

Implikasi Persetujuan Majelis Kehormatan Notaris sebagai Penerapan Pasal 66 Ayat (3) Undang Undang Jabatan Notaris berdasarkan Putusan Pengadilan Tata Usaha Negara Tanjung Pinang Nomor 13/G/2018/PTUN-TPI = Implication of Honorary Board of Notary Approval as the Implementation of Article 66 Paragraph (3) Notary Office Act (UUJN) in pursuant to Administrative Court Ruling of Tanjung Pinang Number 13/G/2018/PTUN-TPI

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Abstrak

Tesis ini membahas persetujuan yang diberikan Majelis Kehormatan Notaris atas permohonan penyidik terhadap pemeriksaan fotokopi minuta akta, surat-surat yang dilekatkan pada akta, dan protokol Notaris serta pemeriksaan Notaris. Hal mana didasari atas risiko jabatan Notaris terhadap persetujuan tersebut. Permasalahan dalam tesis ini meliputi bentuk perlindungan hukum yang dilaksanakan oleh Majelis Kehormatan Notaris dan implikasi hukum yang timbul ketika Majelis Kehormatan Notaris menyetujui permohonan penyidik yang sebenarnya pernah diajukan. Bentuk penelitian yang digunakan berupa yuridis normatif dengan tipe deskriptif-analitis, yang menggambarkan peristiwa hukum berdasarkan Putusan Pengadilan Tata Usaha Negara Tanjung Pinang Nomor 13/G/2018/PTUN-TPI, bahwa kasus tersebut kemudian di analisa melalui studi dokumen bersumberkan data sekunder dengan pendekatan kualitatif. Hasil penelitian ini menyatakan perlindungan hukum oleh Majelis Kehormatan Notaris meliputi pemeriksaan serta pendampingan Notaris untuk kepentingan proses peradilan. Ketika Majelis Kehormatan Notaris menyetujui permohonan penyidik maka harus didasarkan atas pelaksanaan tugas jabatan Notaris, telah dilaksanakan dengan baik. Selain itu juga harus merujuk pada ketentuan Pasal 26 dan Pasal 27 Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 7 Tahun 2016. Apabila Majelis Kehormatan Notaris menyetujui tanpa berpijak pada 2 (dua) hal di atas maka permohonan seharusnya ditolak karena bukan lagi menjadi kewenangan Majelis Kehormatan Notaris. Jika tetap disetujui maka akan timbul akibat hukum bagi Notaris seperti pelanggaran kewajiban ingkar, serta keharusan bagi Notaris untuk membuka rahasia jabatan, isi akta serta keterangan-keterangan yang diperoleh dalam pembuatan akta. Dalam memeriksa permohonan selain memperhatikan hal-hal di atas, juga perlu melihat riwayat permohonan tersebut untuk menghindari pengulangan pemeriksaan yang dapat menimbulkan ketidakpastian hukum bagi Notaris. Walaupun hal ini belum diatur secara tegas dalam Undang-Undang Jabatan Notaris dan peraturan pelaksanaannya, namun dinilai penting agar perlindungan hukum bagi Notaris terlaksana dengan maksimal

.....This thesis discuss about the approval given by the Honorary Board of Notary upon investigator request to examine a copy of Notary deed, letters attached to Notary deed, Notary protocol and to investigate the Notary position as well. It is also consider the Notary's risk according to the approval circumstances. The legal questions here are what kind of legal protection conducted by the Honorary Board of Notary and the legal implications emerged when the Honorary Board of Notary approve investigator request which apparantly has been filed before. The research format used is normative juridical with type of descriptive-analytic, which describe a legal event supported by Administrative Court Ruling in Tanjung Pinang Number 13/G/2018/PTUN-TPI, as the case will be analyze through document study according secondary data with

qualitative approach. The research outcome has stated that legal protection conduct by the Honorary Board of Notary covers Notary examination and to provide legal companion when Notary get to be a subject of examination by investigator, public prosecutor and judges for the judicial process. The approval given by the Honorary Board of Notary shall be determine by Notary competence and accountability in doing their duty. Moreover, it should also refer to Article 26 dan Article 27 as stipulated in Law and Human Right Ministerial Decree Number 7 of 2016, as provisions in which regulate reasons and considerations for the Honorary Board of Notary in giving approval upon the investigator request. If the Honorary Board of Notary gave approval without both considerations mentioned, then they should have rejected as it will no longer within the scope of their authority. If they still approve the request, there will be legal consequences such as the breach of right of refusal and Notary is required to disclose their profession secrecy, the deeds contents and statements obtained from the deed making process. The Honorary Board of Notary in examining the investigator request shall also observe the application history to prevent repetition as it will cause legal uncertainty for the Notary. Although this has not been strictly arranged in Position of Notary Act and its implementing regulations, it is considerably important for the practical execution of legal protection for Notary position.