

## 2. Promotion and restriction of private real estate business

While the systems 1 to 3 are promotional measures for real estate business development, they are simultaneously restricting measures for laissez-faire of private business activities. Systems are more advantageous to the private developers in the successive order of 1 to 3, but more restrictive in the same order. In system 1, no infrastructure and no land is to be provided by the KASIBA, but private development can have a free hand to implement projects in the KASIBA area in compliance and coordination with the KASIBA master plan. While system 2 is to provide primary infrastructure, it controls sites/size and land use/building of the development area more definitively than the KASIBA master plan. System 3 is to exclude land transaction for the projects, which is a great burden on developers as well as a big revenue source of the real estate business.

The promotion and restriction of private real estate business must be examined in the actual application of the proposed systems.

### 3-2-3 Principles of KASIBA

Three (3) principles to be embodied in the KASIBA implementation system are set forth as illustrated in Figure 3-2-5, and outlined as follows:

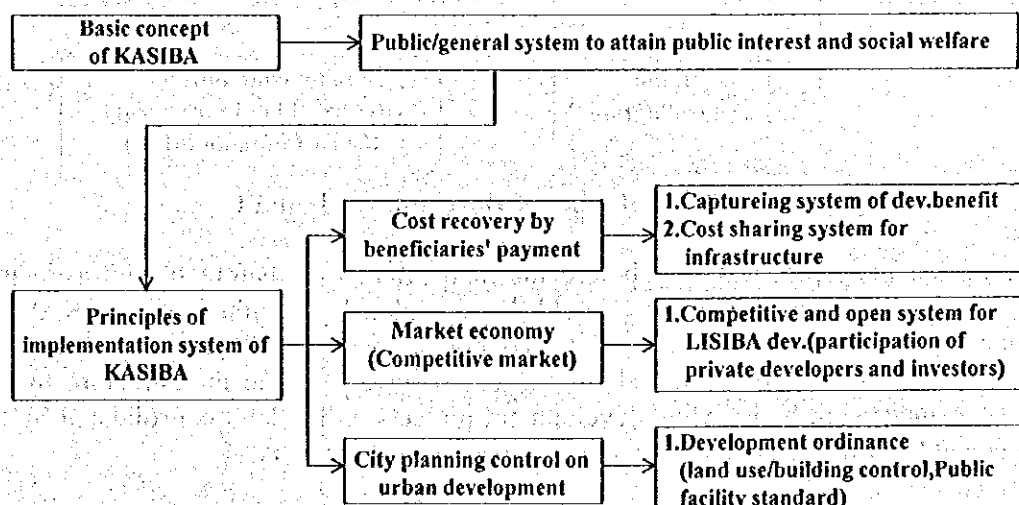


Figure 3-2-5 Basic Concept and Principles of KASIBA System

#### 1) Cost recovery by beneficiaries' payment – Capturing of development benefits

##### a. Capturing of development benefits generated by infrastructure development

This principle's mechanism should be established in KASIBA. The options are shown in Figure 3-2-6, and outlined below.

1. It may be most favorable that land price control measures be applied in LISIBAs in parallel with or before the infrastructure development in the view of mitigating the windfall benefits on the landowners generated by the infrastructure development in the KASIBA area.
2. After and when the land price increase happens to be brought about without the land price

control measures applied, measures for capturing the development benefits of the landowners in LISIBAs should include increased property tax, special assessment tax, capital gain tax, special charge for land selling and others, which have been applied in many countries in the world.

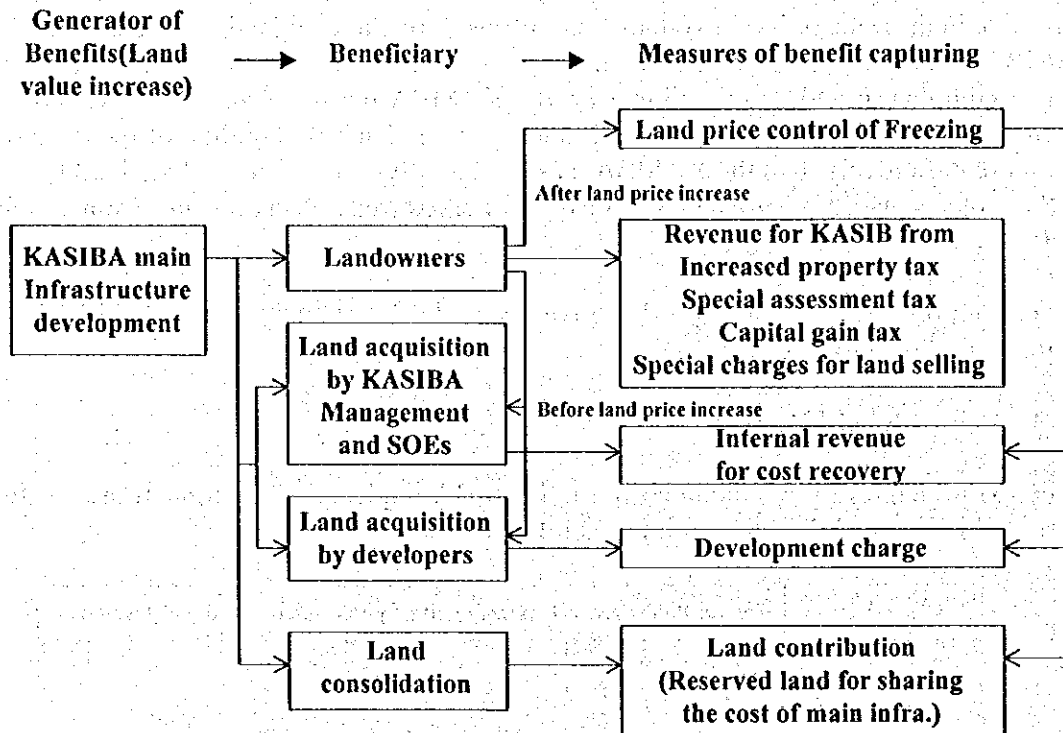


Figure 3-2-6 Capturing of Development Benefit

3. It may be the most practical way before the land price rises, before the infrastructure construction, that land acquisition should be completed by either of the KASIBA management body/SOEs or private developers or both of them. Development charges on the private developers must be collected for the cost recovery of the infrastructure by the KASIBA management body, while development projects on the land consolidated by the management body are to yield the internal revenue for cost recovery.
4. The development benefits capturing mechanism is originally built in Land consolidation–land contribution systems. However, land consolidation projects should be implemented before land price increase or in parallel with the KASIBA main infrastructure development. Otherwise the benefit of the main infrastructure is likely to be excluded from the development benefit of L/C in LISIBAs.

**b. Cost sharing for infrastructure development by the government and KASIBA management body**

The infrastructure construction related to KASIBA development can be classified into three (3) categories: 1. National, provincial and municipality infrastructure, where the central and local governments are responsible for the construction and maintenance/operation; 2. Main infrastructure of KASIBA, which is needed to make LISIBA ready for development; 3. Secondary or branch infrastructure in KASIBA-LISIBA infrastructure.

The cost sharing system for KASIBA's infrastructure development must be established in accordance with the responsibilities of the organizations concerned as follows:

1. National, provincial, and municipality infrastructure passing through/around the KASIBA area should be developed and financed by the government. Especially the urban infrastructures programmed in the IUIDP, which are the government's full responsibilities.
2. The main infrastructure responsible for developing KASIBA areas is the KASIBA management body. The cost of the main infrastructure shall be refunded by the capturing system of LISIBA's development benefits. If and when KASIBA's main infrastructure happens to coincide with the national and provincial infrastructure, proper cost sharing should be established between the government and the KASIBA management body.
3. The LISIBA infrastructure development is the responsibility granted to LISIBA developers.

**c. Fair and equitable cost sharing among LISIBAs**

Cost sharing among LISIBAs shall be fairly and equitably determined in accordance with the development benefit accrued to each LISIBA.

**2) Market economy**

KASIBA projects are to be managed and implemented on the market economy principle.

1. A competitive and open system shall be established for the participation of the private sector (developers and investors) in the development of LISIBA. More specifically, an open tendering system should be applied for granting LISIBA's development permits and contracting with developers.
2. Even if the KASIBA scheme is implemented on a market economy basis, subsidies must be granted only when public service obligations (PSOs), such as those for low-cost housing provisions and others, are requested to be implemented by the KASIBA management body and SOEs in order to maintain the KASIBA management's sound and viable financial base.

**3) City planning control**

City planning control shall be strictly enforced on the private sector driven LISIBA development by the introduction of the development ordinance on land use, building, public facilities and others, which is to be a condition for granting the development permit to the LISIBA developers.

**3-3 Variations of Implementation Systems for KASIBA Management**

**3-3-1 Implementation System for Urban Development**

There are supposed to be three (3) implementation system alternatives, applicability of which should be examined for large-scale urban development. They are Land readjustment (L/R), Land pooling (L/P-I, II) and Real estate development (I, II) as outlined in Figure 3-3-1.

KASIBA is also one of the alternatives for large-scale urban development, it however may be

defined as a development management system which is designed to develop large-scale urban areas by applying those 3 implementation systems in LISIBAs.

The distinctive differences between the listed implementation systems are found in land management and self-financing systems.

More specifically defined as follows:

1. Property rights are to be preserved throughout the project implementation in any form, L/R and L/P, while they are discontinued in real estate development (Land acquisition).
2. Major resources for self-financing the projects are land contribution for L/R and L/P, while revenue by selling or leasing the developed properties are the major revenues for real estate development.
3. The major revenue for KASIBA is supposedly monetary contribution from LISIBA development (in form of development charge, special assessment tax or fee, and the like). In addition economic return of direct investment in LISIBAs or participation in LISIBA's development could be a part of the KASIBA revenue.
4. KASIBA features a two-step (2) approach with the first being the KASIBA development and the second being the LISIBA development.

Both of the implementation systems of L/R, L/P and real estate development can be alternatives for KASIBA in terms of large-scale urban development, and they can also be applied to the LISIBA in KASIBA development management system.

The basic features of the listed alternatives are outlined, highlighting the differences between them as follows:

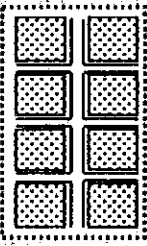
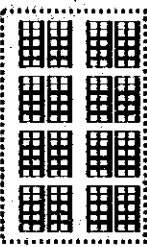
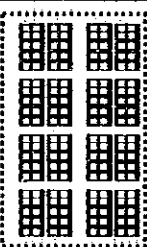
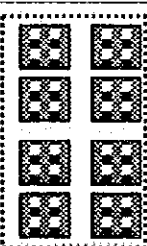
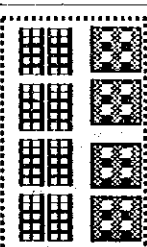
Dev. products (Image)	KASIBA	LAND READJUST. (L/R)		LAND POOLING (L/P)		REAL ESTATE DEVELOPMENT	
		L/P FOR SUBDIVISION	L/P FOR BLOCK DEV.	SUB-DIVISION	LAND DEV.		
	 Blocks ready for dev. (LISIBA)	 Parcels serviced	 Blocks for development	 Parcel serviced with house and block with flat	 Blocks serviced		
<b>2 key components</b> <b>1. Land management</b>	-Designation of blocks (LISIBAs) to be developed by L/R. Land pooling. Subdivision and Combinations	<b>Continuation of property rights (No ejection of land right holders)</b> -The existing parcels directly replotted to the new lots -Land rights without interruption	-Assembled into blocks and subdivided to right holders -Land rights released to and returned from government under Indonesian agrarian law	-Land acquisition and Subdivision under Civil/commercial law -Land right transferred to developer and finally to end users	<b>Discontinuation (Ejection)</b> -Land acquisition and sold as blocks for dev. -Land right assembled and transferred to developer for building		
<b>2. Infrastructure</b>	-Main *) infrastructure development	-Main *) and branch infra. development	-Main *) and branch infra. Development - Housing	-Main *) and branch infra. Development - Housing	-Main *) and branch infra. development		
<b>Self financing</b> (Major revenue for cost recovery)	-Monetary contribution (development charge) from LISIBA dev. -Return of direct capital investment in LISIBA (Land dev. etc.)	-Land contribution from land owners (land for infra. and reserved land for construction cost)	-Land contribution from land owners (land for infra. and reserved land for construction cost)	-Land contribution from land owners (land for infra. and reserved land for construction cost)	-Selling or leasing parcels and properties		-Selling land without housing
<b>Organization for implementation</b>	-Public sector enforcing city planning goals and policies -Associations of Landowners enforcing goals and policy of community development -Private sector licensed and entrusted by landowners	-Public sector enforcing city planning goals and policies -Associations of Landowners enforcing goals and policy of community development -Private sector licensed and entrusted by landowners	-Public sector licensed and entrusted by landowners	-Private sector licensed for real-estate dev. -Public sector for achieving the mandated tasks (ex. Perumnas for public housing)	-Public sector -Private sector not allowed to sell land without housing		
	LISIBA						

Figure 3-3-1 Alternatives of Implementation System for Large Scale Urban Development

### **[ Land Readjustment (L/R) ]**

Lands are managed so that the existing parcels are directly re-plotted to the new parcels serviced without interruption of the original land rights in L/R, in contrast with pooling systems that assemble all the existing land rights into larger tracts. In parallel with the land management main infrastructures, branches are to be constructed to provide parcels serviced. Major resources for the self-financing of L/R are land landholders' contributions (land for infrastructure and reserved land to be sold for cost recovery).

### **[ Land Pooling for subdivision ]**

All the original parcels are to be assembled into blocks, which are subdivided into new parcels after the land development. The original and new parcels are designed to be the same in terms of land rights and values (sometimes the latter tends to be higher than the former). The financial resources are the same as those of the L/R. The land management in this L/P is made possible under the land tenure management authority of the National Land Agency (BPN). Land rights are to be released to the government and the rights are to be granted to the original right holders of the new parcels.

### **[ Land Pooling for Block Development ]**

Parcels and land rights are assembled in blocks, which are developed into one complex structure without subdivisions. Land rights are to be released to the development organization in exchange of securities, bonds and something like similar. The ownership rights of the properties developed are equivalent to value of the bonds issued. The major revenues, for cost recovery, accrue from selling or leasing the land and properties developed.

### **[ Real Estate Development-Subdivision with housing ]**

This is an ordinary land transaction exercised for real estate development. The land is assembled through land acquisition. After land and infrastructure development, the consolidated land is subdivided for sell. The revenue for cost recovery and profits is also generated by selling the parcels with housing.

### **[ Real Estate Development-Land development ]**

The same land transaction is to be followed with the subdivision. However, after the land development (land preparation and infra development), whether parcels or blocks of serviced land are to be sold for building/housing development remains to be decided. Major revenues are obtained by selling the serviced lands. In Indonesia, the private sector is not allowed to sell out land without housing.

### **3-3-2 Implementation System for KASIBA**

The urban development systems under the KASIBA management systems 1 to 3, as classified in the preceding section, are elaborated as listed in Figure 3-3-2, and outlined below.

The urban development systems vary depending on the range and scope of the KASIBA management, and the basic systems of implementation are: 1) Land acquisition (public or private); 2) Landowners participation (Land Consolidation/Land Pooling, or partnership).

The Figure 3-3-2 is summarized as shown in Table 3-3-1.

**Table 3-3-1 Variation of Development System under KASIBA Management**

KASIBA system	Variation of dev. system	Designation of dev. area by Gov.	Primary /secondary infra.	Land management	Building/housing
System 3	1. Main infra. + land provision	Designation of dev. area	P/S infra. by KMB	Land purchase by KMB	Developers
System 2	2. Main infra + L/C	Designation of dev. area	P/S infra. by KMB	L/C	Land owners
	3. Main infra. + land pooling	Designation of dev. area	P/S infra. by KMB	Land pooling	Land owners
	4. Main infra. + developers	Designation of dev. area	P/S infra. by KMB	Land purchase by developers	Developers
System 1	5. Variation of 4 (developer)	Designation of dev. area	P/S infra. by developers	Land purchase by developers	Developers
	6. Variation of 2 (L/C)	Designation of dev. area	P/S infra. by L/C	L/C	Land owners
Combined system	7. Combination of 1 and 6	Designation of dev. area	P/S infra. by L/C	L/C	Developers and landowners

Government and KASIBA' s Tasks
LISIBA' s Tasks

P/S infra. : Primary and secondary network of environment infrastructure

### *KASIBA System-3*

#### **(1) KASIBA Infrastructure Construction and Land Acquisition for LISIBA**

This is a basic system of KASIBA envisioned in the 1992, no.4 on KASIBA. According to the law, it is interpreted that private developers/investors are invited to develop LISIBA where land with primary and secondary environment infrastructure services are provided. KASIBA management include the direct tasks : infrastructure construction and land acquisition and indirect tasks : control and coordination of LISIBA implementation.

### *KASIBA System-2*

Primary infrastructure is to be constructed by the KASIBA management, leaving land matters under the responsibility of the LISIBA implementation body. The following 3 implementation systems are supposed to be applied.

Systems Implementation	Traditional Systems			System-2		System-1				
	Real estate dev.	P. Perumnas housing dev.	BPN L/C	(1) Land acquisition	(2) L/R Landowner participation	(3) Partner	(4) Real estate dev.	(5) Modified (4)	(6) Modified (2)	(7) Combination of (1)-(6)
Approval/Designation of project sites/ implementing agencies										
Privilege to imple. agency	Location permit to developers Rights to buy lands and dev	Same with Real estate developers	No real enforcement	X-1	X-2	X-3	X-4	X-5	X-6	X-7
Restriction on land ownership	Purchase by developer	Purchase by Perumnas	No land purchase	Purchase by KMB/Perumnas	No land purchase	Land pooling by KMB	No land purchase	Purchase by developer	No land purchase	Purchase by KMB/Perumnas
Land acquisition	By developer	By Perumnas	Right of way without construction	By KMB	By KMB	By KMB	By KMB	By developer	L/R	L/R
Infrastructure development	By Developer	By Perumnas	Land prepared without infra. (not to ready to dev.)	By Developer	L/R in LISIBA By landowner	By Developer	By Developer	By Developer	By Developer	By Developer, KMB or Perumnas
Ready to build Housing and building construction (inclusive of surrounding infra.)										

Figure 3-3-2 Urban Development Systems under KASIBA



## **(2) Land Consolidation**

This system is included in the law as a substitute of land acquisition by the KMB. This may be attributed to the anticipation that the projects will face difficulties and problems of land acquisition, which have been experienced in past development projects such as real estate developments as well as Perumnas housing projects. These difficulties and problems sometimes posed a real threat to the financial viability of projects, as discussed in the financial analysis section.

In the case of real estate development projects with location permits, real estate developers are to be given the privilege of exclusively purchasing lands and developing sites once approved by the government (BPN). It is probable that the KMB shall be granted a similar right to those under the location permit. However it is reported that even with the privilege under the location permit, real-estate developers and Perumnas have been facing difficulties in land acquisition. In this regard, in order for KASIBA to become effective and viable it will be necessary to equip the KMB with more powerful privileges for land acquisition (land expropriation at maximum), or effective restrictions on the freehand of landowners.

## **(3) Partnership of Landowners**

Instead of land consolidation managed by landowners as stated above, partnerships of landowners with the KMB, or participation of real-estate developers in LISIBA, are an other possible option for land matter settlement-variations (3) and (4) respectively. In the partnership scheme, the landowners collectively entrust the KMB to use and develop their land with an economic return after the KASIBA project implementation.

## **(4) Real-estate Development**

In the private sector's participation, real estate developers are invited in the development of LISIBA including land acquisition, after the main KMB infrastructure construction, just like the real-estate development by private sector under the location permit. **Variation (4) is applied to the designated KASIBA area, including the real-estate development with location permits issued in the past.**

### *KASIBA System-1*

Modifications of the above-mentioned systems were sought from the standpoint of lessening KMB's financial and working burdens, which is the way to make KASIBA more viable. Real-estate development, variation (4), and land readjustment, variation (2), should be allowed to expand their field of action in order to cover areas consisting of several LISIBAs, which the KASIBA area is divided into so that the real-estate development and L/R include the main KASIBA infrastructure located in their development areas. In these variations KMB's major tasks are to promote, monitor, control and supervise either real estate development or L/R project implementations.

## **(5) Modification of (4)**

Private developers are to be invited to develop KASIBAs including primary as well as secondary infrastructure constructions in LISIBAs, in conformity with the KASIBA master plan.

## **(6) Modification of (2)**

The KASIBA area is divided into districts that are developed by L/C by phase in conformity with the KASIBA master plan, including primary and secondary infrastructure. Thus, the infrastructure is to be constructed through L/C.

## **(7) Combination of (1) and (2)**

The final proposal is a combination of variation (1) + (6) – Land acquisition + L/R. Lands, which the landowners agreed to sell, are to be purchased in advanced by the KMB or Perumnas without having to resort to any compulsory measures like expropriation. After or in parallel with the land purchase, land readjustment is to be executed, including the purchased and non-purchased lands in KASIBA so that main infrastructures of KASIBA are to be constructed through L/R, and the lands purchased by the KMB or Perumnas are to be re-plotted and consolidated into LISIBA, thus making LISIBAs ready to build. This is designed to cover the weaknesses of the existing land acquisition legal measures as well as strengthening cost recovery of infrastructure through the application of L/R.

It may be stated that all of the KASIBA's variation systems, as discussed above, even further modified systems, will be necessary so that KASIBA can be flexibly responsive to a variety of project sites with different needs and conditions throughout the countries.

### **3-3-3 Application Cases of KASIBA Variation**

Some practical application cases of the KASIBA variation systems, responding to the current situation of urban development in Indonesia, are sought and stated in Table 3-3-2.

More specifically KASIBA variations shall be designed to be applicable to the urban development potential and constraints represented by excessive issuance of location permits, bank assets including land and properties taken over by the BPPN (Badan Penyehatan Perbankan Nasional: Indonesian Bank Restructuring Agency), and the increasing difficulties of land purchase due to the right awareness of landowners in this reformation era.

**Table 3-3-2 Candidate Areas for KASIBA Variation**

KASIBA Variation	Areas to be applied	Remarks
Variation X-1 Infrastructure and land	- Large tract of land already owned by government with good location for development. - Majority of landowners agree to sell their land	Perumnas, BPPN
Variation X-2 Land Consolidation	- LISIBA where majority of landowners are opposed to land acquisition	BPN
Variation X-3 Land pooling	- Partner-ship project among landowners with relatively larger land tract.	Association of landowners
Variation X-4 Real estate dev.	- Areas where urban development with location permits issued are stagnant due to lack of infrastructure (Need of urbanization promotion)	Private sector
Variation X-5 Modified X-4	- Area where urban development with location permits need to be rearranged/integrated into a new city.	Private sector
Variation X-6 Modified X-2	- Urban area where urbanization has started with low density. (Land acquisition is difficult)	Jatiasih (BPN)
Variation X-7 Combination of X-1 and 6	-Urban area development where surrounding areas and piecemeal development should be integrated with Perumnas housing area into a new city	Parung Panjang (Perumnas, BPN)

From this table, Jatiasih is a candidate site for variation either X-2 or 6, while Parung Panjang is a candidate for variation X-7.

### 3-4 KASIBA System Improvement Plan

#### 3-4-1 Basic Structure and Components of KASIBA System

Basic structure and components are shown in Figure 3-4-1 and outlined as follows;

1. KASIBA systems 1 to 3 shall be established in the KASIBA institutional system so that either of them can be applied where/when necessary, and appropriate implementation system shall be selected among the proposed 7 variations as slated above.
2. KASIBA constitute the following major components:
  1. Government approval and consensus building
  2. Land management
  3. Financial system
  4. Development permit and control system of LISIBA
  5. Organizational system
  6. Legal system

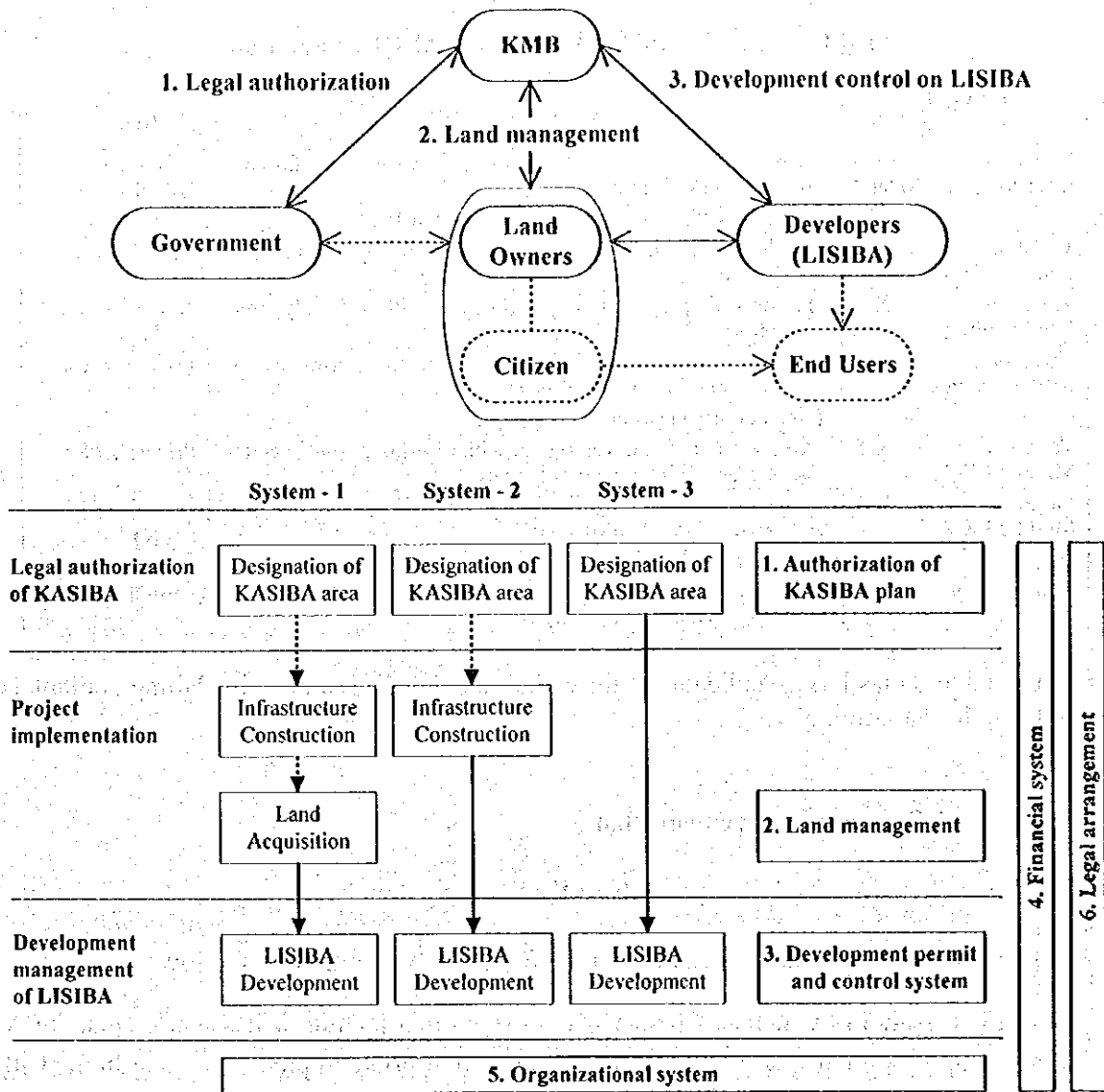


Figure 3-4-1 Basic System of KASIBA Implementation System

### 3-4-2 Government Approval and Consensus Building

#### (1) City Planning Approach

KASIBA Management body (KMB) is to propose KASIBA projects to the local government in its jurisdictional territory. Upon approval of the government on the project, the KASIBA area is to be designated for implementation.

City planning and development system has 2 tiered system of government approval : on development plan and project implementation. Japanese system is presented for reference as follows;

Basic Law for City Planning

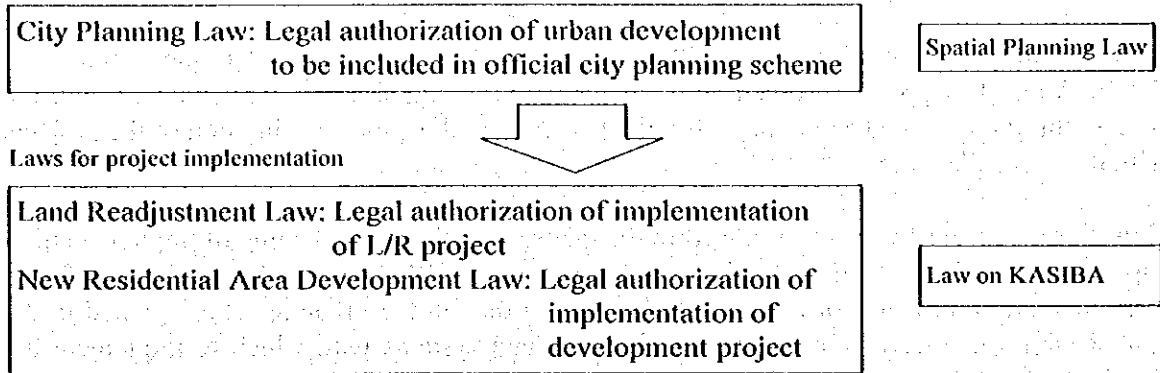
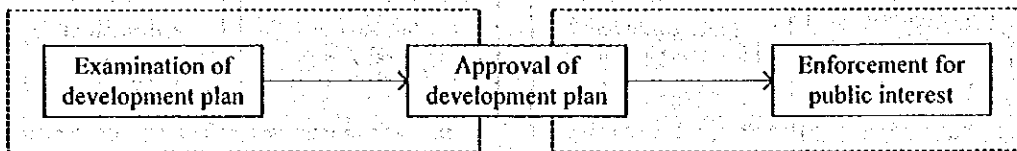


Figure 3-4-2 2 tiered System of Government Approval in Japanese City Planning

Development plan is due to be approved by government according to the city planning law, and its implementation plan is to be approved by government according to the law on project implementation.

While criteria for the former are appropriateness of plan : public interest and social welfare, conformity to city plan and city development schedule/program, among others, those for the latter are feasibility and soundness of implementation : social/financial soundness, limitation on private right and interest.

Inclusion of KASIBA and L/C as well into city planning is that they are due to be authorized in city planning with the following effects;



Enforcement under city planning

Ultimate purpose of city planning or spatial plan is to realize the public interest and promote social welfare. KASIBA and L/R defined in the spatial plan are designed to implement the spatial plan of public interest through improving the living environment in the urban area. On this premise KASIBA and L/C are to be endowed with legal enforcement power since the public interest takes precedence over the private rights (especially rights of land owners). KASIBA and L/C need the compulsory powers for implementation so as to be effective and efficient in achieving public interest through improvement of living environment. In this respect city planning procedure in which they are justified/approved and legally authorized in the administrative process is quite essential.

The areas specified as those to be built up in the spatial plan just like KASIBA area and L/R area must be developed in the certain time horizon in order to provide the lands with high quality of public service and environment to the public in time. Therefore implementation of the KASIBA and L/R project becomes the task and responsibility of the government mandated by people. The inclusion of KASIBA and L/R in the spatial plan implies that they are to be implemented with the legal enforcement power entrusted by people.

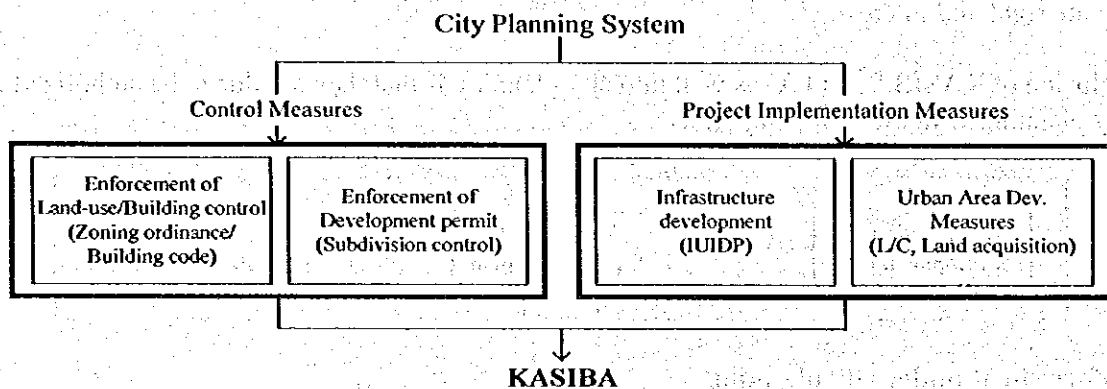
## Implementing mechanism of the Spatial plan

Inclusion into the spatial planning system is aimed at the facilitation of implementation of KASIBA and L/R projects as well as the examination of the development projects from the standpoint of city or space planning. It will also result in the good coordination of the projects with the space planning.

However the greatest value accruing from the inclusion is the strengthening of implementation capacity of Indonesian space planning because KASIBA and L/R can become the implementation measures of the spatial plan. Even though the urban areas are planed in the spatial plan, the government has no direct means and systems with which to implement the development of the planned urban area except resorting to the controlling measures on land use and development. Usually city planning is to be realized by the combination of controlling measures and implementing measures as shown in Figure 3-4-3. In this regard KASIBA and L/R is expected to strengthening the Indonesian space planning.

## Examination of development plan form viewpoint of city planning

KASIBA and L/C projects are to be carefully examined from the view point of city planning – public interest and public welfare in the process of the spatial plan formulation.



**Figure 3-4-3 Combination of Control Measures/ Project Implementation Measures**

Designating some areas as urban development areas like KASIBA or Land Consolidation is to enforce power (legal enforce measures) to certain specific group of people like landowners, resulting in limiting their private interest.

Therefore such projects as above must be strictly examined form the viewpoint of public interest, and democratically approved by the public. City planning procedure is a mechanism for ensuring these requirements. Once democratically approved, the projects are granted stronger enforcement power/authority for implementation.

## (2) Alternatives of Government Approval for Legal Authorization

Based on the above discussion, 2 alternatives for authorizing KASIBA through government approval as follows;

## 2-tiered government approval (Spatial plan and Law on KASIBA)

Approval of Spatial Plan including KASIBA master plan area, and subsequently approval of KASIBA implementation plan in the KASIBA law and regulation

As shown in Figure 3-4-4 of Technical procedure for government approval, the spatial plan including KASIBA master plan area shall be approved by the government.

Subsequently feasibility study and scrutinization on urban development in KASIBA priority area should be carried out and followed by formulation of KASIBA implementation plan.

Finally upon government approval on the implementation plan, implementation work of KASIBA project starts.

Inclusion of KASIBA into the Spatial Plan shall be considered on the following occasions ;

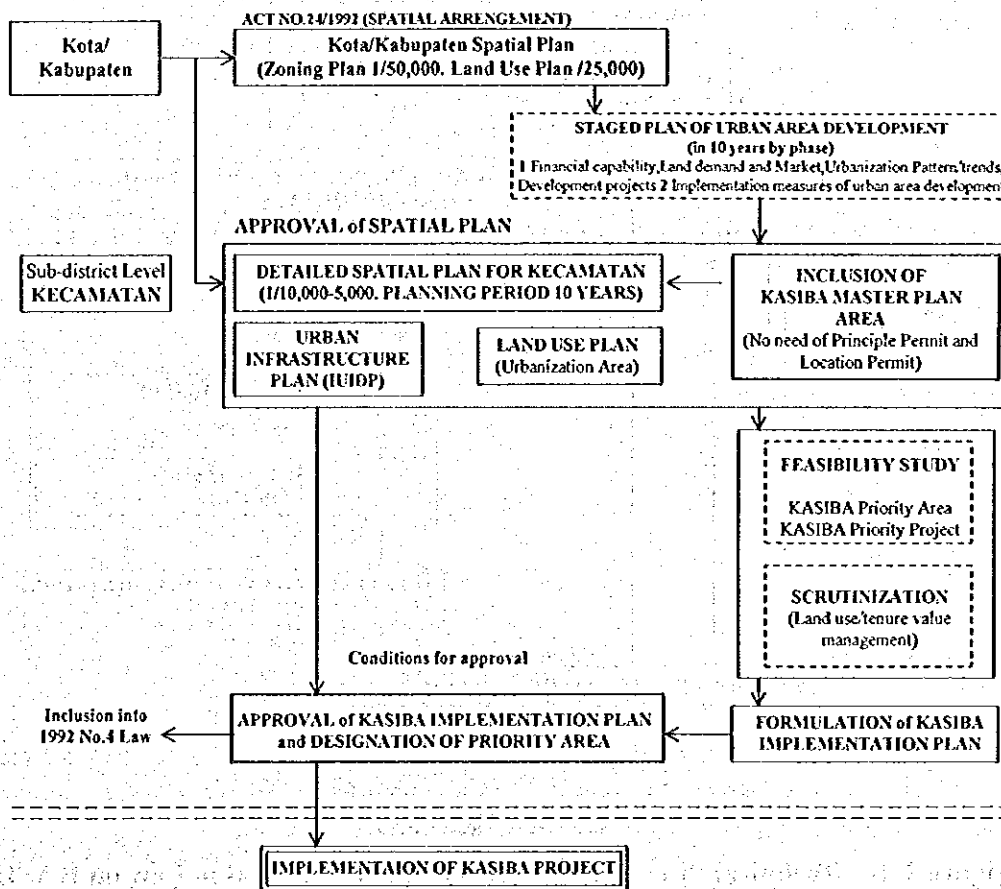


Figure 3-4-4 Technical Procedure for Government Approval in Spatial Plan

- On the occasion of formulating or reviewing the spatial plan the development areas of KASIBA and L/C projects shall be examined and included into the spatial plan.
- When KASIBA and L/C are found out necessary in other area after the promulgation of the spatial plan, the spatial plan shall be amended so as to add them on it.

### Government approval in Law on KASIBA

Approval of KASIBA development plan and implementation plan by KASIBA law and regulation

As shown in Figure 3-4-5 of Technical procedure for government approval in law on KASIBA, KASIBA development is due to be approved based on the KASIBA law.

There are 2 alternatives : Master plan-oriented and Project-oriented.

Master plan-oriented KASIBA system is to stipulate government approval on KASIBA master plan and Implementation plan, while project-oriented is on Implementation plan only.

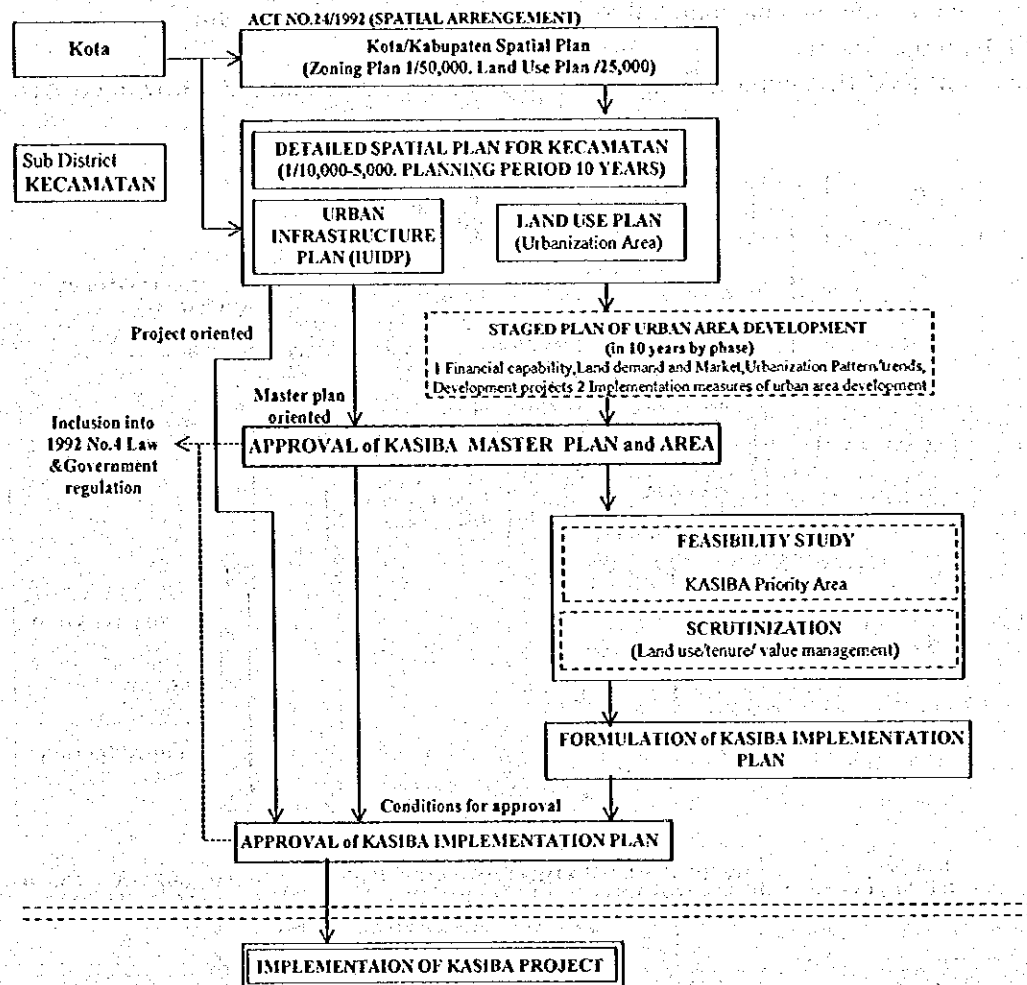


Figure 3-4-5 Technical Procedure for Government Approval in Law on KASIBA

In conclusion it is recommended that :

1. The spatial plan amended to include KASIBA master plan area.
2. The law of KASIBA amended to include KASIBA master plan and implementation plan.

These amendments are expected to ensure public interest and social fairness in KASIBA project implementation, leading to its higher public acceptance and popularity.

### 3-4-3 Land Management

Land management is one of most crucial factors for successful implementation of KASIBA as



shown in the model KASIBA project of Driyorejo and the past development projects in Indonesia.

Improvement of land management for KASIBA is proposed in the following 3 fields. It must be noted that the improvements in these fields are needed not only for KASIBA, but for sound growth of society of Indonesia.

### **(1) Land Acquisition through Free Transaction**

#### **1) Normalization of land transaction : Land value evaluation committee**

This is a basic system of KASIBA land management in free market. However it is not likely to proceed as smoothly as expected mainly due to the dependency on the willingness of landowners to sell their properties. And it is anticipated that it will become more and more difficult through the reformation era as discussed in Chapter 2.

It is reported that anomalies in the past land transaction activities such as unsteady land pricing and speculating between landowners and developers made landowners feel they are losers, thus leading to more difficulties in land purchasing especially in the reformation era for democracy.

In order to facilitate land transaction for urban development, it is of great significance to normalize and establish the standardized and transparent land market system and mechanism in Indonesia. One of the key factors for this improvement of land acquisition is to create an objective land evaluation mechanism leading to smoothening land price negotiation : no losers and no winners in land transaction.

In this respect it is recommended to establish a land evaluation committee, or agency for KASIBA development, which is to elaborate an objective and scientific land value evaluation method and present more objective land price on the neutral position to land sellers and buyers.

#### **2) Provision of opportunities to participate in KASIBA project**

The landowners who are reluctant to release their land may be invited to participate in KASIBA project in the following system

##### **Participation in KASIBA**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Equity /investment of land in KASIBA</li><li>2. Partnership with KASIBA management</li></ol> |
|---|

#### **3) Supplementary measures for land acquisition**

Some supplementary methods are to be applied to few remaining land not acquired through the free transaction as discussed above. The followings have been practically carried out in Indonesia. It is recommendable they should be improved and strengthened so as to effectively supplement the land acquisition.

##### **Substitutive land provision**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Land exchange</li><li>2. Relocation (inside and outside KASIBA area)</li></ol> |
|---|

In order to facilitate land acquisition, the measures for supporting reestablishment /restorations of livelihood to landowners are necessary as follows;

#### **Supporting for restoration of livelihood**

1. Consultation for restoration
2. Placement of employment (especially generation of employment opportunities in KASIBA)
3. Vocational training

#### **(2) Land Acquisition through Government Intervention**

It is not unusual idea that private right should be restricted for public benefit as far as the possible loss by the restriction is not unbearable. Construction of public facilities is the general case.

Location permit is legal measures by government intervention for achieving public benefit through urban and housing provision to the public as follows.

The developer with location permit is to have privilege of development right and land negotiation/purchasing right. The landowners are restricted in such a manner that they can not sell their land to other parties except the licensed developer. However this legal measure became invalid due to the recent deregulation movement of the government.

The many reasons for this deregulation are claimed : monopolistic power on the side of private developer, unfair on the side of landowners and etc.

It may be safely said that KASIBA need government intervention of land acquisition for efficient project implementation. The compulsory power to be given to KASIBA management relies upon the degree of public benefit/interest which KASIBA project aims to attain.

KASIBA project may acquire land through free transaction as stated above. The compulsory power may be applied only to few remaining lands not acquired due to unwillingness of landowners to sell, for the sake of public interest of KASIBA.

Based on the above discussion, government intervention, or supports will need the following legal measures depending on the degree of compulsory power.

1. Government intervention for land price control on legal base  
(Advice, recommendation, and utmost land price freezing)
2. Preemption for KASIBA management
3. Expropriation for KASIBA management

#### **(3) Land Consolidation and Land Pooling(Banking)**

Land consolidation and land pooling are land management systems without land acquisition. Since the existing land use and land rights are to continue without disruption of livelihood, this system seems more acceptable to landowners than land acquisition. As the systems of land management, land consolidation and land pooling are proposed to be applied in KASIBA. As land consolidation system is described in detail in chapter 3, there are 2 systems of L/C : voluntary base and compulsory base. Voluntary base L/C can be carried out in combination with land acquisition through free transaction.

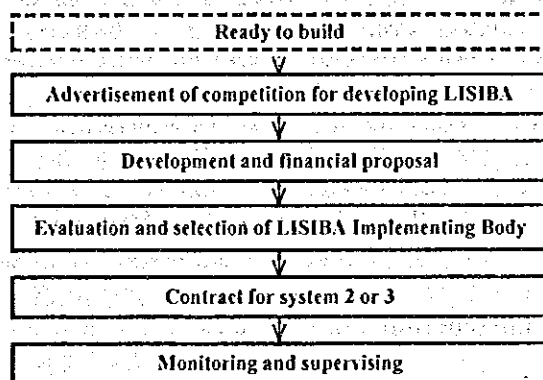
### 3-4-4 Development Permit and Control on LISIBA

One of the major works of KASIBA management is to promote and control LISIBA development after the provision of infrastructure and land to LISIBA.

Development permit and control system should be designed in accordance with the 3 principles of KASIBA as set in the preceding chapter.

The main steps of LISIBA implementation procedure is presented in Figure 3-4-6, and outlined below;

1. LISIBA Implementing Body (LIB) shall be selected among the qualified private developers in free competition. Selection procedure must be democratic, fair and transparent.
2. Competition must be made in terms of development proposal and financial proposals. The development proposals of LISIBA shall be made in compliance with the framework, development conditions/ standards set by KMB.
3. Contract for LISIBA development should include development conditions set above. The financial proposal ( land price or development charge) should be higher than the cost of infrastructure and land.
4. KMB is tasked to monitor and supervise the implementation of KASIBA development.



**Figure 3-4-6 Main Steps of LISIBA Implementation Procedure**

**Table 3-4-1 KASIBA Principles and LISIBA Control**

3 Principles of KASIBA	Control on LISIBA development
Cost recovery	1. Selling price of land including cost of land and infrastructure (System-3) 2. Development charge to cover cost of infrastructure (System-2)
Market economy	1. Development permit (license) to be granted in free competition among qualified developers. 2. Competition made in development and financial proposals
City planning control	1. Development ordinance controlling LISIBA development ( Standard of public facilities, land use, building control, landscape )

### 3-4-5 Financial System

#### (1) Cash Flow in KASIBA Scheme

In order to implement KASIBA, various types of financing will be needed in each KASIBA - LISIBA development step, as described below. The KASIBA financing scheme is summarized in Figure 3-4-7.

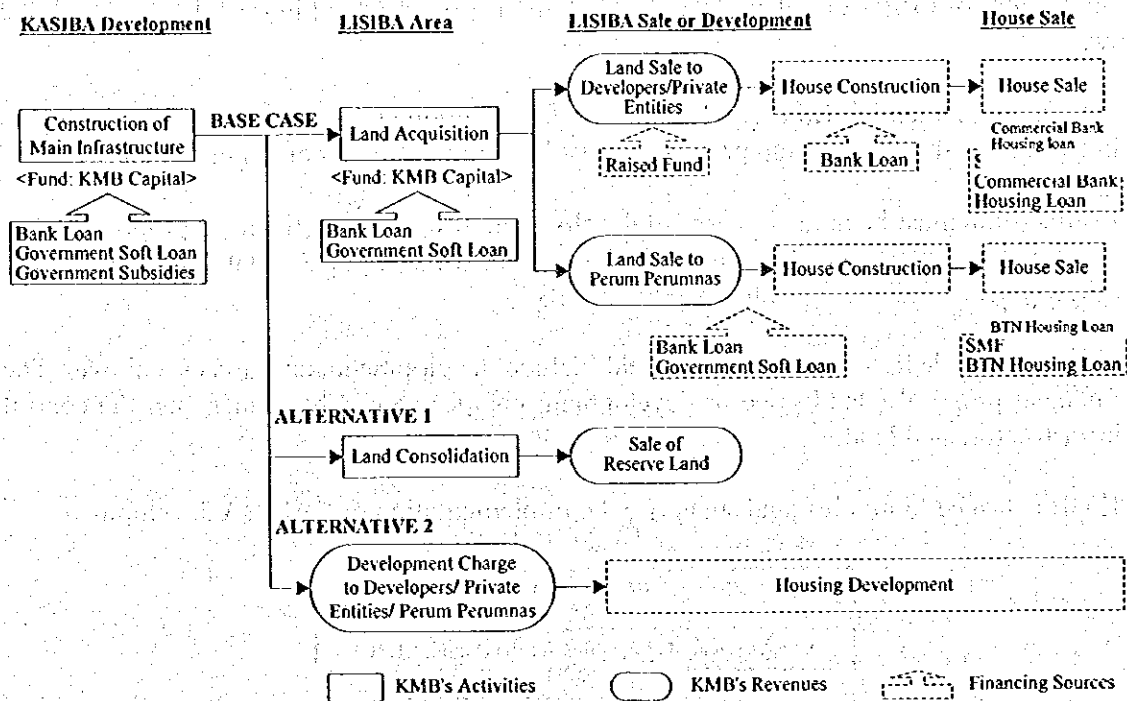


Figure 3-4-7 Cash Flow in KASIBA Scheme

#### 1) Main Infrastructure Construction

The depth of Government support in infrastructure construction is not clearly defined in the KASIBA scheme. There is a possibility that the Government supports KASIBA infrastructure construction when there are benefits for the residents outside the KASIBA sites as well. Government support could also be justified when construction of low-cost houses is the main objective of the project.

Under normal circumstances, KMB (KASIBA Management Body) could use bank loans to finance infrastructure construction. However, medium- to long- term financing through bank loans has become quite difficult and costly due to the Indonesian economic crisis. Government soft loans or subsidies should be considered as an emergency economic measure to keep housing prices low.

When the construction of infrastructure is expected to bring about speculation in land price, timing and procedures of land acquisition should be carefully planned so that land can be purchased at reasonable prices.

## **2)-a Base Case: Land Acquisition of LISIBA Areas by KMB**

Bank loans are used to complement KMB's own capital in acquiring land. Under current Government regulation, commercial banks can finance up to 75% of land acquisition costs only in the cases of low-cost housing construction. Government soft loans to KMB for land acquisition should also be considered as an emergency economic measure, especially because investment in land cannot be recovered in a short period of time.

## **2)-b Alternative 1: Land Consolidation**

Land consolidation could be applied to the pieces of land whose acquisition is difficult for the following reasons: residents do not agree with the price; land is used for agricultural production; land to be acquired is scattered, etc. Land contribution could be enforced by Government regulation in consolidating land in order to share development costs and benefits between KMB and the landowners.

## **2)-c Alternative 2: Transfer of LISIBA Management Authority to Developers**

After the design or construction of primary infrastructure, KMB can hand over LISIBA management authority to LISIBA developers (Perum Perumnas and private developers or entities) with a development charge. This development charge could vary depending on the location of LISIBAs and the development objectives of the LISIBA developers. In order to achieve cross-subsidies, KMB can charge higher prices to developers that build only medium- to high- priced homes and lower prices to Perum Perumnas which has a mandate to provide low-cost housing. The proceeds will be used to repay the loans for infrastructure construction. Subsequent activities by the developers afterwards are the same as in their normal housing development, starting from land acquisition of LISIBA areas.

## **3) Sale of LISIBAs to Private Developers / Entities and Perum Perumnas**

After the land acquisition, KMB can sell LISIBAs to private developers / entities and Perum Perumnas. Cross subsidies between medium- to high- priced housing and low-cost housing can be achieved by applying different LISIBA prices to private developers and Perum Perumnas. The proceeds will be used to recover the infrastructure construction and land acquisition costs. Housing developers normally use their own capital and non-bank financing since conventional bank loans are not allowed to be used for the purchase of land for medium- to high- priced homes. Cooperatives can also join LISIBA management.

## **4) LISIBA Land Development and House Construction**

After land acquisition in LISIBA, LISIBA developers will develop land and construct houses by themselves. For Perum Perumnas, Government soft loans should be considered to reduce the burden of high interest rates. New financing sources as described in the following Section (2) should be developed in order to enable private developers to mobilize funds to develop LISIBA areas.

## **5) Sale of homes**

Home sales have significantly declined since interest rates of commercial housing loans increased to over 45%. On the other hand, BTN's subsidized housing loans have already been exhausted and almost no homes are currently being sold without these loans. The Government should expand soft loans to BTN so that BTN can continue providing subsidized housing loans. The Government is currently considering introduction of a secondary mortgage facility (SMF) to complement commercial banks' housing loans at a lower interest rate.

### **(2) Proposed Financial Schemes**

Although providing housing loans to low cost housing is one of the Government priority policies in the budget, their amount is not enough to meet the demand. Moreover, Government provides no financial support to developers, except for subsidies for low cost housing at 700,000 Rp per unit provided to Perumnas, whose application is limited to infrastructure development. Under the current economic crisis, most developers including Perumnas are unable to continue development operations due to their financial difficulties.

For long-term national economic perspectives, the following new financial schemes must be developed to support land and housing development.

#### **1) Financial Support for KMB**

KMB is considered at present as a type of an SOE (State Owned Enterprise) established or assigned by the central Government or a local Government. However, the legal status of KMB is not clear whether it is regarded as Perum (so-called Public Entity) or Persero (similar to a private corporation). Perum is an SOE fully owned by the Government, while Persero is an SOE with more than 51% but less than 100% of its share owned by the Government. The Government has an intention to release the shares of SOEs to the public and may no longer allow creation of new SOEs.

Although SOEs are legally corporations whose objective is to gain profit through business operations, they are compelled, at the same time, to operate for social needs such as providing low cost housing. In order to reconcile these two objectives mandated to KMB, it is recommended that the Government give KMB the following financial supports:

Long-term loans such as RDA (Regional Development Account) should be provided or foreign aid loans should be on-lent by the Government. Government guarantee should be given when KMB raises long-term loans or bonds at the market in order to reduce interest rates.

#### **2) Financial Support for low-cost housing developers**

One of the major objectives of KASIBA system is the provision of low-cost housing. The following financial supports should be provided to low-cost housing developers such as Perum Perumnas so that the objective of KASIBA materializes.

The Government should provide Perum Perumnas with a sufficient amount of capital for investment and operating expenses.

Income tax should be exempted or deducted from the business operational income of

developers who build low-cost housing. The equivalent amount exempted or deducted should be retained and used for the future investment to attain further social needs.

Subsidies for low-cost housing should be extended. A construction subsidy for low-cost housing (currently 700,000 Rp per unit) is planned to be increased to maximally Rp 1,000,000 in the next fiscal year. This will be applied not only to Perumnas but also to private small developers (eligible to less than 20 ha land holders).

### **3) Financial Support for Private Developers and House Buyers**

#### **-a Establishment of Development Finance Institutions**

A sufficient amount of long-term and low-cost capital is essential for land development since investment cannot be recovered quickly. Indonesia does not have any financial institutions to provide such long-term funds. Although the seven state banks used to have such functions as development banks, their main activities have recently changed to commercial banking.

Although the Government's Projects Aid Loan has a similar function, it is limited to one fiscal year since it is part of the State budget. Moreover, the allocation is restricted in principle to SOEs.

Since the capacity of the Government and SOEs is limited; not only public sectors but also private sectors including cooperatives are expected to play major roles in responding to social needs. Also from national economic perspectives, long-term funds are indispensable for the growth of industrial sectors. Development finance institutions such as the Japan Development Bank and the Government Housing Loan Corporation in Japan must be established in Indonesia to provide long-term loans with low interest rates not only to public entities but also to private developers including cooperatives.

#### **-b Establishment of Secondary Mortgage Market**

Three schemes are currently under planning in Indonesia, whose aims are primarily to provide lower-cost financing to house buyers, and eventually provide alternative funding sources to housing developers.

The creation of Secondary Mortgage Facilities (SMF) has been decided by the Government as a first step. The following is the framework of SMF, according to the Ministry of Finance.

- The shareholders: 10% Bank Indonesia, 10% Asian Development Bank (ADB) and 80% other investors such as insurance companies, pension funds, banks and International Finance Institutions
- An initial paid-up capital: Rp. 300 billion
- A two-step loan (US\$ 47 million) from ADB through Bank Indonesia with a maturity of 15 years with 3 years' grace period
- After two years' experience in accordance with the regulation, housing bonds to be sold to investors through the capital market
- Housing loans to be provided through banks

According to the Ministry of Finance, SMF will start within a few months after the loan disbursement from ADB, and through SMF, long-term and low-cost housing loans other than

BTN loans will be provided to house buyers. It is expected that the introduction of SMF will stimulate the housing market in the country in the future, although the final size of the fund and the loan conditions remain to be decided.

As a second step, the Government is planning Secondary Mortgage Market (SMM), whose purpose is to mobilize the mortgage loans held by banks. Commercial Mortgage Market (CMM) is a future plan of the Government to finance developers by mobilizing commercial loans.

#### **4) Financial Support for Local Governments (Revenue Bonds for Infrastructure Development)**

Since infrastructure construction is the first step of KASIBA system, a full amount of funds for infrastructure development must be raised before the start of KASIBA implementation. Although the infrastructure surrounding the designated KASIBA area such as arterial roads is expected to be constructed by the local Government, the local governments do not normally have such a budget.

In the USA, revenue bonds are broadly issued for such purposes by municipalities. The issuers pledge specific tax and revenue sources, which are expected to be newly generated through the project, to the bondholders as the repayment source of the bonds.

By using this financial scheme, it is possible that a local Government in Indonesia raises funds at the market with a guarantee of the central Government. The local Government issues revenue bonds with public offerings, or private placement to developers related to the projects or financial institutions in the country.

The capital market in Indonesia has not matured yet, although the Government has a strong expectation of the growth. The revenue bond system would create not only an alternative funding source for local governments but also an alternative investment opportunity for investors, which will match the Government expectation for the capital market growth in the country.

### **3-4-6 Organizational System**

Among the propose 3 KASIBA systems, the system-3 is the most comprehensive one including system-1 and 2. The organizational system for the system-3 is examined as follows.

#### **(1) Overall Organization for KASIBA Implementation**

The overall organization for KASIBA implementation is shown in Figure 3-4-8 and outlined as follows;



1. As KASIBA is a part of city (spatial) planning, in principle responsibility of practice of KASIBA rests in local government.

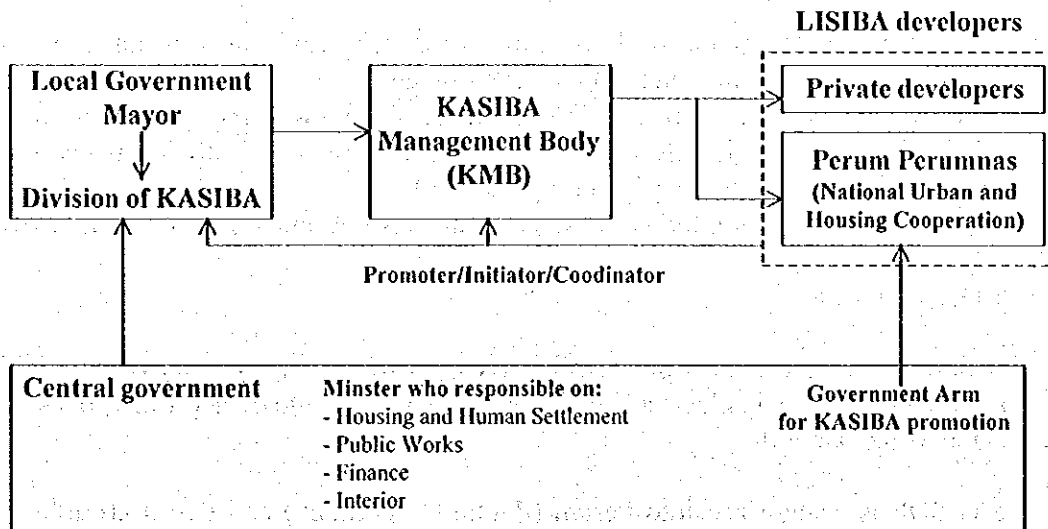


Figure 3-4-8 Overall Organization for KASIBA Implementation

2. However at moment implementation/administrative capability of local government is quite weak except a few local government such as DKI Jakarta.

In the movement of government decentralization, the central government including ministries of Housing and Human settlements, Public works, Finance and home affairs should take charge of strengthening local government in city planning administration, for which KASIBA is instrumental and effective.

The central government, especially Minister who responsible on Housing and Human Settlement which plays a pivotal role in coordinating among the central government agencies concerned on KASIBA development, is responsible for assisting local governments through provision of technical, practical, financial and legal measures of KASIBA.

3. Office or division of KASIBA is proposed to be set-up in local government which would be main administrative counterpart to the central government as stated above in promoting and coordinating on KASIBA at local level. This organization should grow to be fully responsible for KASIBA development in their jurisdictional territories of local government in future.

National Urban and Housing Cooperation- Perum Perumnas, which is a sole government agency with knowledge and experience in urban and housing development project implementation is expected to take practical functions for expanding KASIBA projects throughout the country.

Perumnas is tripled tasked as follows;

1. Government arm for disseminating, promoting and initiating KASIBA projects
2. Participating in KMB
3. LISIBA developer for housing provision

It is also proposed to establish a unit of KASIBA promotion/coordination in the existing organization of Perumnas tasked with the following activities;

1. To assist and strengthen local government through provision of technical/practical knowledge of housing and urban development as well as KASIBA until local government can be fully responsible for implementing KASIBA project in future.
2. To propose and initiate KASIBA project in coordination with local government ( including research, survey, planning and etc.)
3. Private developers are invited for developing LISIBA under the control of KMB.

## (2) KMB Organization

Law no. 4 of 1992 on KASIBA stipulates that KASIBA Management Body (KMB) is State owned Enterprise- SOE (Badan Usaha Milik Negara) or Local State owned Enterprise- LSOE (Badan Usaha Milik Daerah)

In Indonesia SOE is categorized into Perum (Public Corporation) and Persero.(Public State Company). The differences are shown in Table 3-4-2.

**Table 3-4-2 Differences between Perum and Persero**

No.	Subject	PERUM (Public Corporation)	PERSERO (Public State Company)
<b>Differences</b>			
1.	No. of Government Regulation	No. 13/1998	No. 12/1998
2.	Characteristic of Business	Public Utilities	General Business
3.	Government Intervention	Government Support (Subsidy)	No subsidy
4.	Employee Status	State's Employee	Private's Employee
5.	Capital Structure	Stock is undivided and totally owned by Government	Stock is divided into pieces and government own minimum 51% (Possible to "go public")
6.	Tariff	If needed, tariff of product is decided by Government (Example : RSS Rp.4.9million)	Market price
7.	Government Control	Under controlled by related department (Example : Perumnas is under controlled by Department of Public Works)	Managed by State Minister for SOE Reformation

In the attachment of act no.4/1992 regarding Housing and Human Settlements, especially for article no. 20 on SOE (KMB) is elucidated ... to be proposed for enhancing people welfare and public utilities and not only profit orientation.

It is reported that the government policy on SOE is:

- Perumnas : not to be newly established
- Persero : to be privatized

3 alternatives of KMB organization are proposed as follows;

### I. Under central government

#### Alt.-1 : Newly established Perum

In spite of the government policy on Perum, new Perum may be necessitated in order to

mobilize all the government resources to open up new horizon of KASIBA especially in the case of national project.

#### **Alt.-2 : Subsidiary of Perum structure**

KMB is managed by subsidiaries of Perum, either new or existing. Shareholder/owner is central government represented by the Ministry of Finance. It seems more practical to make use of the existing Perum, that is Perum Permnas.

## **II. Under local government**

#### **Alt.-3 Local SOE (BUMD)**

The owner is local government and it is represented by Region Secretary (as representative of Bupati or mayor).

The key advantages of the alternatives are summarized as follows;

#### **Alt.-1 (New Perum)**

It can be formed, structured and managed more specifically for the national interest.

#### **Alt.-2 (Subsidiary of existing Perum)**

The existing Perum has high credibility to get loan and issue bond, and technical knowledge and experience in urban and housing development.

#### **Alt-3 (Local SOE)**

It can be more responsive and accommodative to local conditions and problems. It may be safely said that all the alternatives should become available so that KASIBA is responsive to the differences of situation and need/size of urban and housing development. In this respect KASIBA regulation should be designed to be open to every alternative.

However most serious attention must be paid to the implementation capability of the proposed organizations, especially during the infant period of KASIBA. Among the 3 alternatives, alt.-2 is rated highest in terms of technical/financial and practical capability. On these premises it is recommended that KASIBA project start with the alt.-2 and with the success of alt.-2 it will be expanded to alt.-3 in accordance with strengthening the capacity of local government, and to alt.-1 when large scale urban development becomes necessary in the course of economic recovery of Indonesia.

#### **Structure of KMB (Subsidiary of Perum)**

The organization structure of KMB, which is managed by Perum, is shown in Figure 3-4-9 and outlined as follows;

\* Share holders (Owners)

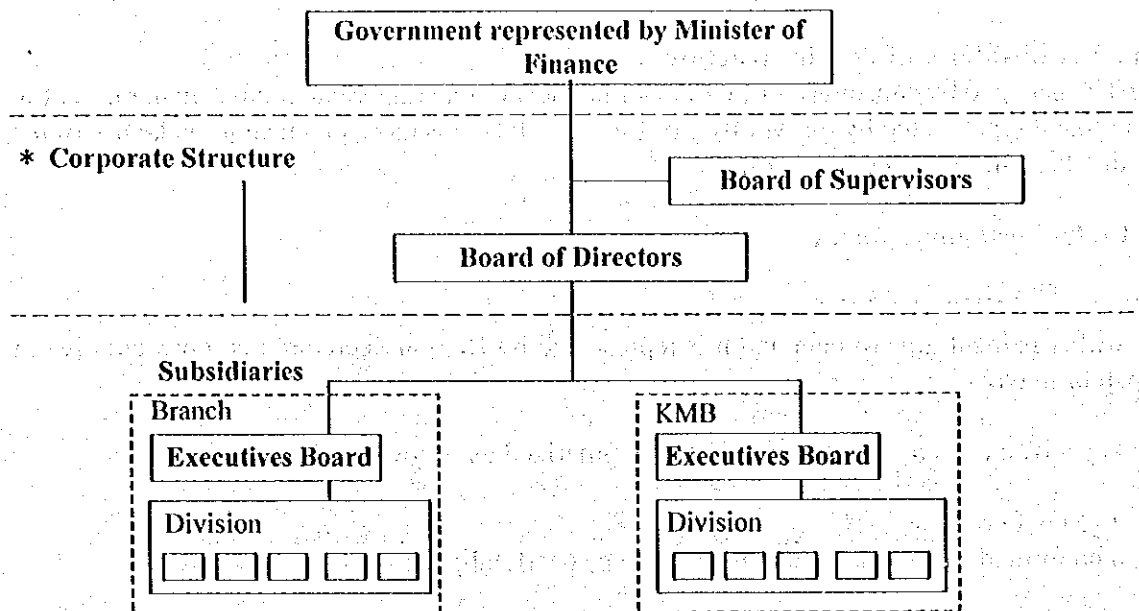


Figure 3-4-9 Organization of KASIBA (Subsidiary of Existing Perum)

1. Shareholder/owner is central government represented by Ministry of Finance.
2. The organization consists of decision making unit (Board) and executing unit.
3. Decision making unit is made by Board of Directors with considering the recommendation of Board of Supervisor.
4. KMB executive members are appointed by Board of Directors of the Perum, drawing from both internal (Perum) and external (professional).

### 3-4-7 Legal Arrangement

It seems that all the variation systems are workable even on the existing law and regulations in force. However it is a matter of efficiency and feasibility of project implementation. For instance the conventional land acquisition system can be applied in the variation (1). However it usually takes long time with the increasing land prices, resulting in costly implementation and failure in meeting demand of people in time, thus jeopardizing financial feasibility.

Selection of the best system of KASIBA among the variations is not dependent on the evaluation of their advantages and disadvantages, but the possibility of political and social acceptance of the legal powers delegated to KMB for facilitating the implementation of KASIBA projects. The variation (1) would be the best system of KASIBA, if/when the powerful measures for acquiring lands like expropriation is granted to KMB for instance.

It is not uncommon that KASIBA project starts with approval/designation of project site and implementing agency of KASIBA. Designation of the area distinguished from other areas would imply the special importance of the area for certain purposes. It is supposed to grant certain privilege to the implementing agency, and impose certain restrictions on the freehand of land ownership for facilitating and securing the implementation of the projects to attain the important tasks of the project mandated by the public. It may be safely said that the viability

and feasibility of the project mostly rely on the privilege granted to implementing agency and restriction imposed on land ownership. The degree of privilege and restriction depend on the importance of the project which the society can recognize and accept. In this regard the implementability of KASIBA derives from the social importance of the project. Therefore the purpose and development plan of KASIBA must be carefully deliberated from the viewpoint of public purposes. On the hand the degree of privilege and restriction enforced shall be determined by the decision-making process through which the social acceptance is to be obtained. The sites, implementing agencies and development plan must be approved through democratic process such as public inspection, consultation with parties concerned to the project so that the public opinions are reflected on the plans. Those public acceptances are likely to pave the way for stronger enforcement powers to implement the project.

As the legal power of enforcement to be adopted to KASIBA depends on the social acceptance and political decision, it is difficult to recommend specific measures to be applied to KASIBA at this moment. The necessary legal measures, if possible, are listed in Table 3-4-3.

**Table 3-4-3 Items of Necessary Legal Arrangement to be Examined**

Government approval	Inclusion of KASIBA into Spatial plan	Approval of KASIBA plan and area should be included into spatial plan procedure in order to accept KASIBA for public benefit.
	Approval of KASIBA implementation plan	KASIBA implementation plan should be approved by government to secure the feasibility and fairness of implementation.
Variation X-1 Infra. and land	land price control (Freezing) Pre-empt, Expropriation.	Land price control before starting land acquisition, pre-empt of land or expropriation will be desirable, if possible, to facilitate project implementation and stabilize the financial base of project.
Variation X-2 Land Consolidation	Compulsory L/C	Compulsory implementation of Land Readjustment approved by the majority of landowners is recommendable. Voluntary base L/R is not impossible, but it must be admitted that it will take long time to build consensus of 100% landowners and the project may be terminated on the way in the worst case. In any case it is important to investigate on the possibility of L/R implementation before designating KASIBA areas.
Variation X-3 Land pooling	Incentives	Partnership or land pooling can not be compelled to all the landowners. It can be carried out only on the voluntary bases. Some incentives-tax reduction etc. shall be prepared to promote the partnership project. This system may be applied partially under another development system-L/R.
Variation X-4 Real estate dev.	Development charge on LISIBA for cost recovery Development ordinance on LISIBA	The existing system of location permit should be improved so as to be applied to LISIBA development. The scope of improvement is conditionality of development ordinance including land use, building control, public facilities, landscape, etc. and development charge for the cost recovery of the main infrastructure, and more importantly procedure of approval of development permit including consultation with or public inspection. by the landowners concerned.
Variation X-5 Modified X-4		Mostly same with X-4, but with no development charge because the KASIBA main infrastructures are to be constructed by the developers.
Variation X-6 Modified X-2		Mostly same with X-2. But the KASIBA main infrastructures are to be constructed through L/R.
Variation X-7 Combination of X-1 and 6		Legal measures taken in X-1 and X-2 shall be simultaneously applied to X-7. More importantly Perumnas must be improved and strengthened in project implementation capability. Perumnas as an implementing agency of L/R is one of them.

### 3-5 KASIBA System 3 and Further Improvement

Among the listed variations of development systems under the KASIBA system (Table 3-5-1, copy below), the first priority was placed on the KASIBA System-3 for implementation by the State Ministry of Housing and Settlement. Accordingly the Ministry drafted the government regulation for implementation of Law No. 4/1992 on housing and settlement. It was considered that the KASIBA system is closer to the interpretation of the government on KASIBA.

In this situation, nevertheless, the JICA study team dared to have proposed further improvement of the KASIBA system with the view to alleviating some possible problems of System 1, which may take place, and more importantly to make KASIBA a more effective urban management and development system.

**Table 3-5-1 Proposed Variations of Development Systems under KASIBA Management**

KASIBA system	Variation of dev. system	Designation of dev. area by Gov.	Primary /secondary infra.	Land management	Building/housing
System 3	2. Main infra. + land provision	Designation of dev. area	P/S infra. by KMB	Land purchase by KMB	Developers
System 2	2. Main infra + L/C	Designation of dev. area	P/S infra. by KMB	L/C	Land owners
	3. Main infra. + land pooling	Designation of dev. area	P/S infra. by KMB	Land pooling	Land owners
	4. Main infra. + developers	Designation of dev. area	P/S infra. by KMB	Land purchase by developers	Developers
System 1	5. Variation of 4 (developer)	Designation of dev. area	P/S infra. by developers	Land purchase by developers	Developers
	6. Variation of 2 (L/C)	Designation of dev. area	P/S infra. by L/C	L/C	Land owners
Combined system	7. Combination of 1 and 6	Designation of dev. area	P/S infra. by L/C	L/C	Developers and landowners

P/S infra. : Primary and secondary network of environment infrastructure

#### 3-5-1 Justification and Possible Problems of the KASIBA System-3 (Land Acquisition and Provision)

##### (1) Justification of KASIBA System 3

In addition of System 1, which is effective to control urban development preventing urban sprawl, KASIBA targets at System 3 of land provision with the following purposes, among others:

1. To integrate more directly urban development projects, otherwise disorderly and inefficient urban areas will emerge in the designated urbanization area and realize more directly peoples' aspirations in housing provision—quality and quantity (local government's housing policy as stated before), otherwise it cannot be materialized as envisioned.
2. To promote more directly the private sector to mobilize its financial, technical, practical and other resources to realize peoples' aspirations in housing provision.

These public purposes are deemed to justify the government intervention on landowners to

acquire land.

## **(2) Possible Problems of KASIBA System 3**

KASIBA System-3 works by virtue of 2 legal powers enforced in/out the development area.

1. Urban development is allowed only in the KASIBA area, prohibiting urban development by developers outside the KASIBA area.
2. Land purchase permit or right of management is granted exclusively to the government or KMB.

**It threatens that the KASIBA project may have possible problems unless these legal powers are properly exerted.**

### **1. Possible Land Price rise**

There seem 2 opposite likelihood scenarios: one is land price stabilization, the other is land price rise with a higher possibility to occur.

The utilization of land by landowners (either original or buyers) in the area designated as KASIBA is quite limited or becomes impossible due to land release to the KMB that develops the land. Utility value of land for other parties becomes none because of the absence of possibility to develop and use the land. The land in KASIBA is less attractive for developers and other possible buyers. Thus, it may work in the direction of stabilizing land price.

The other likelihood is that a large land price rise takes place as did in the real estate development with location permits in the past, or more intensively.

The exclusive legal powers entitled to the government seem to reinforce the position of the government or the KMB over the landowners, but at the same timework toward the advantage of landowners in land transaction. Scarcity of land (no alternative of site) prohibiting land development outside KASIBA and the "must" for the government to implement the project in time, all may make the landowners feel reluctant to sell, expecting "hold-out gains", thus resulting in a big land price increase.

### **2. Possible violation on the property right of Landowners**

Upon designation of the KASIBA area by the government, the destiny of private land will be decided, irrespectively of the landowners' intentions only to be released to the government or the KMB. It is commonly recognized in city planning of the world that landowners have full rights to use/develop/dispose and sell their land to any other parties as far as they observe city planning/building regulations and other laws such as civil/commercial laws.

Because of the land purchase permit or right of land management granted to the KMB, landowners cannot continue to use their land and sell them freely (land identified with government development of KASIBA). It threatened this may be beyond the restriction on property right of landowners accepted in city planning rules and regulations, except in the case that such restriction is socially justified for achieving specific public purposes.

### **3. Possible blockade on Urban Development, Real estate business and in-time housing provision to people.**

As discussed before, one of the most serious problems, which might impede the smooth implementation of KASIBA, will be the lengthy/time-consuming land purchase coupled with financial constraints of the government or the KMB.

Failure of provision of LISIBA in time and in a large scale due to the above-mentioned problem probably lead to:

- a. Limiting or blocking urban developments, which may hamper the sound growth of real estate industries, and finally failing in meeting the peoples' aspiration in housing provision in time.
- b. Accelerating urban sprawl with poor infrastructure outside the KASIBA area. Delay or failure of KASIBA to meet demand of land and housing may boost urban development either formally or informally outside KASIBA. Rampant small-scale housing development, which are still allowed outside KASIBA, and self-built housing with poor environment and infrastructure condition may be the results in KASIBA's worst scenario case. In this context KASIBA is only allowed to success.

Those possible problems may be attributed to the double task of KASIBA, which is contradictory in nature.

1. Urban control measures prohibiting urban development by developers outside KASIBA and simultaneously.
2. Development implementation measure granting land purchase permit (restrictions on property rights of landowners) to secure the implementation of the KASIBA project.

If these 2 measures are separately applied because they have different tasks and purposes, it will be more effective to fulfil their tasks. The direct connection of the 2 tasks seems to indicate that urban development is allowed only in KASIBA but only by the KMB with land purchase permits.

KASIBA is likely to be limited in size and area because of the very nature of the implementation measures (second tasks):

1. Exclusion of land and area where these implementation measures (land purchase permits) are not appropriate and applicable, for instance developers' sites to which location permits and land purchase permits have already been issued and are still valid.
2. Possible complaint/appeal of landowners on the possible restriction/violation of property rights of landowners because of land purchase permits granted to the KMB.
3. KASIBA may be limited to important public interest/purposes, otherwise it cannot be realized, which politically and socially justifies the restriction on land rights and the government direct involvement in urban/housing development.

The implementation measures of KASIBA as featured above are likely to limit the application of KASIBA as urban control measures (first task), which should be flexible to include other urban development, such as private sector land with location permits in validity, small scale housing developments, and others in order to effectively lead urbanization as originally envisioned. It appears that a direct connection between urban control power and implementation power makes the KASIBA application quite limited and inflexible.



### 3-5-2 Recommended Full Scale KASIBA System for Integrated Urban and Housing Development

With the intention to eliminate possible problems of the KASIBA System 3, and more importantly to make KASIBA an effective urban management and development system in an integrated manner, it is recommended to apply a combination of System 1 to 3 as illustrated in Figure 3-5-1.

Basic policy of KASIBA improvement is to make it more flexible and more certain in urban and housing development.

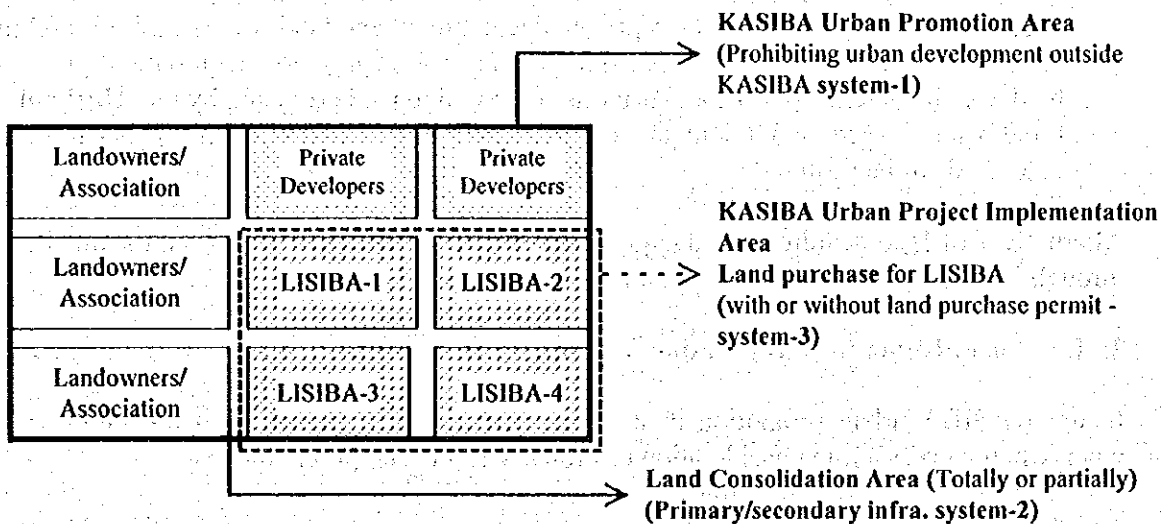


Figure 3-5-1 Integrated Urban and Housing Development by KASIBA

1. Urban control power and project implementation power entitled to KASIBA shall be separately applied to the KASIBA urban promotion area and the KASIBA urban project implementation area respectively.

KASIBA area	Legal power
KASIBA urban promotion (planning) area	1. Prohibiting urban development outside the area 2. Coordinating/supervising urban development inside the area.
KASIBA urban project implementation area	1. Project implementation power (Granting land purchase permit and right of management)

The KASIBA integrated urban development plan in the KASIBA urban promotion area is formulated with development programs indicating sets of several implementing measures, in which the KASIBA urban project implementation area and project are flexibly identified and decided in consultation with the communities and landowners.

2. Introduction of L/C based on the principles of continuation/preservation of land right/utility and cost recovery from beneficiaries into the KASIBA urban promotion (planning) area facilitates KASIBA development (flexibility and certainty).

Main reasons for proposing this system are summarized as follows:

**1. Alleviating unreasonable land price increase through flexible planning and adequate land provision.**

- a. In the course of formulation of the KASIBA urban development plan, the KASIBA urban project implementation area is flexibly planned and decided through probing and sounding the landowners intention on land disposal. This gives the alternatives of land and sites to be acquired for KASIBA development, not totally dependent on the landowners' intention. In turn, the KASIBA urban project area is adjusted in the KASIBA urban development plan to secure integrated development.
- b. Adequate land made available for urban and housing development is provided not only to KASIBA (LISIBA), but also to private development and landowners through L/C in the KASIBA promotion area. This should relax land negotiation/acquirement process by the KMB in terms of time and price as compared to land provision by the KMB only.
- c. Landowners expecting holdout gains cannot claim higher land price in L/C because no land needs to be acquired.

Alternatives of land acquirement, adequate land provision and no need of land acquisition through L/C help alleviating unreasonable land price increase.

**2. Land acquisition in consideration of property rights of landowners**

In the KASIBA urban promotion area, three types of land management are employed, when/where necessary, in consideration of property rights and public interest:

- a. Free land transaction including land exchange, relocation and others, facilitated by the KMB.
- b. Compulsory
  1. L/C would not violate landowners' property rights, even by compulsion, because of the guaranteed continuation/preservation of land right/utility.
  2. Expropriation of land justified for important public purposes of government pollicies (social welfare, disaster prevention, city planning and others) and vital project for the success of the KASIBA promotional area development.

**3. Public and private sector cooperation**

The KASIBA urban promotion area allows private development in connection with KASIBA urban development implementation area so as to promote public and private cooperative efforts in urban and housing development. This safeguards the project to continue to develop and provide land and housing just in case of delay or failure on either side. In this way, possible blockages on urban development may be lessened.

**4. Urban development dynamism**

Combined urban development like the KASIBA urban promotion area development as compared to the homogeneous housing area of KASIBA is advantageous in generating urban dynamism necessary for urban housing development with high urban services and amenity.