

## LEGAL PROTECTION OF THE RIGHT OF WAY AS LOCAL GOVERNMENT ASSETS BY OPTIMIZING THE ROAD CLASS

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### Abstract

*The road is a land transport infrastructure that has a very important role in the development process to achieve state purposes. Right of way management as an asset by the local government is an instrument to control the utilization of the road. Right of way is intended for space benefit, widening the road, adding traffic lanes in the future, and safety. Based on the type and the movement of the traffic and road transport, road functions distinguished by arterial, collector, local, and neighborhood. The use of the road that grouped by the use of roads, streamline traffic and road transport, have to consider road class and provision of road infrastructure specification. The road construction has a limited ability to accommodate the vehicles through which depend on the quantity and weight of a vehicle. Determination of the class can provide the tonnage limit of vehicles that will use the road. Legal protection of the right of way will be achieved when the activity in the right of way in accordance with the preset function. Determination of the class may affect the legal certainty for road users in the various activities of life. With the designation of classes of roads, the legal protection of assets can be realized.*

**Keywords:** *Local Government Assets, Legal Protection, Right of Way, and Road Classes.*

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### INTRODUCTION

Road as a public transportation facilities a vein in living society has an important function in developing nation and country.<sup>1</sup> In that frame, road has a great function to reach the development goal such as proportional development and the result, economic growth, and reaching the social justice for the nation. In fulfilling the need of the society of the freight transport, secure services, pleasant, and useful can be perceived the benefit for society.

The right of ways management by local government means as control effort, which the road in the Act Number 38 of 2004 on Road (Act No. 38 of 2004) is ground transportation infrastructure

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<sup>1</sup> Road as part of the national transportation system has an important role especially in support of economic, social, cultural, environmental, political, and defense and security. From the economic aspect, the social capital of the community as a catalyst in the production process, market and end consumers. From the socio-cultural aspects, where the road open-up horizons of society that can be a vehicle for social change, building tolerance, and dilute the cultural divide. From the aspect of environment, where the road is needed to support sustainable development. From the political aspect, the existence of roads linking and binding between regions, and from aspects of defense and security, the existence of roads provides access and mobility in the organization of defense and security systems. See Explanation of Act Number 38 of 2004 on Road [Act No. 38 of 2004].

which includes all parts of the road, including complementary buildings and equipment intended for traffic, which is at ground level, above ground, below ground and / or water, and above the water surface, except railways, road lorries, and road cable. In this relation known as the road network system of primary and secondary road network system.

On any road network system divided by grouping roads according to function, status and road class. Grouping the road to status grants the authority to the government for the roads national service and local government to organize the way in its territory in accordance with the principles of local autonomy. Affirmation of the rights and obligations of the government and the society showed that the authority of the government in the implementation of the road may be delegated and / or submitted to local agencies or handed over to entities or individuals. Devolution and/or delivery of road management authority could not be separated government responsibility for administering the road. On the other hand, the right of way is inline certain lands beyond the benefits of the road is still a part of the right of way are limited by limit signs road area which is intended to meet the requirements of the breadth of the safety of road between another benefit for the purpose of road widening spaces in the future.<sup>2</sup>

Road infrastructure is a public good that should be felt by all walks of life existence as a consequence, the rights of control and authority procurement of road infrastructure is generally carried out by the government and are expected each region able to develop a system of administrative services to people who are more accommodating to the needs of local communities. One area of development is entrusted implementation to the regions in accordance with Act No. 38 of 2004 is the field of public works including the district roads. The creation of a road transport system that ensures the movement of people and goods is smooth, safe, fast, cheap and convenient is the purpose of development in road infrastructure sector.

The room benefits road is a space that is used for road construction and consists of a road, roadside channels, as well as the safety threshold. While the road area covers a road and inline benefit certain lands beyond the benefits of the road.<sup>3</sup>

In daily activities, a lot of community activities carried out by means of land transportation in the street. To support these activities, of course, the road will always be used. The use of means of transportation overland in space benefits the course of such power should pay attention to the road agency. In other words, that the vehicles through a road, shall comply with the ability to accommodate a wide range of vehicles.

It can be seen from various media and in our activity on the street, a lot of large vehicles through the small streets. Another case for example with road conditions now are frequent traffic jams, road consists of 2 lanes turned out to be filled by the vehicle until soah if there are 3 lanes, even on the shoulder of the road is also considered to be the driver of a lane. Of course it can lead to the capacity of the road becomes excessive. Excessive state roads to accommodate the vehicle will result in weakening the strength and decreases. Moreover, if a wide range of vehicles with very heavy loads using the road.

In order to use the benefits of space, stipulated in Government Regulation Number 34 of 2006 on Road (Regulation No. 34 of 2006) that is based on the nature and movement of the traffic and road transport, road functions distinguished on arterial, collector, local, and neighborhood. In addition, the use of roads must also consider the classes grouped by the use of roads and smooth traffic and road transport, as well as the specifications of the provision of road infrastructure.<sup>4</sup>

Based on its status, the road is divided into national roads, provincial roads, district roads, city streets and village roads. Local governments as organizers of provincial roads, district roads, city streets and rural roads has the authority for the regulation, development, construction, and supervision at the macro level in accordance with national policy. In carrying out the implementation of the road,

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<sup>2</sup> See Explanation of Government Regulation Number 34 of 2006 on Road [Regulation No. 34 of 2006].

<sup>3</sup> See, Regulation Act No. 38 of 2004, n.1 above, Art. 11.

<sup>4</sup> See, Regulation No. of 2006, n.2 above, Art. 34.

local governments are responsible for the development, management, maintenance, and repair of roads of the area.

Based on the description, the problem can be formulated as how can the road class can provide legal protection the right of way as a local government asset?

### ***The Concept of Local Government Assets Management***

In governance, power or authority is something very important and into the early part of administrative law. Without authority, governance cannot run well. Because the authority to give the ability of the government to take certain legal actions. In authority, the principle of legality is the main principle that is used as the foundation of any government organization in every country and state law. In other words, every organization of state and government must have the legality, the authority granted by law.<sup>5</sup>

Application of the principle of legality in governance, according Indroharto, stated that:<sup>6</sup>

Application of the principle of legality would support the enactment of legal certainty and equal treatment. The similarity of the treatment happens because every person who is in a situation such as that specified in the provisions of the law are entitled and obliged to act as what is specified in the legislation. while the legal certainty will occur as a rule can make all actions to be taken by the government can be predicted or estimated in advance, then in principle and can be seen or expected what will be done by government officials concerned. Thus, citizens and can adjust to the situation.

Similarly, in the management of the assets area is expected lack of legal certainty and equal treatment, to the creation of regional asset management of efficient, effective, transparent and open, fair competitive / non-discriminatory and accountable in accordance with the principles contained in Government Regulation Number 27 of 2014 on Assets Management of State/Regional (Regulation No. 27 of 2014). Items belonging to the area is an important asset for local governments to manage local goods properly and adequately, local governments will get a source of funds for the financing of development in the area.

Assets region as one important element in the framework of government administration and service to the community. Therefore, it must be managed properly so that it will materialize goods management areas that are transparent, efficient, accountable, and certainty of value that can function in accordance with the duties and functions of the regional administration.<sup>7</sup> Regional assets are legion, and according to government regulations, local government assets including assets consist of seven groups and other assets. The seven groups are:<sup>8</sup>a. Land; b. equipment and machinery;c. buildings and constructions;d. roads;e. irrigation and road network;f. other fixed assets;g. construction in progress; h. other assets.

Based on the perspective of economics defines state assets in a comprehensive manner, including, Sprague stating that the company's assets must have a value and the company can enjoy / exploit that value. Paton defines assets as wealth either in physical form or any other form that has value to an entity. Meanwhile, more Vatter detailing further by reviewing the assets of the benefits generated by defining assets as an economic benefit future in the form of potential services that can be converted, exchanged or stored.<sup>9</sup>

The definition of assets according to the Government Accounting Standards wider and comprehensive, the economic resources controlled and / or owned by the government as a result of past events and from which the benefits of economic and / or social in the future is expected to be

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<sup>5</sup>Ridwan HR, *Hukum Administrasi Negara*, RajaGrafindoPersada, Jakarta, 2006, p. 100.

<sup>6</sup>Id., p. 97.

<sup>7</sup>M. Yusuf, *8 Langkah Pengelolaan Aset Daerah Menuju Pengelolaan Keuangan Daerah Terbaik*, Salemba Empat, Jakarta, 2010, p. 13.

<sup>8</sup>Id.

<sup>9</sup>Dian Puji N. Simatupang *Analisis dan Evaluasi Peraturan Perundang-undangan tentang Aset Negara*, [www.bphn.go.id](http://www.bphn.go.id), accessed on 19th of September 2016, 12:47 WIB, p. 13.

acquired, either by the government and communities, and can be measured in terms of money, including non-financial resources necessary for the provision of services for the public and resources are maintained for reasons of history and culture.<sup>10</sup>

The many definitions of these assets showed not much different from each other. Thus, the general characteristics of the asset can be formulated as follows:<sup>11</sup> a). the characteristics of the benefits in the future; b). their economic sacrifices to acquire assets; c). associated with a particular entity; d). showing the accounting process; e). relating to the time dimension; f). relating to the characteristics of measurability.

Basing on the characteristics of those assets, asset recognition, according to Eddy MulyadiSoepardy, the following:<sup>12</sup>a). assets are recognized in the balance sheet, if it is probable future economic benefits obtained by the company and the asset has a value or costs can be measured reliably; b). assets are not recognized in the balance sheet, if the expenditure has occurred and the economic benefit is deemed unlikely to flow after the current accounting period. As an alternative to this kind of transaction raises the recognition of an expense in the income statement.

To carry out what is obligatory under the authority of local government requires goods or assets to support the implementation of the tasks and authority. Basically. Wealth area can be classified into two types, are:<sup>13</sup>a). Wealth that already exist (existed) since their areas. The wealth of this type include the entire wealth of natural and geographical territorial. Examples are land, forests, mines, mountains, lakes, beaches and the sea. b). Wealth will be owned either from activities funded budget of local government as well as other regional economic activities. Examples are roads, bridges, vehicles, and other capital goods.

In addition, there are assets controlled by the state, and there is also an asset owned by the Government. The government-owned state assets divided by two, ie assets that are not separated and segregated assets. Assets that are separated or the so-called State / Regional goods obtained / purchased at the expense of APBN / APBD and goods originating from the acquisition of other legitimate cover goods obtained from grants / donations or similar, is obtained as the implementation of the agreement / contract, obtained based on the provisions of law and obtained under a court decision which has had permanent legal force. Management of state assets are not separated regulated in some legislation, namely Law No. 17 of 2003 on State Finance and Law No. 1 of 2004 on State Treasury and implementation stipulated in Government Regulation No. 27 Year 2014 concerning Management of State / Regional (PP No. 27 of 2014).<sup>14</sup>

While the region's assets in this assets area is "all goods purchased or acquired at the expense of the budget or come from other legitimate acquisition".<sup>15</sup> Further understanding of the area of assets under Article 2 of Government Regulation No. 27, 2014, are: (1) State / Region assets covers:a. goods purchased or acquired at the expense of State Budget / Regional; andb. goods originating from other legitimate acquisition. (2) The goods referred to in paragraph (1) b covers: a. goods obtained from grants / donations or similar;b. goods obtained in the implementation of the agreement / contract;c. goods obtained in accordance with the provisions of the legislation; ord. goods obtained under a court decision that has binding.

### ***The Concept of Local Government Assets Management***

Government affairs division between the government and local governments based on the criteria of externality, accountability, efficiency and harmonious relationship among levels of government and basing on government affairs that are concurrent, meaning government affairs undertaken jointly by various levels of government in a spirit of cooperation is high. Meanwhile, local governments perform

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<sup>10</sup>Id., p. 12.

<sup>11</sup>Id.

<sup>12</sup> Eddy MulyadiSoepardi, *Memahami Kerugian Keuangan Negara Sebagai Salah Satu Unsur Tindak Pidana Korupsi*, Makalah pada ceramah ilmiah FH Universitas Pakuan Bogor, 24 Januari 2009, p. 6.

<sup>13</sup>Mardiasmo, *Otonomidan Manajemen Keuangan Daerah*, Andi, Yogyakarta, 2002, p. 238-239.

<sup>14</sup>Dian, n.9 above, p. 15-16.

<sup>15</sup>See, Act Number 1 of 2014 on State Treasury [Act No. 1 of 2004], Art.1 no 11.

their duties under the authority of autonomy and duty of assistance. Co-administration (*medebewind*) is the involvement of local government to conduct the affairs of the government whose authority is wider and higher in the area. Co-administration is one manifestation of deconcentration, but the government does not form its own entity to it, which are arranged vertically. Thus co-administration (*medebewind*) the obligations to implement regulations that the scope of its authority is characterized by three things: 16a). the material does not include households conducted autonomous regions to implement; b). in organizing the implementation of the autonomous regions that have the leeway to tailor everything to the specificities of the region along the regulation requires it gives the possibility for it; c). which can be entrusted with the affairs of *medebewind* only autonomous regions alone, it is not possible other governance tools are arranged vertically.

Delivery of most of the local government authorities, local government has put at the forefront of national development, in order to create prosperity for the people fair and equitable. In this regard the role and support the region in the framework legislation is very strategic, especially in regional regulations and other local regulations in accordance with laws and regulations.<sup>17</sup> The authority to make local regulation is the tangible manifestation of the exercise of autonomy is widely held by a region,<sup>18</sup> is also an authority attribution (*attributie van wetgevings-bevoegdheid*),<sup>19</sup> the authority of the establishment of legislation given by *grondwet* or *wet* to a government agency with the objective to realize the independence of a region and empower the community.<sup>20</sup>

The local government has huge authority for planning, formulating, implementing, and evaluating development policies and programs that fit local needs. Now the local government is no longer simply as implementing operational policies that have been established and defined by the center, but more than that expected can be a driving force of development agents in regional or local level.<sup>21</sup> The authority of the local government is very complex, because it has a strategic authority in various sectors. Powers are realized in the form of a regional work plan and elaborated in the form of income, expenditure and financing area is managed areas that do an effective, efficient, transparent, accountable, fair, and obey the laws. Therefore the development of an area affected by the performance of local government. Local governments that have good performance and a professional will be able to increase the potential for regional management.<sup>22</sup>

Devolution of government power by the central government to autonomous regions significant shift in delegation of authority, commonly called delegation of authority. Thus giving delegates the authority's loss. Unlike when the delegation of authority in *mandatum*, fiduciary or *mandator* not lose the authority in question. Mandatary to act for and on behalf of the *mandator*. As a consequence that the central government is losing authority. All switches are the responsibility of the autonomous regions, except for governmental affairs which by law is stated as the affairs of the central government.<sup>23</sup>

Devolution of governmental authority based on Law Number 30 Year 2014 on Government Administration, hereinafter called (Law No. 30 of 2014), is divided into three consisting of: 24 a). Attribution is the granting authority of the Board and / or the Government officials by the Constitution of the Republic of Indonesia Year 1945 or the Act. b). Delegation is the delegation of authority of the Agency and / or the higher Government officials to the Agency and / or lower government officials with responsibility and accountability switch completely to the delegates. c). The mandate of the

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<sup>16</sup>NoerFauzidan R. YandoZakaria, *Mensiasati Otonomi Daerah*, Insist Press, Yogyakarta, 2000, p. 13.

<sup>17</sup> M. SaptaMurti, *Harmonisasi Peraturan Daerah Dengan Peraturan Perundang-undangan Lainnya*, Jurnal Legislasi Daerah, Surabaya, Edisi II. Mei-Agustus 2010, p. 4.

<sup>18</sup>Rozali Abdullah, *Pelaksanaan Otonomi Luas Dengan Pemilihan Kepala Daerah Secara Langsung*, RajaGrafindoPersada, Jakarta, 2005, p.131.

<sup>19</sup>Maria Farida IndratiSoeprapto, *Ilmu Perundang-undangan*, Kanisius, Yogyakarta, 2006, p. 102.

<sup>20</sup> Id., p. 133.

<sup>21</sup> Leo Agustino, *Dasar-Dasar Kebijakan Publik*, Alfabeta, Bandung, 2008, p. 1.

<sup>22</sup>SiswantoSunarno, *Hukum Pemerintahan Daerah di Indonesia*, SinarGrafika, Jakarta, 2008, p. 35-36.

<sup>23</sup>OswarMungkasa, *Desentralisasi dan Otonomi Daerah di Indonesia: Konsep, Pencapaian, dan Agenda Kedepan*, www.academia.edu, accessed on 19<sup>th</sup> of November 2016, 19:33 WIB.

<sup>24</sup> See, Act Number 30 of 2014 on Government Administration [Act No. 30 of 2014] Art. 1 no 22, no 23, and no 24.

delegation of the authority of the Agency and / or the higher Government officials to the Agency and / or lower government officials with responsibility and accountability remains with the mandate givers.

In terms of asset management area, relation to road space utilization benefits. Where is the road is defined as an infrastructure of ground transportation which includes all parts of the road, including complementary buildings, and equipment intended for traffic, which is the surface of the ground, above ground, below ground or water, as well as on the surface of the water except railways and roads cables.<sup>25</sup> Public roads are roads that traffic intended for general,<sup>26</sup> special roads are roads built by institutions, enterprises, individuals, or groups of people for their own interests.<sup>27</sup> Road sections covering the room benefits road, the right of way, and the control room:<sup>28</sup> a). space covering the benefits of the road, the channel side of the road and the safety threshold;<sup>29</sup> b). road area includes space benefits certain way and inline ground outside the room benefits road;<sup>30</sup> and c). space surveillance is a certain space in the road outside the right of way is under the control of the organizers of the road.<sup>31</sup>

Local government authority in the area of asset management pursuant to Article 307 of Law No. 23 Year 2014 on Regional Government (Act No. 23 of 2014), states: (1) Regional assets necessary for the implementation of Government Affairs cannot be transferred. (2) The area belongs to the procurement of goods carried out in accordance with the financial capacity and the need of the region based on the principles of efficiency, effectiveness, and transparency by giving priority to domestic products in accordance with the provisions of the legislation. (3) Regional assets not used for the implementation of Government Affairs can be removed from the list of regional assets by way of sale, exchanged, assigned, is included as the Regional capital, and / or disposed of in accordance with the provisions of the legislation.(4) Regional assets referred to in paragraph (1) and paragraph (3) shall not be mortgaged or pledged to get the loan.

Asset management authority are set out in Article 5 of Regulation No. 27 of 2014, which states: (1) Governor / Regent / Mayor is the holder of power management of regional assets.(2) Authorities regional assets management authority and responsibility: a. establish management policies regional assets; b. set the use, utilization and transfer of regional assets in the form of land and / or buildings; c. set security policies and maintenance regional assets; d. appoint official who manage and store the regional assets; e. proposed the transfer of regional assets which require the approval of the regional representatives council; f. agreed with transfer, destruction and removal of regional assets within the limits of its authority; g. agreed with regional assets utilization form part of the land and / or buildings and in addition to land and / or buildings; h. utilization agreed with regional assets cooperation in the form of infrastructure provision.(3) Regional Secretary is a manager of regional assets. (4) Regional Assets manager in charge and responsible: a. examining and approving the regional assets needs; b. examining and approving the need for maintenance / care regional assets; c. proposing utilization and transfer of regional assets which require the approval of the Governor / Regent / Mayor; d. overseeing the implementation of use, waste, destruction and removal of regional assets; e. oversee the implementation of transfer of regional assets which has been approved by the Governor / Regent / Mayor or the Regional Representatives Council; f. coordinating the implementation of the regional assetsinventory; g. doing supervision and control over the management of Regional Assets.

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<sup>25</sup>See, Regulation Act No. 38 of 2004, n.1 above, Art. 1 no 1.

<sup>26</sup> Id., Art. 1 no 5.

<sup>27</sup> Id., Art. 1 no 6.

<sup>28</sup> Id., Art. 1 no 5.

<sup>29</sup>Regulation No. 34 of 2006, n. 2 above, Art.34 (1).

<sup>30</sup>Regulation No. 34 of 2006, n. 2 above, Art.39 (1).

<sup>31</sup>Regulation No. 34 of 2006, n. 2 above, Art.44 (1).

### ***Legal Protection of Right of Ways***

Basically the way as a regional asset management carried out by the regions that have the duties and functions in the field of Public Works, Highways, more specifically, the Department of Public Works.

Roads include covering all parts of the road, including complementary buildings, and equipment intended for traffic, which is the surface of the ground, above ground, below ground or water, as well as on the surface of the water, except railways and roads cables.<sup>32</sup> The road consists of several parts, which includes the right of way, the benefits of space, and space surveillance path.<sup>33</sup>

The room benefits include the path of the road, the curb line and the safety threshold.<sup>34</sup> Road area covers a road and inline benefit certain lands beyond the benefits of the road.<sup>35</sup> Space surveillance is a certain space outside the road area that is under the supervision of the organizers of the street.<sup>36</sup>

In the right of way of the road there is a section in the form that is used by a variety of means of land transportation. Technical requirements restricting the use of land transport for use on the road. The technical requirements are the technical conditions that must be met by a road so that the road can function optimally meet minimum service standards in serving the road traffic and road transport.<sup>37</sup> It aims to achieve road safety for road users.<sup>38</sup>

Use of the road should pay attention to the road class are grouped by the use of roads and smooth traffic and road transport, as well as the provision of road infrastructure specifications.<sup>39</sup> Therefore, the class is divided into:<sup>40</sup>

### ***Specifications of Road Infrastructure Provision***

Specifications provision of road infrastructure consists of highways, roads, medium, and small roads. The freeway is the path to the specifications in full control of the driveway, no crossing plot, equipped railing road area, equipped with a median, as well as the width and number of lanes corresponding legislation. The highway, which is a public road to traffic continuously to control the entrance is limited and is equipped with a median, as well as the width and number of lanes corresponding legislation. The road was, that public roads with traffic control moderate distance to the entrance is not restricted, as well as the width and number of lanes in accordance with ministerial regulations. A small road, which is a common way to serve local traffic, with the width and number of lanes corresponding legislation.

### ***Use of Road Which Defined Based on Functions and Intensity Traffic***

Setting the class path is not only based on the legislation in the field of road, but because of the use of the road is traffic transportation by land, the road grade should also be aligned with restrictions on the types of vehicles in the legislation in the field of land transport, namely Law No. 22 Year 2009 regarding Traffic and Road Transportation (Act No. 22 of 2009).

The classes of roads are used for the benefit of regulating the use of roads and smooth traffic and road transport. This way the class is divided into several classes:

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<sup>32</sup>See, Regulation Act No. 38 of 2004, n.1 above, Art. 1 no 1.

<sup>33</sup>See, Regulation Act No. 38 of 2004, n.1 above, Art. 11.

<sup>34</sup>Regulation No. 34 of 2006, n. 2 above, Art.34 (1).

<sup>35</sup>Regulation No. 34 of 2006, n. 2 above, Art.39 (1).

<sup>36</sup>Regulation No. 34 of 2006, n. 2 above, Art.44 (1).

<sup>37</sup>See, Regulation of Minister of Public Works Number 19/PRT/M/2011 on Technical Requirements for Roads and Road Technical Planning Criteria [Regulation No. 19], Art.1 no 3.

<sup>38</sup>Road safety is physical fulfillment street elements against the technical requirements and environmental conditions which avoid roads or not the cause of traffic accidents. Id., Art 1 no 6.

<sup>39</sup>Regulation No. 34 of 2006, n. 2 above, Art. 31.

<sup>40</sup>Regulation No. 19, n. 37 above, Art.46 (1).

### **Road Class I**

Road class I is arterial and collector roads, motorized vehicles can be passed with the greatest width of 2.5 (two point five) meters, the greatest length of 18 (eighteen) meters, the greatest high of 4.2 (four point two) meters, and the charge axis heaviest ten (10) tons.<sup>41</sup>

### **Road Class II**

Road Class II is arterial, collector, local, and environments that can be passed vehicles with the greatest width of 2.5 (two point five) meters, the length of most twelve (12) meters, the greatest high of 4.2 (four point two) meter, and load the heaviest axis of 8 (eight) tons.<sup>42</sup>

### **Road Class III**

Road class I is arterial, collector, local, and environments that can be passed vehicles with the greatest width of 2.1 (two point one) meter, the greatest length of 9 (nine) meters, the height most 3.5 (three point five) meters, and load the heaviest axis of 8 (eight) tons.<sup>43</sup>

### **Special Road Class I**

Special road class is arterial roads that can be passed vehicles with the greatest width of 2.5 (two point five) meters, the greatest length of 18 (eighteen) meters, the greatest high of 4.2 (four point two) meters, and load the heaviest axis more ten (10) tons.<sup>44</sup>

Implementation of the road has the objectives set forth in the Act 38 of 2004, i.e.:45a. embody order and legal certainty in the implementation of the road; b. realizing the community's role in the implementation of the road; c. organizers realize their role in the optimal delivery of services to the community; d. reliably realize the service road and excellence and in favor of the interests of the community; e. realize the road network system that is efficient and effective in order to support the implementation of an integrated transport system; f. realize the toll road concession that is transparent and open.

The ability of each class of road to accommodate a variety of ground transportation must be addressed by each local government. This is certainly to provide traffic signs will grade the road.

Use of the road corresponding to road abilities will certainly keep the power so that the road construction road maintenance will be optimized again. But if the use of the roads is not in accordance with the ability of the road, of course, will result in rapid damage to the road. If the road is damaged, it is definitely the local government must plan the repair of damage to the road. With the planned road improvements must be in accordance with the budgeting mechanism corresponding legislation in the field of financial management.

With regard to the legal protection of the right of way as a regional asset, could be said that the system asset management area includes demand planning and budgeting, procurement, usage, utilization, security and maintenance, assessment, transfer, destruction, removal, administration, as well as coaching, monitoring and control.<sup>46</sup> Not all stages of the scope of the sectoral asset management can be applied in the management of the road.

Event planning and budgeting needs an initial activity planned road needs and budget required to meet the needs of the road. Of course, planning is the need for this road is supported by a comprehensive review of the need for road first. In the study presented the class path along road construction is needed.

Planning must consider three things, namely the condition of the assets in the past, the assets required for the present, and planning needs of the asset in the future. The local government needs to

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<sup>41</sup>See, Act Number 22 of 2009 on Traffic and Road Transport [Act No. 22 of 2009], Art.46 (3) a.

<sup>42</sup>See, Act No. 22 of 2009, n. 41 above, Art. 46 (3) b.

<sup>43</sup>See, Act No. 22 of 2009, n. 41 above, Art. 46 (3) c.

<sup>44</sup>See, Act No. 22 of 2009, n. 41 above, Art. 46 (3) d.

<sup>45</sup>See, Regulation Act No. 38 of 2004, n.1 above, Art. 3.

<sup>46</sup>See, Government Regulation Number 27 of 2014 on Assets Management of State/Regional (Regulation No. 27 of 2014), Art. 3.



establish minimum standards that must be possessed of wealth for the region to meet the necessary public service coverage. Therefore, strategic planning needs to be made both short term, medium and long term the asset management area. In this case needs to be made or set of performance indicators of area properties. The performance indicators are essential for assessing the performance of local governments in managing the wealth of the region to act in order to avoid the negative effects harmful to society, such as environmental damage and socio-cultural damage.<sup>47</sup>

If planning and budgeting have been defined in the Regional Budget, then followed up with the procurement process in accordance with Law No. 2 of 2012 on Land Procurement for Development for Public Interest (Act No. 2 of 2012).

In the area of asset management in the form of roads, the procurement process not only includes land acquisition, but also procuring for land clearing and road construction.

Use of the road undertaken by refer to legislation in the field of road and traffic and road transport. By controlling activity and freight traffic can provide durability on the strength of the road.

Design of legal protection of the right of way can also be a law enforcement not only in the street but also the law enforcement in the field of traffic and road transport. Two fields are of course cannot be separated because of the setting in the field of road are the remains of a road, while setting in the field of traffic and road transportation is the spirit that fills the activity of the road.

Wealth management area must meet the principle of public accountability. As for public accountability that must be fulfilled at least cover:<sup>48</sup>

#### ***Accountability for Probity and Legality***

Accountability for probity and legality related to the avoidance of abuse of power by officials in the use and utilization of regional assets, while related to the guarantee of legal accountability to their compliance with laws and regulations required in the use of public wealth. Legal accountability also means that the richness of the area must have a clear legal status, so that certain parties can not misuse or claim that wealth.

#### ***Process Accountability***

Accountability of processes related to compliance with the procedures used in carrying out the wealth management area, including made compulsory competitive tendering contract and the elimination of mark up. For that we need accounting information systems, management information systems, and administrative procedures.

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Accountability of processes related to compliance with the procedures used in carrying out the wealth management area, including made compulsory competitive tendering contract and the elimination of mark up. For that we need accounting information systems, management information systems, and administrative procedures.

#### ***Policy Accountability***

Accountability of policies related to local government accountability towards Regional People's Representative Assembly and the public on the policies of use and utilization of regional assets.

In an effort to ensure the smooth operation of road management to be effective and efficient it is necessary to guidance on local roads. Coaching is a business or activity through the provision of guidelines, guidance, training, and supervision.

Associated with asset development areas such as roads, then the notion of coaching possessions is a business area or activity through the provision of guidelines, guidance, training and supervision to ensure the smooth implementation of regional road management fruitfully and effective. Based on

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<sup>47</sup>Mardiasmo, *Otonomidan Manajemen Keuangan Daerah*, Andi, Yogyakarta, 2002, p. 239.

<sup>48</sup>Mardiasmo, n.47 above, p. 240.

this, the scope of road maintenance areas includes the provision of guidelines, guidance, training and supervision of the implementation of regional road management.

The provision of guidelines is essential in the implementation of regional road management. Guidelines are the basis of the reference for managers in managing regional roads. As we know that in terms of administration, that every every state official, in carrying out the legal actions of government, must be based on legislation. It is intended that the error does not occur in the management of regional roads.

In coaching is necessary because written guidelines alone can still lead to a different understanding. Therefore, it is necessary to have the guidance given to the regional road. Guidance can be provided with socialization or workshop within a specific timeframe according to plan.

For things that are policy, or things that are common, guidance in the form of socialization and workshops can be effective, but for things that are technical in nature, it can be implemented counseling with activities such as training. Technical matters should be understood and mastered by employees in the areas of managing the area.

Starting from control theory of assessment, understanding the characteristics of the area should be given to training participants. Even necessary field work to increase the ability and skills of the participants. This activity is a form of guidance for the technical level in the management of regional roads.

In managing local roads, the latter form of guidance in the form of supervision. Supervision can be done to solve various technical problems in the field and to be able to know early if there is inaccuracy in managing regional roads.

The activities of managing assets is not just a local administrative activities, but also an activity that should be efficient and effective.

Oversight of goods belonging to the area carried out from the early stages of planning to removal. Internal auditor's involvement in the regulatory process is very important to assess the consistency between practice undertaken by local governments with the applicable standards. In addition, the auditor involvement is also important to assess the accounting policies applied concern asset recognition, measurement, and valuation. Oversight is needed to avoid the storage in the planning and management of local assets.<sup>49</sup>

Irregularities in the asset management area, particularly local roads, due to the weak implementation of the Government Internal Control System.<sup>50</sup> In order to be effective and efficient things, the Inspectorate of the Provincial and Local Government Internal Supervisory Apparatus in carrying out a whole series of Government Internal Control System which includes the control environment, risk assessment, control activities, information and communication, and monitoring of internal control.<sup>51</sup>

In connection with the optimization of road class, Government Internal Supervisory Apparatus simply cannot be directly involved, but to provide input to the regional road and the trafficker to traffic signs on the road class installed in every way. For that we need coordination between the Department of Public Works and the Department of Transportation that the management of local roads and traffic events can be run well.

Of course it is still not enough in the absence of enforcement of traffic violations on the road class that is implemented by the Department of Transportation and the Policelocal sector. Because of that, it is necessary synergy between the Department of Public Works, Department of Transportation, and Local Sector Police, both in managing regional roads and organize various activities in the right of way.

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<sup>49</sup>Id., p. 240-241.

<sup>50</sup>Government Internal Control System, is the Internal Control System as a whole is held in the central government and local governments. See, Government Regulation Number 60 of 2008 on Government Internal Control System (Regulation No.60 of 2008), Art.1 no 2.

<sup>51</sup>See, Regulation No. 60 of 2008, n.49 above, Art. 3.

## CONCLUSION

Road area has a section of road that used motor vehicles, namely road. Status of provincial roads and district/city roads as local roads and regional assets held by local governments. Legal protection of the right of way can only be provided with a form of asset management area, in this case that the management of the road effectively and efficiently according to the legislation. In connection with the optimization of road class, other legal protection is by installing road signs on every street grade. Besides law enforcement must be carried out by the competent authority, ie the Department of Transportation and the Local Sector Police. Besides the necessary synergy working procedures of the relationship between the Department of Public Works, Department of Transportation, and Local Sector Police can work synergistically.

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