days prior to the examination being carried out.
5. Notaries must attend to fulfill the summons of the Examining Council and may not be represented. In the event that the Notary is not present after being legally and properly summoned 2 (two) times in a row, the Examining Council may make a decision at the request of the investigator, public prosecutor, or judge.
6. The Examining Council gives approval or rejection after hearing direct information from the Notary concerned. The information is stated in the minutes of the inspection. In the event that the Investigating Panel gives approval to the request of the investigator, public prosecutor, or judge, the Notary is obliged to provide a photocopy of the minutes of the deed and/or the required letter to the investigator, public prosecutor, or judge, submit a photocopy of the minutes of the deed and/or a letter with an official report of the submission made. signed by a Notary and investigator, public prosecutor, or judge witnessed by 2 (two) witnesses.

If it is observed in the description above, the examining board at the Regional Notary Honorary Council has the authority to make administrative actions in the form of rejection or approval at the request of investigators, public prosecutors, or judges. to do and/or not to take concrete actions in the context of administering the government. A government action that gives birth to a State administrative decision or KTUN is defined as a written decision issued by a Government Agency and/or Official in the administration of government. For the determination of approval or rejection issued by MKNW, it must first go through the procedures set out in the laws and regulations and the AUPB. In practice, the decision of the State administrative court has been found on the decision to approve the summons of a notary issued MKNW Riau

In that case the notary feels aggrieved by the summons, this case is contained in the decision of the State Administrative Court No. 31/G/2018/PTUN.PBR, the object of the TUN

lawsuit is the LETTER OF THE CHAIRMAN OF THE NOTARY REGIONAL ASSEMBLY OF THE RIAU PROVINCE, Number: UM.MKNW. 01.18-1871, May 09, 2018 regarding the Approval of the Call for a Notary Examination of Dr. Khalidin. SH,MH That the object of the dispute was issued by the Defendant on May 09, 2018. On April 30, 2018, the Defendant through his staff summoned the Plaintiff to attend the MKNW Examining Council Session, on Wednesday, May 2 2018, according to the request from Dir. Riau Police Criminal Investigation Unit. Whereas the Plaintiff responded to the call and asked for a summons, then the Defendant gave the answer "it will be submitted at the time of the trial", and the Riau Police DitReskrim also did not provide a written copy to the Plaintiff and contradicted Article 23 Paragraph (2) of the Minister of Law and Human Rights Number 7 of 2016. However, The Plaintiff had good intentions to attend the trial, and before the trial began, the Defendant's staff submitted a Summons Number UM.MKNW.1648.IV.18 dated April 25, 2018, and it turned out that the Plaintiff's position was also wrongly addressed, namely "Plaintiff's position as Notary in Indragiri Hilir" . Whereas because the Defendant's summons is legally invalid (*obscuur libel*), the summons is invalid and contradicts Article 24 (2) and Paragraph (5) of the Minister of Law and Human Rights Number 7 of 2016.

That the *a quo* was filed with the Pekanbaru State Administrative Court on 12 July 2018, therefore the *a quo* is still within the grace period in accordance with Article 55 of Law Number 5 of 1986 concerning State Administrative Court in conjunction with Law No. 9 of 2004, which is 90 (ninety) days from the date the decision was made or announced , The decision was sent to the Plaintiff, the refusal to grant the requested decision, and the Plaintiff's knowledge of the decision. MKNW Examiner, on Wednesday, May 2, 2018. The interests of the Plaintiff who are harmed are:

1. The Plaintiff feels aggrieved because the Plaintiff is the party to whom the Object of Dispute Letter is addressed, namely LETTER OF THE CHAIRMAN OF THE RIAU REGIONAL NOTARY ASSEMBLY, Number : UM.MKNW. 01.18-1871, May 09 2018. Subject : Approval of Call for Notary Examination Dr. Khalidin, SH, MH;
2. The time, energy and cost wasted due to being summoned by the Riau Police Criminal Investigation Unit investigator, because the Plaintiff resides in Bagansiapiapi, Rokan Hilir Regency, having to travel to Pekanbaru more than 250 km or approximately eight hours of travel, which resulted in: The Plaintiff suffered material losses for 1 day. The Plaintiff made 2 (two) deeds @ Rp. 1 million. x 25 working days = Rp. 50,000,000, - (fifty million rupiah);
3. The Plaintiff's reputation has been tarnished for this unclear case, including with colleagues, the public and especially the Plaintiff's family;

4. The plaintiff cannot provide services to the community, especially in the field of legal consultation;
5. That the Plaintiff was summoned by the Defendant by letter Number: UM.MKNW. 1648 IV – 18, April 25 2018, submitted by the Defendant to the Plaintiff on May 2, 2018;
6. Whereas the Plaintiff was summoned by the Defendant only based on a communication relationship via mobile phone, which when present to fulfill the summons, the Defendant submitted a summons to the Plaintiff as referred to in number (2) above;
7. That the Plaintiff just found out about the alleged criminal act of making and using a forged letter related to the deed of statement of the Meeting Decision Number 37, dated January 3, 2015 which was made before the Notary concerned and therefore around the end of 2016 or the beginning of 2017 the Plaintiff was asked to be present to provide information by the parties. investigators at the Riau Police;
8. Whereas the Plaintiff did not know and felt that he had never processed the application for approval and notification through the online General Legal Administration (AHU) of the Ministry of Law and Human Rights of the Republic of Indonesia, regarding the deed of statement of the Meeting's decision, Number: 37, dated January 3, 2015;
9. That the Plaintiff did not know and felt that he had never made a deed of statement of the Meeting's decision, Number: 37, dated January 03 2015 regarding the case of the alleged criminal act of “making and using a forged document which was allegedly carried out by Mr. HARIYANTO KARIM and Mr. NORSIM KAMARUDIN collaborating in property based on the deed. minutes of the extraordinary general meeting of shareholders of a limited liability company (EGMS) PT INTAN KEMILAU No: 48/2012 dated 10 May 2012 at Notary Dr. H Khalidin SH, MH then on 21 October 2016 Mr DAHRUN PASARIBU has used his position as President Director as contained in the deed Number 37 which is the embodiment of the deed of the EGMS number 48/2012 to carry out legal actions related to housing development carried out by PT INTAN KEMILAU;
10. on the issuance of the deed Number: 37, dated January 3, 2015 which became the reason for the Riau Police to request information from the Plaintiff;
11. Whereas based on the authority possessed by the Defendant, the Defendant has issued a DECISION LETTER OF THE CHAIRMAN OF THE RIAU REGIONAL NOTARY ASSEMBLY, Number : UM.MKNW. 01.18-1871, Tanggal 09 Mei 2018. Hal : Persetujuan Pemanggilan Pemeriksaan Notaris Dr. Khalidin, SH,MH
12. . That the Defendant as a State Administrative Body or Position in the Dispute Object Letter does not provide careful, complete, good and correct legal considerations, and is transparent, describing the actual facts. So that the Plaintiff will know what the

Defendant's legal considerations are. So that the Defendant's Decision does not reflect the application of clear and precise legal grounds based on Article 66A OF LAW OF THE REPUBLIC OF INDONESIA NUMBER 2 OF 2014 CONCERNING AMENDMENT TO LAW NUMBER 30 OF 2004 CONCERNING NOTARY POSITION AND REGULATION OF THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA NUMBER 7 YEAR 2016 CONCERNING THE HONORARY ASSEMBLY OF NOTARIES;

13. whereas the trial began at 14.00 WIB, in the meeting room on the second floor of the Riau Kemenkumham Regional Office Building, Jalan Sudirman No. 233 Pekanbaru, attended by the Examining Council consisting of;

1. Edy Sumantri, SH (Notary Element);
2. Khayatun, SH (Government Element);

At the opening of the examination session, elements from academics were not present, but after 10 (ten) minutes and twenty-nine) seconds, the examination, elements from

Academics, namely Dr. Firdaus attended the examination/trial. That at the start of the trial all the elements must have been met, so that if the elements are not met, the examination/must be postponed, but it turns out that in this case the Defendant still forced and carried out the examination/trial, thus in this case the procedure was flawed in the examination .

That the panel of judges considered several things in the decision, including:

1. Considering, whereas according to the Panel of Judges the name of the Plaintiff listed as a Notary whose summons was approved by the Defendant as stated in the object of the dispute (video evidence P-5,T-9) indicates that there is an interest and legal relationship between the Plaintiff and the object of the dispute;
2. The Panel of Judges is of the opinion that the Plaintiff's formal claim has complied with the provisions of Article 53 Paragraphs (1) and (2) of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning the State Administrative Court;
3. that the Panel of Judges after examining and observing the Decision Letter on the object of dispute issued by the Defendant (video evidence P-5, T-9) by linking the elements contained in the State Administrative Decision as referred to in Article 1 number (9) of the Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court, the Panel of Judges is of the opinion that the Decision Letter on the object of the dispute has met the requirements as a State Administrative Decision, which is concrete, individual and final and has legal consequences for the Plaintiff, with the following description:

Concrete : the object decided in the State Administrative Decision is not abstract, but has a certain form or can be determined, namely in the form of a letter from the Chairperson of the Riau Province Regional Notary Honorary Council Number UM.MKNW.01.18-1871 dated 9 May 2018 regarding the approval of the summons for the examination of the Notary Dr. Khalidin, SH. MH ;

Individual: meaning that the State Administrative Decree is not intended for the public, but it is clear to whom it is addressed, both at the address and the object to which it is addressed. Khalidin, SH, MH *in casu* the Plaintiff addressed to the Head of the Riau Regional Police;

Final: meaning that the State Administrative Decision is already a final decision that can be implemented, meaning that the legal consequences caused and intended are already definitive legal consequences, with the issuance of the Decision Letter on the object of dispute by the Defendant on May 9, 2018 is already definitive without requiring any approval from superior agencies or other agencies.

4. Considering, whereas the object of the dispute is a decision regarding the approval of a summons for a Notary examination, the Panel of Judges will use the provisions of the legislation governing the approval of a summons for a Notary examination, among others are Law Number 30 of 2004 concerning the Position of a Notary, Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Honorary Council of Notaries.
5. Considering, whereas furthermore, the Panel of Judges after examining the evidence of letters, witness statements, expert statements and statements of the Parties at trial, obtained the following legal facts:
 - a. Whereas the Plaintiff is a Notary in Rokan Hilir Regency, Riau
 - b. Whereas in 2012 the Plaintiff made the Deed of Minutes of the Extraordinary GMS of the Limited Liability Company PT. INTAN KEMILAU, Number 48/2012, attended by the Parties to the deed, namely DAHRUN PASARIBU, HARIYANTO KARIM and NORSIM KAMARUDDIN, having been read out by the Plaintiff as a Notary, and has also been given the opportunity to read it themselves and then it has been approved and signed by the Parties. (See evidence T-5a and Plaintiff's Statement at the Trial on October 31, 2018);
 - c. Whereas in 2014 the Plaintiff had made the Deed of Minutes of the GMS of the Limited Liability Company PT. INTAN KEMILAU, Number 44/2014 in the presence of the Parties to the deed, namely DAHRUN PASARIBU, HARIYANTO

KARIM and NORSIM KAMARUDDIN, having been read out by the Plaintiff as a Notary, and has also been given the opportunity to read it yourself and then it has been approved and signed by the Parties. (Vide Evidence T-5a and Plaintiff's Statement in Trial on October 31, 2018)

- d. Whereas on February 2, 2015 a letter was issued through the AHU Online application in the form of a letter dated February 2, 2015 Regarding: Receipt of Notification of Amendment to the Articles of Association of PT. INTAN KEMILAU addressed to Notary KHALIDIN, SH which basically stated that according to the data in the format of the changes stored in the Legal Entity Administration System based on the Notary Deed Number 37 dated January 3, 2015 drawn up by Notary KHALIDIN, SH domiciled in Rokan Hilir Regency along with the documents supporters received on February 2, 2015 regarding amendments to Article 4 Paragraph (2), Article 20 PT. INTAN KEMILAU domiciled in Rokan Hilir Regency has been received and recorded in the legal entity administration system, (printed on 2 May 2018) That on 2 February 2015 the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-0001679.AH.01.02.Tahun 2015 Regarding Approval of Amendments to the Articles of Association of Limited Liability Company PT. INTAN KEMILAU, dated February 2, 2015 along with its attachments, which in the dictum states that approving changes to the articles of association of PT. INTAN KEMILAU, as a copy of deed Number 37 dated January 3, 2015 made by Notary KHALIDIN, SH (Vide Evidence T-7 a and Exhibit T-7 c);
- e. That the Plaintiff was not aware of and had never made the Deed of Statement of GMS Resolutions Number 37 dated January 3, 2015 and had never registered changes to the articles of association of a limited liability company PT. INTAN KEMILAU but the registration data is on his work computer at the notary's office. (Vide T-5a, T-8b,
- f. Statement of the Plaintiff at the trial on October 31, 2018 That at the end of 2016 or the beginning of 2017 the Plaintiff was aware of the alleged crime of making and using a forged letter related to the deed of statement of Meeting Resolution Number 37 dated January 3, 2015 when the Plaintiff was asked to be present to provide information by the investigator Riau Police.
- g. Whereas on January 3, 2018, the Directorate General of Police on behalf of the KAPOLDA RIAU issued a letter Number: b/237/I/2008/Reskrimum, dated January 31, 2018, Subject: Requesting a Notary Examination Permit DR. KHALIDIN, SH,

addressed to the Chairman of the Honorary Council of Notaries for the Riau Region. a copy of which was sent to the Head of the Riau Police, Irwasda Polda Riau, the Chair of the MKNP, but no copies were sent to the Notary, Dr. KHALIDIN, SHMH

Based on some of the above legal considerations, the panel of judges handed down the following decisions:

JUDGING;

IN DELAY:

Rejecting the Application for Postponement of the Implementation of the Object of the Dispute submitted by the Plaintiff;

IN EXCEPTION:

Rejecting the Defendant's exception in its entirety;

IN THE MATTER OF THE CASE:

1. Reject the Plaintiff's claim in its entirety;
2. Sentencing the Plaintiff to pay court fees

Analysis:

1. Whereas in this case, the notary is suspected of having participated in the falsification of the deed, so that the police as investigators need the minutes of the deed report and ask for information from the notary as the official who made the deed;
2. Whereas in connection with the legal protection carried out by the Honorary Council of Notaries for the Riau region, a summons was made to the notary to be asked for information regarding the summons from the investigator
3. That the procedure that has been carried out by the honorary council of the notary area has been correct by calling beforehand and being objective towards the notary and the investigator.
4. That the regional honorary council should give permission to summon the notary concerned because the deed has been made by the notary concerned and has been registered through the online AHU system, so he is obliged to be responsible for the deed and prove the authenticity of a deed.

4. CONCLUSION

1. In the framework of the function of supervising the position of a notary, an honorary assembly was formed consisting of elements of the notary, government, and academics. The authority of the honorary assembly is the attribution authority which is an authority born from law. The main task of the notary honorary council is to carry



out the guidance of a notary and the obligation to give approval or rejection for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a notary to attend an examination related to the notary deed or protocol that is in the notary's storage.

2. The legal product issued by the Honorary Council is in the form of a letter of recommendation containing the rejection or approval of the summons of a notary for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a notary to attend the examination related to the deed or the Notary Protocol which is in the Notary's custody. The legal product is an act of determination that gives birth to a State administrative decision in accordance with the regulations and the AUPB. That the honorary assembly did not immediately give permission for summons, but first a meeting was held with the notary concerned to hear his statement.

REFERENCES

- Adjie, Habib (2015), *Thematic Interpretation of Indonesian Notary Law*, Bandung: Refika Aditama.
- Adjie, Habib (2008), *Civil and Administrative Sanctions Against Notaries as Public Officials*, Bandung: Refika Aditama.
- Muhammad, Abdulkadir (2001), *Ethics of the Legal Profession*, Bandung: Citra Aditya Bakti.
- Ghofur Anshori, Abdul (2009), *Indonesian Notary Institute, Legal and Ethical Perspectives*, Yogyakarta: UII Press.
- Hakim Koentjoro, Diana (2004), *State Administrative Law*, Tangerang: Ghalia Indonesia.
- Jamil, Suprihatiningrum (2014), *professional teacher*, jogjakarta: ARUZZ media.
- Lumban Tobing, GHS (1983), *Notary Position Regulations*, Jakarta: Erlangga.
- Notodisoerjo, R. Soegono (1993), *Notary Law in Indonesia An Explanation*, Jakarta: Raja Grafindo Persada.
- Subhan, Hadi (2008), *Bankruptcy Law Principles, Norms and Practice in the Judiciary*, Jakarta: Prenada Media Group.
- Sujamto (1987), *Aspects of Supervision in Indonesia*, Jakarta: Sinar Graphic