

## THE IMPACTS OF ENFORCEMENT TOWARDS WILLINGNESS TO COMPLY WITH BUILDING CONTROL REGULATION

Bibi Khairani binti Mohamed Sabri  
Norsidah Ujang  
Afida Mastura Muhammad Arif  
Srazali Aripin

### ABSTRACT

*The purpose of the study is to discover the impact of current enforcement tools towards willingness to comply with the building control regulation among urban house owners. A qualitative methodology by evaluating the response of house owners was adopted to study the phenomena. Face to face interviews were carried on six selected house owners who had been experiencing the enforcement action carried by the local authority in Selangor, Malaysia. Four major categories emerged from the house owners' responses which are; repeating the offence, unfairly treated, feeling victimised and disengagement. The results shows that current enforcement tools had resulted an opposite behavior which indicates that punishment by means of maximum penalty is not effective to create willingness to comply with the regulation. The results contributes towards identifying house owners reactions towards current enforcement tools in curbing illegal renovations. The study will guide the local authority in improving the enforcement approach in relation to building control regulation.*

*Keywords:* enforcement, regulation, local authorities, punishment, house owners.

### INTRODUCTION

Renovation of an existing terrace or semi-detached houses would affect the neighbouring buildings attached to them as well as the overall building landscape and frontage. To reduce the impact, house renovation activities need to be controlled systematically. It is also essential for the house owners to accept the law and sharing the same value with the authority. Hence, reviewing the approach of current legal framework is needed in order to achieve the objective of enforcing the regulation. Therefore, this study explores the impact of enforcement action on the local house owners and their attitudes towards the regulation.

### HOUSE RENOVATION IMPACT

The local authorities in Selangor recorded a total submission of renovation permits for each authority to be in the range of 1000 to 1800 permits per year. Therefore, the total numbers of renovation in the whole state may reach to 12,000 to 15,000 a year. The interviews conducted with authority officers indicate that the most critical cases of violations are i) renovation which encroaches into the road reserve, ii) renovation which extended up to the boundary line, and iii) renovation by adding another floor level above the existing roof. Data collected from four local authorities in Selangor in 2015 had recorded that 40-60% of house owners who had their house renovation approved by the authorities had deviated from the approved plan. Data were also collected from two local authorities in the Selangor state in 2016. It was recorded that the house owners who apply for Certificate of Completion and Compliance (CCC) and claimed their deposits when their home renovations were completed were only 10%. This means that 90% of the house owners have not declared their renovation status. The high percentage shows that there are some problems in terms of acceptance among local house owners with regard to current regulation in relation to house renovation. Thus, it reveals that enforcing the regulation on illegal renovation cases is a challenging task.

Jamel &Utaberta (2011) in investigating home changes in the Klang Valley had highlighted the concern on safety of the owner for extending the external wall. The external wall is standing exactly beside the road, which increase the risk of accidents and burglaries. Similar opinions were expressed by Saji (2012 page 147), when he said that "...modification without consent can even jeopardise the safety aspect especially units without back lane where these buildings are extended until the rear boundary which may increase the risk of fire". Isnin et al. (2012) had expressed her concern on the future sustainability in relation to renovation. Breaching the setback regulation had cause existing roads to be narrower leading to reduced parking spaces and traffic congestion. Liyana et al. (2015) argued that reducing distance between the rows of terrace homes with respect to the building height can increase air contamination and pollution. Jamel &Utaberta (2011), Isnin et al. (2012) and Saji (2012) have similar opinions on the degradation of home aesthetic value due to different changes in the height and volume. They commented that;

*"Some of the home have been transformed from double storey to three storey which made the overall housing view does not look like a terrace housing scheme anymore, excessive modification create an unbalanced and unattractive character of the building"*Saji (2012 page 147).

*"Dominance caused by building height and volume differed significantly resulting in maximum overshadowing and loss of day light at the neighbour's house. Most work resulted in unpleasant architecture of the overall building façade of the housing vicinity"*Isnin et al. (2012 page 8).

*"The material used for the roof and the height of the roof are also different. Hence the peculiarity of the front façade of the terrace."* Jamel &Utaberta (2011 page1548).

The degradation of the aesthetic value of the houses and the surrounding environment are challenging the current legal framework on home renovation. The barriers to comply with regulation may have come from the house owners themselves or they could have arisen from the regulators or even the authorities regulatory framework. The regulatory problem may relate to changes in the building regulation adopted by the authority delaying the approval process (Ali & Zakaria, 2012) or outdated rules which may not be relevant to current lifestyle. Furthermore, there are also several shortcomings regarding measures to curb poor compliance among renovated terrace houses found by Sabri et al. (2017). The shortcomings are; constraint in terms of work force in carrying regular monitoring and inspection, inconsistent enforcement, and lacking competent personnel in preparing investigation papers. The researcher posits that the above shortcomings are affecting house owners in terms of their behavior and attitudes towards current regulation. Therefore, the house owners views and experience should be explored in determine how they view the law after they have been penalized by the authority. Furthermore, evaluating house owners' responses towards regulation would helped in understanding the effectiveness of current local regulatory practices in controlling illegal renovations.

## **WILLINGNESS TO COMPLY**

Based on the theory of decision making, it is understood that compliance depends on the individual purpose in making a decision. Ayers & Braithwaite (1992) suggested that actors have "multiple selves" in which self-interest is not the only goal in pursuing compliance. Winter & May (2001) listed three motives which lead a person towards compliance; calculative, normative, and social.

Calculative motivation is based on the work of Becker (1968) and Stigler (1970). The theory explains calculative motivation (Winter & May, 2001) in which regulated entities will comply after finding that the benefits of complying exceeds the cost to comply. The theory describes how a person reacts towards compliance from the perspective of an economist. In the study about crime and punishment, Becker (1968) found that an individual will commit a crime if the expected utility to be gained from committing the offence is greater than the utility to be gained from engaging in the legitimate alternative activities. Normative motivation is based on the work of Burby & Paterson (1998) and suggests that normative commitment is coming from the individual's internal values. Normative motivation highlights the nature of human beings who react according to his or her moral and ethical values. Compliance occurs when the regulated entities agree with the goal of the regulatory program. A regulated entity in normative motivation is an actor with a good citizenship and possessing a lawful behaviour or typically called "good apples". Compliance is gained without any form of threat and punishment. If the law is consistent with peoples' moral values, compliance is acquired in the shape of voluntary decision (Murphy et al., 2009) instead of fear of sanctions. Social motivation is a motive that comes from the desire of the regulated entities to earn the respect of significant people they interact with (Winter & May, 2001). Social motivation does not necessarily mean that the individual agrees to obey the law but due to social pressure in gaining the respect among the group such as other regulated firms, trade associations, families, and friends.

Efforts to enhance compliance to regulation were discussed in several regulatory fields. Deterrence is found to be a traditional way of enhancing compliance. However, gaining compliance through deterrence is not the only solution. Enhancing compliance should not only depend on improving the capacity to detect and correcting the violations. It could also be gained by encouraging the willingness or voluntarily compliance to regulations (Burby, May & Paterson, 1998). Human factor contributes towards fairness. Pierraccini (2016), mentioned that regulators are also human beings and may have particular biasness. Hence, there must be circumstances when the regulatory framework leads away from the interest of the public. This results in negative perceptions towards the regulatory frameworks. Murphy et al. (2009), also supported this view when they said that the use of threat and legal actions, particularly when perceived as unreasonable, can result in the opposite behaviour and lead to non-compliance. According to Murphy (2016), procedural justice concerns with the perception of fairness towards a procedure.

Tyler (1990) in Kuperan (1999) found that people comply more with the law if the law is perceived to be fair. Fairness results positive view of the authority and encouraged willingness to comply with regulation (Cantor 2010). According to Murphy (2016), procedural justice is a concern with the perception of fairness towards a procedure. The researcher posits that fairness is an important impression in the regulatory framework. The perception of fairness towards the treatment received from the authority will induce motivation to comply. In short, people will obey the law if they feel that the decision making is fair, respectful and impartial. Current literature is also supporting the view as Boonstra, Birnbaum & Bjorkvik (2016) emphasising that motive of compliance may not only due to economic cost and benefit but also involve moral judgement and social norms such as fairness and legitimacy of the law which psychologically affecting the compliance motivation.

The Motivational Posture Theory (MPT) predicts that any attempt to control an actor by imposing penalties, rewards or surveillance may generate objection or reaction opposite to the one that is desired (Braithwaite, 2014). The Theory explains the individual preference, belief, attitude, interest, and feelings which express the degree of acceptance towards regulation. The model was adopted by Boonstra, Birnbaum & Bjorkvik (2016) in investigating the responses among fishers towards the regulation. The MPT had given the explanation on the signal which indicates how much the house owner accept the authority's agenda. 'Game playing' is the highest degree of signal that indicates the act of challenging the authority. It also explains about obeying the law due to commitment and capitulation and disobeying the law by producing resistance, disengagement and game playing as shown in Table 1. A recent study in the field of fishery had shown further steps by looking at the psychological aspect of compliance motivation. Boonstra, Birnbaum & Bjorkvik (2016), in the study of fishers' responses towards regulation, had adopted the model of motivational postures. Their study found that to challenge the authority the regulated entities will circumventing the laws. The signal indicates their acceptance and their willingness to defer to the authorities rules.

**Table 1: Motivational Postures (Braithwaite 2014)**

Posture	Representation
Commitment	Belief in the authority, its goal and purpose
Capitulation	Doing what is asked without understanding the purpose and goal
Resistance	Protest and anger about how authority operates
Disengagement	Withdrawal, create distance as authority is irrelevant
Game Playing	Challenges the authority by circumventing rules and laws

## ENFORCEMENT STRATEGIES

Normative motivation supports the view in securing compliance via cooperation and persuasion (Ayres and Braithwaite 1992) instead of deterrence. Having a civic duty to comply existed among the house owner could also indicate that deterrence approach is not suitable in gaining compliance. Hence, replacing the current deterrence approach with a facilitative approach might be the appropriate solution for the authority in curbing poor compliance. Kagan (1989) states that when non-compliance is visible and easy to detect while regulated entities have the willingness to comply, it is sensible to adopt a cooperative, seeking enforcement style. This implied that enforcement strategies by promoting cooperation are suitable for controlling building construction since the non-compliance can be easily recognised. The strategy is then supported by Burby, May & Paterson (1998) by stating that facilitating compliance, i.e. flexibility in enforcement is more conducive to build compliance than systematic enforcement philosophy.

As suggested by Cantor (2010) responding to the regulated entities will lead to the appropriate approach of enforcing the regulation. Enforcement strategy such as deterrence based strategies is aiming at deterring non-compliance with the hypothesis that the higher the chance of getting caught breaking the law the less willing people to break it. On the other hand Compliance base strategy is aiming at spontaneous obedience which came out from the feeling of moral disapproval about breaking the law Heijden & Jong (2013). The strategy is also called as a facilitative strategy. The two strategies either deterrence or facilitative has been a common debate among scholars in looking at compliance issues. Having the two categories of enforcement strategies the researcher posits that to identify appropriate strategies in promoting willingness to comply is depending on feedback by the regulated entities.

## ENFORCEMENT TOOLS

The primary objective of the Building Control Regulation in Malaysia is to ensure safety and health of the people, properties, and environment. To achieve the goal, the building controller will impose written conditions before the commencement of the work. The power of the local authority in regulating the construction of buildings is covered under Part V, of the The Street, Drainage, and Building Act 1974(Act 133). Under Section 70 and Section 72 of the (Act 133), several sections mention the legal requirements and its sanction on renovation work as shown in Table 2.

**Table 2: Legal Requirement and Sanctions under the (Act 133)**

Clause	Statement
70(1)	No person shall erect any building without the prior written permission of the local authority
70(2)	Any person who intends to erect any building shall submit- to the local authority such plans and specification as may be required by any By- Laws made under this Act
70(11)	Any person who makes any alteration to any building otherwise than is provided for in this Act or by-laws made there under or without the prior written permission of the local authority shall be liable on conviction to a fine not exceeding twenty five thousand ringgit and a Magistrate's Court shall, on the application of the local authority, issue a mandatory order to alter the building in any way or to demolish it
70(13)(b)	Any person who deviates from any plan and or specification approved by the local authority without the prior written permission of the local authority shall be liable on conviction to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding 3 years and also shall be liable to a further fine one thousand Ringgit for everyday which the offence is continued after conviction
70 (14)	In any case where proceedings have not been instituted against any person who, by reason of failure to obtain prior permission to local authority, has contravened subsection (13) such person shall, on the submission of plans and specification to the local authority in accordance with this act, pay to the local authority a sum which shall be not less than 5 times but not exceeding twenty times
72 (1)	Where Local authority satisfied that a building has been erected in contravention of section 70, local authority may by notice served on the owner of the land require him to abstain demolish

The above clauses describe the enforcement tools which could be adopted by the authority to penalise those found to contravene to the building regulation. The tools are demolition, prosecution, and court order. Another tool is the compound which stipulated under the Local Government (Compounding of Offences) (Amendment) By-Laws 2013. Cases which has contravened section 70(1) where proceedings are not carried, enhanced processing fee is imposed on the house owners with the maximum of twenty times of the processing fee. Under section 72(1), houses which have been completed without complying to the approved plans maybe instructed to be demolished. Common practice in several local authorities the houses are exempted from being demolished. However, the house owner is required to pay a yearly permit and granted a temporary permit.

The experience facing legal sanction results in different forms of reactions. Therefore individual experience going through the punishment need to be evaluated. Does the penalty educate them and prevent them from repetitive offence or the other way round? The punishment might create further rejection and if it does really happened why has it not been effective?

## **METHODOLOGY**

The assumption of qualitative research strategy is that realities exist in a multiple ways and it is constructed by the research participants (Ryan et al., 2007). Thus, interviewing respondents directs the researcher to the real answers regarding the impact of the enforcement. The methodology in exploring participants reaction towards enforcement as adopted by Boonstra, Birnbaum & Bjorkvik (2016) proven that qualitative approach is appropriate for the study. The researcher needs to engage with the participants directly (Patton, 1989) to seek the actual feelings, beliefs, perceptions, concerns, and attitudes of the house owners. For that matter the data collection need to be carried out qualitatively.

Hulu Langat district in Selangor was selected as the research area. Hulu Langat is one of the districts with high density population of 1.15 million people (Census, 2010). The researcher selects study participants from a list of house owners who had been identified by the Building Control Department of Kajang Municipal Council as violating the setback regulations. Purposive sampling was adopted so that the participants have a common criterion (Guest et al., 2006). The strength of the sampling is in selecting participants that can provide rich information relevant to the purpose of the study (Ryan et al., 2007). Purposive sampling helped to ensure the researcher obtained a rich and detail data. It also allowed the researcher to understand the research phenomenon emphatically on the constraints to comply with the regulations. The subject has to be the one who had experienced the most extreme case. The researcher had learned an important fact that the aim of qualitative research is not to make a generalisation. Merriam (2002), mentioned that, generalisation is not the goal of a qualitative study. The actual purpose is to learn in depth the phenomena (Ryan et al., 2007). Data collected has to lead towards answering to how much the house owners had been affected by the punishment that they have received. Several unknown factors have to be discovered since the stipulated problems have never been explored. The results should help the researcher gain conclusive answers to the problem by understanding the phenomena in-depth. Maxwell (2008), also mentioned that qualitative researcher rarely make explicit claims about the generalizability of their account. Hence, a particular answer would eventually emerge by understanding the detail and real problems on the issue (Watt 2007). Merriam (2002) noted that the qualitative approach is related to the researcher's intention to explore and understand by interpreting the data of a participant and not to test the hypothesis.

In qualitative research, the number of respondents is not the primary factor to ensure validity and reliability. What is important is the input of the respondent. According to Spindler (1985), a respondent is a specialist on the research matter which can provide rich information about the topic (Percy & Kostere, 2015). Therefore, the researcher assumed that house owners who had gone through the process of renovating their houses illegally will have all the required data. The qualitative approach helps the researcher to imagine the issues in a real situation, trying to understand the meaning, and analysing in the actual context of the phenomenon (Ryan et al., 2007). This makes the explanation of the phenomena more conclusive and able to provide the answer to the research question. The process of transcribing the data started immediately after the first interview. Data analysis also began early as soon as the collection of data from the first sample completed. It would avoid missing data as well as missing the non-verbal data such as the body language and facial expression from memory (Patton, 1989). The researcher checked the field notes for clarification for missing information within the transcript. The initial theme developed gave a general view to understand the issue of the study and guide the next session of interviews. The researcher had the opportunity to verify certain unclear data because the data analysis and the data collection were done concurrently.

The data were organized using computer aided quantitative data analysis (CAQDAS) via Atlas.ti (version 7). The researcher decided to use Atlas.ti as a tool in the analysis because the software could help the researcher in organising the data systematically and able to review the data from various angles. The analysis started with creating relevant codes inductive and deductively reducing the mass of large data into manageable groupings (Bowen, 2008; Vaismoradi et al., 2016). The researcher looked for significant words or sentence that brings in meaning. Atlas.ti required the researcher to highlight or mark the text and linked it to the relevant codes. For a qualitative research, reliability is ensuring the findings are consistent with the data collected. It is called as consistency or dependability. The data of a qualitative study depends on who gave the information and the capacity and skilled of the person collecting the data. Therefore, it is understood that obtaining a similar data from a similar study is almost impossible. Consistency in qualitative research could also be obtained by ensuring the researcher as the instrument have proper training and practice thus becoming more reliable to pursue the study and by triangulation of data and peer review and by keeping an audit trail indicating how the researcher arrived at the results (Bradley et al., 2007; Merriam, 2009).

**RESULT AND DISCUSSION**

To examine the impact of enforcement on house owners an in depth interview was carried on six participants who had obtained the temporary permit as shown in Table 3.

**Table 3: Participants background**

Participant	Number of house hold	Job	Income	House type	Enforcement
P1	7	Businessman	10,000.0 above	Two story terrace (Intermediate unit)	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>Wholesale</li> <li>No permit obtained before construction</li> <li>Double story extension up to the boundary</li> <li>Combining two intermediate units into one.</li> <li>Upper floor extension uses as a balcony.</li> <li>Received stop work order.</li> <li>Had to demolish part of the balcony</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit.</li> </ul>				
P2	5	Teacher	5000.0 - 10,000.0	Two story terrace (Intermediate unit)	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>Primary school</li> <li>Obtained permit using a ‘Standard Plan’ procedure</li> <li>Extending the porch up to the boundary</li> <li>Deviated from the approved plan.</li> <li>Received notice to submit as-built plan.</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit</li> </ul>				
P3	6	Mechanical Engineer	10,000.0 above	Two story Semi Detached	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>Oil industry</li> <li>Had obtained permit before the construction.</li> <li>Extending the side wall and the back wall ,allowing only 2 feet setback from the boundary.</li> <li>Deviated from the approved plan.</li> <li>Received notice to submit as-built plan.</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit</li> </ul>				
P4	4	Engineer	5000.0 - 10,000.0	Two storey terrace (Corner unit)	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>Oil and gas industry</li> <li>No permit obtained before the construction.</li> <li>Extending the porch up to the boundary ( Category 1)</li> <li>Received notice to submit as-built plan.</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit</li> </ul>				
P5	5	Accountant	3000.0 – 5,000.0	Two story terrace (Intermediate unit)	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>Furniture manufacturer.</li> <li>No permit obtained before the construction.</li> <li>Double story extension up to the boundary</li> <li>Upper floor is use as a bedroom</li> <li>Received notice to submit as-built plan.</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit.</li> </ul>				
P6	6	Civil servant	10,000.0 above	Two story Semi Detached	Maximum penalty, Yearly permit
	<ul style="list-style-type: none"> <li>IT security officer</li> <li>Had obtained permit before the construction.</li> <li>Extending the back wall allowing only two feet setback from the boundary.</li> <li>Deviated from the approved plan.</li> <li>Received notice to submit as-built plan.</li> <li>Had submitted the as-built plan, paid maximum penalty, and obtained temporary permit.</li> </ul>				

To discover the impact of current enforcement , the participants were questioned on the actions taken by the authority in penalising the violations. They were also asked to express how much the punishment had affected their attitude towards violating the regulation . Four major categories emerged from the house owners’ responses which are ; unfairly treated, repeating the offence, feeling victimised and disengagement. The results also indicate that current enforcement tools has resulted an opposite behavior.

Participant 1 (P1) had bought two units of terrace home adjacent to each other. He had renovated his terrace home by joining the two units without obtaining any permit. He had built a double volume structures for the porch. He had received a stop work order due to the violation. He had stopped the construction and had to terminate the contract with the contractor. He engaged a registered architect to submit the permit application and also had to hack part of the structures as instructed by the authority. The house was left abandoned for a few months while waiting for the permit to be issued. He had to pay the consultant cost, the processing fee and the maximum penalty. He also had to appoint another contractor to complete the house. He claimed he was granted a temporary permit with the condition he needs to pay a yearly charge. Based on the response P1 found to be prepared to face the consequences of violating the regulation. Although he shows some regrets, his responses do not indicate any signal of fear or guilt.

*"May be because I feel I had submitted all and had met all the regulation". "I was rather affected, at that time I was desperate as the work has started, I obeyed and hacked part of the slab and I did not think of image anymore, I just wanted it to be completed quickly". "After I have settled all the problems I just don't want to think about it anymore" [P1].* He does not show willingness to abide the law but he has no other choice except to follow with the council's instruction. He had faced the tough time and relieved that he managed to comply with the notice. He also took the experience as a lesson however, he felt that he was unfairly treated; *"I think I would do again the same as what I have done". "They put a tape around my house, my belonging was stolen .It should not happen. [P1].* After went through the punishment, his attitude towards compliance has not change much. He firmly mentioned he would still make the same decision in the future in example, to repeat the offence. The result is indicating the opposite behaviour of being penalised. The opposite behaviour shows that the current regulation is view as unfair rules to the house owner.

Participant 2 (P2) had experienced much more fear than other participants. He had learned a lot of lessons and also regretted on his decision which caused him to face a lot of difficulties. P2 had been granted a permit on his renovation. However, without consulting the authority he had constructed his home beyond the scope stipulated in approved plan. Due to the violation, P2 had received a notice to rectify the violation. He was not instructed to demolish his renovation however he was instructed to submit the as-built plan. P2 had followed the instruction and appointed a Registered Draughtsman to submit the application. As consequences he had to pay for the consultant cost, the processing fee and the maximum penalty which is ten times of the processing fee. He was granted a temporary permit with the condition he needs to pay a yearly charge.

P2 had regretted his pass decision; *"I was scared when I heard my neighbours had received the notice". "I don't want any more trouble and if it can be settled then just proceed". I am also afraid that in the future I would again be in trouble". [P2]*  
*"At that time I was really miserable, it does affect me a lot inside, to look for the extra money, to avoid headache I had better follow the architects advices"[P2]. "Yes, the penalty is higher than the architect fee, I regret for not doing it properly , I don't have the knowledge, it is better if we just touched only the interior instead of the external, The problem was I did not follow the approved plan. I admit I have made the mistake therefore I did not dare to go back to the authority" [P2].* The reactions indicates that the penalty had created fears and regret to P2. Due to fear, the P2 agreed to follow the instruction. The decision made by P2 as well as P1 are based on calculative motive. To avoid having more troubles in the future they had obeyed the authority's instructions and settled all the cost incurred.

Besides feeling regretted of his pass decision, P2 was also express his disappointment and dissatisfaction with the inconsistency of the enforcement. He claimed he was unfairly treated. *"I was not satisfied, Why others do not get the penalty?" , "we had to pay but the others did not. It is not fair we had complied and yet we are penalised". "That is why I feel it is better to do it quietly. I am really disappointed" [P2].* Feeling unfairly treated has made the participant become disengaged and try to avoid further relationship. P2 was not satisfied with the inconsistency of the enforcement when his neighbours who had violated the regulation were not received the penalty. The experience has cause P2 to believe that he should handle the renovation by himself and avoid dealings with the authority. As happened to P1, the enforcement had also resulted towards an opposite behaviour on P2. Trying to keep distance from the authority as express by P2 describing disengagement. Disengagement of the regulated entities reveals that the enforcement carried by the authority is not effective to create willingness to comply with the regulation.

Participant 3 (P3) had been granted a permit to renovate his semi-detached home by appointing a registered architect. During the construction, he had convinced by his contractor to add an extra five feet to cater the maid's room. As a result the building setback is only two feet instead of the minimum seven feet from the boundary. He had received a notice form the authority to submit the illegal extension. He had engaged the consultant to submit the as-built plan. Similar to P5, and P4 he had to pay the consultant cost, the processing fee and the maximum penalty. He was granted a temporary permit with the condition he needs to pay a yearly charge.

P3 was thinking that he would get away from being detected by the authority. Hence he was not expecting to receive the notice. P3 was worried and also regretted for not referring to the consultant before he committed the offence. He had shared his fear of going to be penalised for acting against the law. *"Ooo, when I received the summon , I had a sleepless nights, I was worried, I asked my previous contractor, I asked around a lot of people" [P3].* P3 had accepted the penalty to overcome his mistake and willing to pay the charges. *"The mistake was I did not claim the deposits. I got a wrong advice from the contractor. If I give it to the architect , he has better knowledge of the bylaw. Because I am already on the wrong side of the law, they asked me to pay RM 1000.0 , I have no choice, I have to pay 100 ringgit a year for the lifetime" [P3].* However, he was not satisfied with the condition of the temporary permit in which he need to pay the yearly charges every year. *"That one I don't agree, I thought we just have to pay one time, that is all. What if later I sell the house who is going to pay?" [P3].* P3 is accepting the punishment for his pass mistake but he is also arguing on the lifetime punishment that he need to bear. The temporary permit issued by the authority is based on the Uniform Building By Law (1984). The yearly charges is the payment for the temporary permit on the

portion of the structures which violating the setback regulation. To the authority the yearly charge is not considered as a penalty but only as a fee charges to extend the temporary permit validity period. However P3 is taking the yearly fee for the temporary permit as part of the penalty which he thinks it should be paid once and for all.

Participant 4 (P4) had an intention to apply for the permit of his terrace house. However, he was told by the consultant that his application would not be approved as he wanted to build beyond the minimum setback line. Unlike P2 and P3, P4 knew the consequences of his decision. Knowing the consequences, he decided to proceed with the construction and appointed a Registered Draftsman to submit his permit application after he had started the construction. He had also received a notice for his illegal renovation. He had a bad experience during the application process due to missing of document and approval delayed. After a year he managed to get his plan approved by paying the maximum penalty. He had obtained a temporary permit with the yearly charges. P4 had been prepared to face the penalty however he did express his fear that he might be instructed to demolish his house; *"I am worried, of course, I hope the authority do not come and demolish my house"* [P4]. *"I am in a way, mix feeling, firstly I am happy because the plan had been approved, on the other hand the penalty had been discounted, at least I can afford to pay"*. *"I feel so down by looking at all these"* [P4]. P4 had expressed his fear of the demolition action than the penalty charges. This implies that the maximum penalty charges is a less deterrence enforcement tools than demolition action. *"I think it is fair, like what I said comparing the amount of money I need to spend to buy a new house"* [P4]. P4 had no intention to get away with the law as he had made the preparation to apply for the permit. The initial intention to submit the application indicates that P4 has the sense of civic duty to comply with the regulation. However in the event when the participants inspiration is not align with the regulation, calculative motivation had become the basis in making the decision. The calculative motivation has made the participant to violate the regulation and face the punishment. Paying the cost of the maximum penalty to P4 has not exceeding the benefit which he would gain for going against the required building setback. The result had proven that punishment by mean of maximum penalty is not deter enough to prevent poor compliance nor enhancing compliance. The house owner is willing to pay the maximum penalty in other to get their dream home.

Participant 5 (P5) also had an intention to apply for the permit before the construction. However based on the consultant's advice he realised that his application for permit would not be approved. It is because he intended to build a double storey structures to replace the porch and extended it up to the front boundary. He claimed he had studied the pros and cons of his decision. Hence, he was prepared to face the consequences of his decision. Furthermore, he had also prepared some budget for the penalty which he would pay later. After completing the renovation he had waited for the authority to detect the violation and issue him a notice. Obeying the authority's instruction P5 had engaged a Registered Architect to submit an as-built plan. He had paid the penalty and obtained a temporary permit with the yearly charges. P5 realised he had infringe the law and aware of the consequences; since he was aware of the consequences, he did not show any regret of violating the law; *"No that is all, I am ready because I already knew the consequences"* *"I just proceed, after I received the notice then I prepare the plan"* [P5]. He intended to repeat the offence if he has to; *"Oh yes, I'm very confident with my decision"*. *"If the house does not match with my needs I think I will repeat"* [P5]. The statement indicating that the maximum penalty has no effect on his attitude towards compliance to regulation. He did object on the amount of the penalty as well as the yearly charges of the temporary permit.

Participant (P6) had a similar experience as P5 in completing the renovation of his semi-detached house. He was also had studied the consequences and proceed with the construction without applying for the permit. Although he decided to breach the regulation, he had also considered a few factors regarding safety precaution in term of fire access. He was also confident that he had met the safety regulation. Therefore, he believed he could satisfy the authority in getting the approval. He had engaged a Registered Architect to prepare for the submission. P6 had prepared to pay for all the cost incurred and managed to obtain the temporary permit; *"If there is no access for fire escape I will not do it. My job involves safety matters. Emergency access is the most important factor for safety"*[P6]. Predicted sanction is related to the attitude of unfear or not worried on the consequences of violation. P6 is in the position that he had been prepared for any penalty due to the decision. It is shown in his explanation; *"At that time I was not worried because I was told that, there is no problem in getting it approved, only thing the authority would penalise me in which I only need to pay a yearly charges"* [P6]. He did not feel that he had been burdened by the penalty as it was his choice to break the law. *"I agree because I have broken the rule."* [P6]. P6 is accepting the penalty as a punishment for the violation. He was willingly paid the penalty without any objection. *"The penalty is reasonable. Even with that amount, there are many who break the rules. To those who do not want to pay the penalty, they would not proceed. So I believe the amount of the penalty is fair, I sincerely paid"*[P6].

The researcher found a unique respond by P4, P5 and P6 in which they have no sign of resistance towards the punishment which they had been through. The penalty is taken as a fair and reasonable punishment. The researcher find that expected punishment deliver less impact on creating fear or deterrence. Those who had not expected to face the consequences are the one who are highly affected by the enforcement as described by P2 and P3. He had to endure more stressful event than those who had prepared to accept the consequences. The participants had developed themselves into accepting the consequences before it happened. Therefore, the guilt had diminished and replaced with willingness to pay the penalty. This indicates 'game playing' based on the 'theory of motivational posture'. The 'game playing' in the context of the house owners' is creating their own way out from having to abide with the regulation. Applying temporary permit is also a 'game playing' which is to escape from demolishing the illegal structures. The current tool adopted by the authority which is issuing temporary permit on illegal structures is giving an alternative to the house owners in legalising the renovation work. However, the approach fails to achieve the objective of enforcement. The temporary permits were taken as replacement to overcome illegal structures. Indirectly, the temporary permit has allowed house owners to go ahead to build the illegal structures and apply for the temporary permit at a later stage. The findings show that the actual intention to pursue illegal renovation is to escape from adhering to regulation.

## CONCLUSION

The enforcement program is meant to educate and provide awareness among the house owners on the importance of complying with the regulation. However, the results of the study shows that creating fear of going against the law is only effective to those who did not expect to be penalized. Those are aware of the consequences willing to pay the penalty in order to compensate their wrong doings. As a result the outcome of the enforcement which should display a change of attitude towards compliance has not appeared in the findings. The result of the study also shows that imposing maximum penalty and issuing temporary permit could not change the behavior and attitude of the house owner towards compliance with the regulation. The acceptance to pay for the penalty is due to fear of demolishing the structures. The house owners have no willingness to accept the regulation but they were forced to do so to avoid problems in the future. The study also highlighted the negative result of the enforcement in which it creates distance between the house owners and the regulator. Thus, the study is suggesting that the tools and the method by means of maximum penalty and issuing temporary permit need to be reviewed. The deterrence strategy which is supposed to generate compliance attitude had not able to prevent repetitive offences. Instead, findings proved that the enforcement had caused objection and resistance. As a result, curbing poor compliance had turned into an unproductive effort. As an alternative the authority may need to adopt a facilitative approach. The authority will have to be responsive towards house owners' needs. The approach demands more face to face discussions between the authority and the regulated entities. Decisions will have to be made on case to case basis and the authority may have to employ more staffs and resources to facilitate these needs. The study is limited to paying penalty while other enforcement tools such as demolition, prosecution, and court order have not been explored. Further research is suggested to learn the impacts of all these enforcement tools. Comparison can be made between the impacts of different tools adopted.

## REFERENCES

- Ali,A., Zakaria,R. (2012). Complexity of Statutory Requirements: Case Study of Refurbishment Projects in Malaysia. *Journal of Building Performance* 3(1), 49-54.
- Ayres ,I., Braithwaite, J (1992). *Responsive Regulation: Transcending the Deregulation Debate*, New York: Oxford University Press.
- Becker, G.S. (1968). Crime and Punishment: an Economic Approach. *Journal of Political Economy*,76 (2) ,169-217.
- Boonstra, W.J, Birnbaum,S, Bjorkvik, E.(2016). The Quality of Compliance : Investigating Fishers' Responses Towards Regulation and Authorities.*Fish and Fisheries* , 1-16.
- Bowen,G.A. (2008).Naturalistic Inquiry And The Saturation Concept: A Research Note".*Qualitative Research* , 8(1),137- 152.
- Bradley, E.H., Curry, L.A. & Devers, K.J. (2007) .Qualitative Data Analysis for Health Services Research: Developing Taxonomy, Themes, and Theory. *Health Research and Educational Trust*, 1758 -1772.
- Bradley, E.H., Curry, L.A. & Devers, K.J. (2007) .Qualitative Data Analysis for Health Services Research: Developing Taxonomy, Themes, and Theory. *Health Research and Educational Trust*, 1758 -1772.
- Braithwaite, V.(2014).Defiance and motivational Postures. *Encyclopedia of Criminology and Criminal Justice* , 915 – 932 .
- Burby, R.J., May, P., Paterson, R. (1998) .Improving Compliance with Regulations: Choices and Outcomes for Local Government. *Journal of the American Planning Association*, 64 (3),324-334.
- Cantor,E.(2010) .Applying a Voluntary Compliance Model to a Proposed Transportation Safety Regulation.*International Journal of Physical Distribution & Logistics Management* 40 (10) 822-846.
- Census (2010)Banci Penduduk Dan Perumahan Malaysia 2010 [www.statistic.gov.my/portal/index.php?option=com\\_content&view=article&id=1215&Itemid=89&la](http://www.statistic.gov.my/portal/index.php?option=com_content&view=article&id=1215&Itemid=89&la) retrieved on 10<sup>th</sup> Mei 2015.
- Guest ,G., Bunce, A.Johnson,L (2006) .How Many Interviews Are Enough? An Experiment with Data Saturation and Variability. *Field Methods*, 18 (1), 59–82.
- Heijden,J,Jong,D ,(2013). Towards A Better Understanding Of Building Regulation. *Environment and Planning B*, 36(6), 1038-1052.
- Isnin,Z., Ramli, R.,Hashim,E.,Ali,M.(2012) . Are House Alterations Sustainable?. *Journal of Asian Behavioural Studies*, 2 (5) , 1-13.
- Jamel, A., Utaberta,N.( 2011) .House Renovations And Extensions in Malaysia:anInvestigation of Mechanical Changes and Modification of House in KlangValey, Malaysia. *Advanced Materials Research* Vol 291-294 ,1547-1550.
- Kagan, R. A. (1989) . Understanding Regulatory Enforcement. *Law &Policy*, 11 (2) 90 - 116.
- Kuperan, K. sutinen , J.G. (1999). A Socio-Economic Theory Of Regulatory Compliance. *International Journal of Social Economics*, 26 ( 1/2/3) , 174-193.
- Liyana ,T.,Razak,A.,Jabarudin,T.,Harith,Z. (2015). Cross Ventilation Analysis on the Effect of Setback Distance of a Terraced House Using PIV. *Jurnal Teknologi (Sciences & Engineering)* 76(5), 95-99.
- Maxwell, J.A (2008). *Designing A Qualitative Study*, Chapter in the Book, Leonard Brikman & Debra J.Rog ( Editor) The Sage Handbook of Applied Social Research Method,2 nd Edition, Sage Publications, 213-249.
- Merriam,S.B., Associates ( 2002 ).*Qualitative Research in Practice: Examples for Adulthood*, San Francisco : Jossey-Bass.
- Meriam, S. B.(2009) .*Qualitative Research, A Guide to Design and Implementation*, San Francisco : Jossey-Bass.
- Murphy, K., (2016) .Turning defiance into compliance with procedural justice: Understanding reactions to regulatory encounters through motivational posturing. *Regulation and Governance*, 10, 93-109.
- Patton,M.Q. (1989). *Qualitative Evaluation and Research Method*. 2<sup>nd</sup> Edition, Newbury Park. CA. Sage Publications.
- Percy, W. H., Kostere, K., & Kostere, S. (2015). Generic Qualitative Research in Psychology.*The Qualitative Report*, 20(2), 76-85.
- Pieraccini,M.,Coppa,S., Lucia, G.A.D.(2016) . Beyond Marine Paper Parks? Regulation Theory to Assess and Address Environmental non-compliance, Aquatic Conserv: Mar. Freshw. *Ecosyst.* 27, 177-196. Wiley Online Library.



- Ryan, F., Coughlan, M., Cronin, P. (2007). Step-by-step guide to critiquing research. Part 2: *Qualitative Research* *British Journal of Nursing*, 16 (12), 738-744.
- Sabri, B., Ujang, N., Arif, A., Aripin, S. (2017). Measures In Curbing Poor Compliance To Building Control Regulation Among Renovated Terrace Houses. *International Journal of Law and Built Environment*, 6(3) 256-271.
- Saji, N. (2012). A Review of Malaysian Terraced House Design and The Tendency of Changing. *Journal of Sustainable Development*, 5 (5), 140-149.
- Spindler, G. (1985). Ethnography: An Anthropological View. *Educational Horizons*, 63 (4), 154-157.
- Stigler, G.J. (1970). The optimum enforcement of laws. *Journal of Political Economy*, 70, 526-536.
- Street, Drainage And Building Act 1974 (Act 133), Incorporating all Amendments up to 1 January 2006, Under the authority of The Revision of Laws Act 1968 in collaboration with Percetakan Nasional Malaysia Berhad.
- Uniform Building By-Laws 1984, Amendment as at 15<sup>th</sup> December 2008. International Law Book of Services, Petaling Jaya, Selangor.
- Vaismoradi, M., Jones, J., Turunen, H., Snelgrove, S. (2016). Theme Development In Qualitative Content Analysis and Thematic Analysis. *Journal of Nursing Education and Practice*, 6 (5), 100-110.
- Watt, D. (2007). On Becoming a Qualitative Researcher: The Value of Reflexivity. *The Qualitative Report*, 12 (1), 82-101.
- Winter, S. May, P. (2001). Motivation for Compliance with Environmental Regulations. *Journal of Policy Analysis and Management*, 20(4), 675-698.

Bibi Khairani binti Mohamed Sabri  
Majlis Perbandaran Kajang  
Email: bibimpkj@yahoo.com

Norsidah Ujang  
Universiti Putra, Malaysia  
Email: norsidah@upm.edu.my

Afida Mastura Muhammad Arif  
Universiti Putra, Malaysia  
Email: afidamastura@upm.edu.my

Srazali Aripin  
International Islamic Universiti, Malaysia  
Email: srazali@iiu.edu.my