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Climate Change and Building Resiliency

STRATA MANAGEMENT

Strata Living: Harmony
and Maintenance

GUIDANCE NOTE

Guide on Ventilation
& Indoor Air Quality
for Residential Setting

KNOWLEDGE CORNER

Enhancing Communications
Between Asset Managers and
Property Managers

TABLE OF CONTENTS

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04 - 05

PRESIDENT

From the Desk of The President

06 - 21

**STRATA
MANAGEMENT**

Strata Living: Harmony and
Maintenance

22 - 29

FEATURE

Climate Change and Building
Resiliency

30 - 33

**KNOWLEDGE
CORNER**

Enhancing Communications
Between Asset Managers and
Property Managers

34 - 36

UPDATE

Making Flexible Work, Work:
Towards Better and More
Inclusive Work-Life Practices

43

**NEW MEMBERSHIP
LISTING**

Welcome to the 3th Quarter 2021 issue of *The Property Manager*!

The global Covid-19 pandemic has yet to reside and now becoming endemic. The Delta virus variant is more infectious and is mainly transmitted by close contact and respiratory droplets which are released when an infected person coughs, sneezes or talks. It can also be spread through virus aerosols in the air under certain settings, such as enclosed environments which are poorly ventilated. Hence, it is critical to mitigate this risk by improving ventilation and air quality in indoor environments. For the benefits of members, we have provided in this issue *Guidance Note on Ventilation and Indoor Air Quality (IAQ) for Residential Setting During Covid-19 Pandemic* published by Department of Occupational Safety and Health, Ministry of Human Resources.

Objective of this guidance is to guide public on improving ventilation and indoor air quality in residential settings to reduce the risk of airborne transmission. It should be accompanied with the latest Safe Operating Procedures (SOP) established by *Majlis Keselamatan Negara (MKN)* and other key measures to reduce Covid-19 transmission, such as requiring building occupants to practice physical distancing, wearing masks, frequently washing hand, and carrying out regular disinfection of high-touch points within the building.

Are pursuing the various legal options in the recovery of outstanding charges the best way to resolve the outstanding payment of maintenance and sinking fund charges by JMBs and MCs of strata properties? Is there a non-adversarial method to resolve the problem? Read up on article, "*Strata Living: Harmony and Maintenance*" by Mr Roshan Kshatriya, former Head of Legal & Claims Division, Tribunal of Housing and Strata Management, MoH&LG.

Climate change has brought about weather changes that significantly affects the urban built environment. The article on "*Climate change and building resiliency*" suggest the need for resiliency in building design and in the community.

Asset managers and property managers play different roles in the management of direct property portfolios. Adequate and effective communications among these two professionals in the same team are necessary to ensure the objectives of the property portfolio are achieved. The article titled "*Enhancing communications between asset managers and property managers*" illustrates the possible ways effective communications can be carried out.

The Covid-19 pandemic has changed the way we think about conventional work settings and no doubt put the spotlight on working from home. Talent Corporation Malaysia (TalentCorp) and United Nations Development Programme (UNDP) Malaysia had prepared a report "*Making Flexible Work, Work: Towards Better and More Inclusive Work-Life Practices*" that compiles critical findings and highlights key lessons derived from the Life at Work and Work-From-Home (WFH) surveys conducted by both organisations to support the successful implementation of Work-Life Practices (WLPs) and Flexible Work Arrangements (FWAs) in Malaysia.

Read on to discover how to make the best of what you have in these uncertain times. Happy reading! ■



Professor Sr Ts Dr. Ting Kien Hwa

FMIPFM, FRICS, FRISM, MPEPS

*Founding Editor & Editor-in-Chief
The Property Manager*



From the Desk of The President



Assalamualaikum and Salam Sejahtera, Valued Members.

It gives me great pleasure to welcome you to our Vol.3 No.3 issue of *The Property Manager* journal and 2nd publication for year 2021.

The year 2021 continues to be even more challenging with the Coronavirus Covid-19 pandemic becoming worse with record high infection figures. This is in spite of the national vaccination exercise being carried out rigorously and the Movement Control Order (MCO) SOP being strictly implemented. The arrival of virus variants has resulted in those already had their vaccination jabs being infected and some sadly were fatal.

Our members were also not spared. Apart from earlier issues of struggling to be recognised as Essential Service provider, we also received reports of property management personnel being infected and the colleagues became close contact persons leading to them being either quarantined or even hospitalised.

Management offices had to be closed for several days and staff on medical leave had to be replaced temporarily. Personnel was also required to carry out swab tests repeatedly to ensure that they are not infected. This has led to increased cost and more than often, disruption in the management. Some locations were experiencing low collection rate due

to owners facing financial difficulty and unable to pay for operating expenses.

These challenges are real and are some of the issues faced by our members during this pandemic period. Financial difficulty due to the higher costs and late payment by clients is also one of the issues that most members have to address. It is not easy to overcome this but somehow, it is something that has to be resolved carefully in order to sustain the business.

Austerity strategy by prioritising expenditure and reducing operational cost is the order of the day. Principals of property and facility management companies must be able to have good financial management and ability to have financial support to sustain business.

Service delivery quality and good customer service must also be maintained at a good level of standard in order to retain contracts. With high staff turnover being experienced in the industry, it is important for

companies and also workforce to start reviewing the appropriate strategy for staff retention and also proper training to ensure consistent quality in delivery.

During these challenging times, MIPFM has lost a key Committee Member, Allahyarham Sr Faiyaz Ahmad Maruf who passed away on 18 August 2021 due to stroke. Allahyarham Sr Faiyaz will be remembered as a jovial person who was kind hearted and always willing to help others. May Allah SWT bless him with Jannah.

Moving forward, with the pandemic still raging and certainty on the Government following the naming of the new Cabinet of ministers, we hope and pray that the economy slowly move towards recovery and the situation will improve soon. In the meantime, please stay safe and continue to observe the SOP imposed by the Government for our own safety and wellbeing. ■

Sr Haji Adzman Shah Mohd Ariffin
President 2019/2021



STRATA LIVING: HARMONY AND MAINTENANCE

ROSHAN KSHATRIYA

Former Head of Legal & Claim Division
Tribunal of Housing & Strata Management

INTRODUCTION

Future housing in Malaysia will be predominantly residential stratified property development. High urbanization rate and scarcity of land in Kuala Lumpur, Johore and Penang increase the need for optimal use of land resulting in more apartments and condominium projects. Consequently, strata living has gained popularity since the turn of millennium due to its affordability and ease of access to leisure and recreational facilities. The affordability and preferred lifestyle of the millennia in resort living with access to facilities also contributed to the growth of stratified residential properties.

A distinct characteristic of stratified living is to live in close proximity and a need to share utilities and facilities amongst the strata residents or proprietors. Due to the many complicated building services and building height, a crew of professionals are needed as compared to landed properties. Some maintenance of building services are mandatory by the authorities (e.g. electrical system by the Suruhanjaya Tenaga (ST) and lifts by the Jabatan Keselamatan dan Kesihatan Pekerjaan). The maintenance expenses are meted from the collection of maintenance and sinking funds from the residents or its occupants.

One of the peculiar challenges in a stratified community is the failure to forge harmonious living amongst the residents or occupants. It could be easily triggered when there is delay in building maintenance or disrepair to the building services. It will lead to a boiling point when there is poor

collection or non-collection of maintenance funds and contribution to sinking fund.

In 2019 there were 5,675 cases filed in the Strata Management Tribunal (SMT). Exactly 93.23% of the type of cases filed were for non-payment of maintenance charges and contribution to Sinking Fund¹. How significant does it imposes on stratified dwellings in Malaysia?

This paper seeks to examine:

- (a) the correlation of maintenance services in stratified buildings and its wellbeing;
- (b) the importance of collection of maintenance charges and contribution to sinking funds in stratified buildings; and
- (c) the problem contributing to low collection and non-payment of maintenance charges and contribution to sinking fund and its consequences.

LAW RELATING TO STRATA PROPERTIES

The law governing strata management is the Strata Management Act 2013 (SMA), Strata Management (Maintenance and Management) Regulations 2015 (SMR), Strata Management (Tribunal) Regulations 2015 (SMTR) and the Strata Management (Compounding of Offences) Regulations 2019 (SMC). The SMA is read and construed with the Strata Titles Act 1985 (STA) so far as the provisions

of the STA is not inconsistent with SMA and its regulations.²

The Strata Management Act 2013 [Act 757] (SMA) came into force on 1st June 2015 to enhance and update the governing of strata management of stratified buildings and thus replacing the Building and Common Property Act 2007 [Act 663]. The SMA is equipped with the adversarial process as well as the non-adversarial process that is the negotiation process adopted by the Tribunal to solve conflicts between the residents or proprietors in a stratified building. A lot of conflict arises between the residents or proprietors and the management bodies which originated from low collection or non-collection of maintenance charges and contribution to the sinking fund.

CORRELATION OF MAINTENANCE SERVICES IN STRATIFIED BUILDINGS AND ITS WELLBEING

Unlike landed properties, occupants in stratified buildings live in close proximity with each other. Sharing of building services and utilities is essential. High-rise buildings must be equipped with more complicated building services which amongst others may include complex electrical system, firefighting system, vertical transportation systems, plumbing systems, security systems, waste disposal system and cleanliness in common areas. All of these facilities and services must be operated efficiently and professionally by building managers, technicians and service providers in order to sustain its functionality, safety, hygiene, compliance to the related laws and regulations to ensure the well-being living in the strata communities.

Cash flow is the life fluid of operations of these services, be it in commercial or residential stratified premises. Occupants pledge to contribute to a common maintenance fund by entering into a Deed of Covenants for maintenance upon the execution of the Sale and Purchase Agreement (SPA). A list of common utilities is also outlined in the Fourth Schedule of the SPA. A building manager will be appointed from the date of the delivery of vacant possession of the stratified parcel by the developer

prior to the formation of the joint management body (JMB). The purpose of collecting the maintenance funds is in order to support the expenses of maintenance and daily operations of the strata housing and the common facilities accordingly. Subsequently, appointment of property managers will be done by the JMBs under the SMA after the first Annual General Meeting.

As stated above, the SMA provides provisions for the management of the common maintenance funds, the authorities of appropriate committees and the spending of the funds which are subject to the decision of various meetings and resolutions. Since the property management involves multiple professionals and service providers, cash flow management of the maintenance fund and the sinking fund is critical to ensure the success of building maintenance of the stratified properties.

One of the key objectives in property management is to enhance the property values with sound maintenance and continuous upgrading work. There are two (2) major approaches to building maintenance, namely 'Corrective Maintenance' and 'Preventive Maintenance'. The former is a reactive approach in which the Management takes remedial actions when there is a breakdown. The latter involves scheduled inspection and close monitoring of various plants and structures with a list of checklists and meter readings in order to collect data of the power and water usage, irregular spike in use and abnormality. It seeks to improve customer satisfaction by preventing unforeseeable breakdown and hassle. During the planning for Preventive Maintenance, scheduled upgrading work, inspection, refurbishment and replacement of plants, utilities and elements are outlined, budgeted for and executed throughout the life cycle of the buildings in order to optimize the service lifespan and customer satisfaction of the occupants. Without satisfactory collection of common funds, all these plans and remedial actions for the well-being of the buildings and occupants cannot be realized.

According to a survey done by Malaysia Institute of Property and Facility Managers (MIPFM) in 2016, 70

percent of property management of apartments and condominiums is “below par” (1 to 2 rating out of 5). The most common consequences of poor maintenance include breakdown of mechanical, electrical and plumbing systems that result in inconvenience, poor safety and loss of access to necessity like water and electricity, widespread leakages and cracks. Below are examples of information with regards to the consequences of poor building maintenance due to poor collection of maintenance funds:



Figure 1: Burst water tank in a 4-storey shopping mall in Kuantan in 2017

- (i) **2nd of May, 2017**, a burst water tank in Pangsapuri Cheras Utama sent down collapsed concrete slab crushed to the ground and damaged a Proton Wira and a motorcycle without injury to the pedestrian;³
- (ii) **24th of July, 2017**, another bursting water tank injured at least four people after a water tank on the fourth floor of a shopping complex in Kuantan broke, forcing gallons of water and debris to fall to the ground below (refer Figure 1)⁴; and
- (iii) **25th of July, 2017**, residents of Block 5 of the Miharja Apartment in Cheras, Kuala Lumpur, have been forced to use the stairs most of the time as its lifts have malfunctioned (refer Figure 2)⁵.



Figure 2: Apartment maintenance: A lift out of Cheras misery

These cases are incidents representing a tiny tip of an iceberg of the poor maintenance problems in low and middle cost apartments and condominium in Malaysia. Both cases with burst water tanks occurred due to poor maintenance caused by insufficient maintenance funds. Burst water tanks not only endanger the general public due to collapsed walls but it also paralysed the operations of the buildings and result in negative publicity. Injury to four pedestrians and vehicle in this case will inevitably subject the management into investigations by the authorities and lawsuits.

Without access to vertical transportation systems, the elderly, the sick and the handicapped can hardly manage their daily chores, not to mention about access to healthcare services. To this group

of people, vertical transportation system is related to the basic need for livelihood and health. Another critical need of building maintenance with constant outflow of cash is electrical safety. Annual inspection by visiting Professional Engineers for renewal of certificate of registration by Suruhanjaya Tenaga (ST) is mandatory.

According to the ST Regulation 66 & 67, an inspection by a Competent Person (Electrical Services Engineer; Electrical Engineer or Electric Supervisor) is needed at least once a month for an installation not exceeding 600 volts. Installations between 600 volts and 11,000 volts and between 11,000 volts and 13,200 volts will require two and four visits per month, respectively. Besides, a full time charginan is needed for maintenance of plants and electrical devices according to the SMA and the regulations.

Nevertheless, critical devices like residual current devices (RCDs) which act as protective relays that switches off the electricity automatically when there is a fault, helps to prevent not only outbreak of fire or electrocution but can also serious injuries and help save lives. It offers a level of personal protection that ordinary fuses and circuit-breakers are unable to provide. The significance of this device cannot be underrated, which is why according to sub-regulation 110(4) Electricity Regulations 1994, any protective relay and device of an installation will need to be checked, tested and calibrated by a competent person at least once every two (2) years, or at any time as directed by the ST⁶. Without healthy collection of maintenance funds, appointment of competent persons and regular maintenance for these electrical utilities will not be possible and any adverse incidents will be risky and detrimental to the safety of the buildings and occupants thereof.

THE IMPORTANCE OF COLLECTION OF MAINTENANCE CHARGES AND CONTRIBUTION TO SINKING FUNDS IN STRATIFIED BUILDINGS

Under the SMA, in order to support the expenses of maintenance and daily operations and to meet actual and expected capital expenses, the maintenance and the sinking funds are created. Maintenance charges and contribution to sinking fund are an essential part of strata management. Funds in maintenance account are used to finance the daily maintenance expenses, wages of service providers and salary of the management team. Sinking funds are kept for major refurbishment work, replacement of lift and major plants⁷. The purchaser or proprietor will pay the maintenance proportion according to the allocated share units of each parcel and the contribution to the sinking fund shall be a sum equivalent to ten per cent of the charges.

The SMA sets out provisions to promote certainty of share units from the early stages of development, outline a greater and complete check and balance on developers in maintaining and managing a strata property and to provide a better definition of the respective roles and responsibilities during the four

(4) stages of management by the developer, joint management body (JMB), management corporation (MC), subsidiary management corporation (Sub-MC) respectively and individual strata unit owner.⁸

Maintenance charges are calculated in proportion of share units. The share unit is based on the concept that the more share units you own, the more you pay, the more voting rights you have and the more representatives you may nominate to be elected as a committee member. Share units are important to strata property owners for three reasons that is:

- they determine the amount of charges payable;
- they determine the number of votes on a voting by poll; and
- in respect of an owner of two or more parcels, they determine the number of individuals that may be nominated by him for election as a committee member subject to a threshold.⁹

It is important to understand the duties and responsibilities of different stage of the managing bodies and the residents and proprietors in the respective management period with regard to payment of maintenance charges and contribution to the sinking Fund. The duties and responsibilities are as described below:

Developer's Management Period

Schedule H of the Sales & Purchase Agreement stipulates that:

1. *'From the date the Purchaser takes vacant possession of the said parcel, the Purchaser shall pay to the Developer the charges, and the contribution to the sinking fund for the maintenance and management of the building or land intended for subdivision into parcels and the common property in accordance with the Strata Management Act 2013.*
2. *The Purchaser shall pay the charges, and the contribution to the sinking fund for the first four*

months in advance and any payment thereafter shall be payable monthly in advance.'

Thus, the SMA mandated the purchaser and developer to pay the maintenance charges, and contribution to the sinking fund during the developer management period.¹⁰ The purchaser will pay the maintenance proportion according to the allocated share units of his parcel and the contribution to the sinking fund shall be a sum equivalent to ten per cent of the charges. However, the developer is equally bound to pay for the charges and contribution to the sinking fund, in respect of those parcels in the development area which have not been sold and the sum being equivalent to the charges, and contribution to the sinking fund, by the purchasers to the developer had those parcels been sold. It is important for the developer at this stage of management to begin the collection of the maintenance and sinking fund. As Real Estate and Housing Developer Association (REHDA) emphasizes, it is the developer's most important task. The emphasis is with merit as without sufficient funds, the maintenance of the common property and the facilities in the strata development will deteriorate.

JMB Management Period

Upon the first Annual General Meeting is called by the developer and the JMB is formed, the JMB is then entrusted with the duty to maintain and manage the building and the common property of the strata development area.¹¹ It is important to appreciate that the joint management committee (JMC) which is selected to carry out the function of the JMB will manage and maintain the building and the common property and keep it in a state of good and serviceable repair for the benefit of all the strata owners and residents. The JMB is empowered amongst others to determine and impose the maintenance charges in proportion to the allocated share units of their respective parcels and the contribution to the sinking fund. Charges collected shall be deposited into the maintenance account for the purpose of the proper maintenance and management of the

buildings or the common property and not for any other purpose. The JMB too has to ensure that the developer pays the maintenance charges and contribution to the Sinking fund for the unsold units from that period onwards. Similar to the developer's management period, there is a duty imposed by the SMA on the parcel owners to pay the charges and contribution to the sinking fund.¹²

Management Corporation (MC)

Before the first AGM to create MC

Part V of the SMA imposes the requirement on the developer to determine the charges in proportion to the share units assigned to each parcel and the amount of the contribution to the sinking fund to be paid which is a sum equivalent to ten percent (10%) of the charges and the parcel owners or proprietors shall pay the charges, and contribution to the sinking fund.

After Management Corporation created and Subsidiary Management Corporation

At this stage the responsibility to properly maintain and manage the subdivided building or land and the common property and keep it in a state of good and serviceable repair falls upon the MC.¹³ The MC is responsible to determine, impose and collect the charges from the proprietors in proportion to the share units or provisional share units of their respective parcels or provisional blocks as well as to determine and impose the contribution to the sinking fund of an amount equivalent to ten percent of the charges. The subsidiary MC has the same duties, powers and responsibility as the MC above.¹⁴

LOW COLLECTION AND NON-PAYMENT OF MAINTENANCE CHARGES AND CONTRIBUTION TO SINKING FUND AND ITS CONSEQUENCES

Having stated the duties and responsibilities of the managing bodies in their respective managing periods with regard to collection of maintenance and contribution to the sinking fund from the parcel owners, the law has provided sufficient provisions to

enable the management to obtain the payment from the defaulting parcel owner by first giving a written notice demanding payment of the sum due within the period as may be specified in the said notice which shall not be less than fourteen days or two weeks from the date of service of the notice as determined by the management.¹⁵ The notice of demand shall be in Form 11 or Form 20.¹⁶ It is worth to be noted that the non-compliance with the notice of demand per se amounts to an offence and is punishable with fine or imprisonment.¹⁷

If the purchaser or proprietor fails to pay the maintenance charges and the sinking fund contribution, there are a few options open to the managing bodies to recover the said sum owing that is either to file a claim in court to obtain a judgement or a claim in the Strata Management Tribunal (SMT) for an 'Award' or alternatively obtain a warrant of attachment of movable property from the Commissioner of Building (COB).¹⁸

The adversarial process is evident from the above as the adversary party has the equal right to appear before the court or Strata Management Tribunal (SMT). However, there exist a non-adversarial option as provided in the SMT. Before we proceed with the non-adversarial option provided in the SMT, it is pertinent to understand the concept of the warrant of attachment of movable property and its impact on harmonious strata living.

The Warrant of Attachment of Movable Property

The warrant of attachment of movable property is issued by the Commissioner of Building (COB) upon a sworn application in writing filed by the developer, any member of the joint management committee or by any member of the management committee of the management corporation authorising the attachment of any movable property belonging to the defaulting parcel owner.¹⁹ The COB, who is the administrator of the SMA,²⁰ are indeed exercising their legally given powers under the SMA when it authorises the attachment of the movable property of the defaulting parcel owner. As earlier mentioned,

the purchasers or proprietors are duty bound to pay the charges and contribution to the sinking fund in respect of his parcel to the managing body for the maintenance and management of the buildings and the common property in a development area. If the sum due still remains unpaid after 14 days or two weeks from the date of attachment, the movable property or such portion of the property attached as may be sufficient to realize the sum shall be auctioned through auction conducted by the managing body under the supervision of the COB²¹. Figure 3 are examples of warrant attachment of movable property.²²



Figure 3: Warrant attachment of movable properties
(The Star 5/9/2017)

Residents too however must be aware of their rights under the SMA 2013. For instance, if a parcel owner disputes the legality of the attachment, he may within 14 days of the date of attachment, apply to the Magistrate's Court for an order to release the property wherein the court will then decide on the matter.²³ In the event that the auction is proceeded upon, the resident should be made aware that they are entitled to be paid of any surplus or the return of any property unauctioned.²⁴

The House Buyers Association (HBA) holds a reservation on this approach however. They view that whilst the objective behind the seizure and subsequent public auction were meant for the betterment of the common living environment, it would consequently inflict humiliation on the defaulting parcel owner and at the same time flagging the question whether there was any limitation to the power to seize and sell the movable property under the SMA.²⁵ The element of humiliation would be detrimental to the relationship amongst the strata owners. REHDA is of the opinion that when residents engage with each other in a positive and constructive manner, they will foster familiarity, understanding and trust amongst each other. When people are no longer strangers to each other and know and understand one another, then the potential for conflict or misunderstanding is greatly reduced. Parcel owners will understand and appreciate better of the purpose of the managing bodies imposing charges and contributions for the funds. This is essential to a successful strata property's community.²⁶ Does the warrant of attachment of movable property facilitate positive engagement? At the end of the day, the said warrant would be able to determine the problem but it lacks the non-adversarial problem-solving nature that exist in the administration of the Strata Management Tribunal.

Unlike the Debtors Act 1957, certain types of movable property are expressly excluded for example the wearing apparel, cooking vessels, beds or bedding of the judgment debtor, his wife and children, and the tools and implements of his trade to the value of two hundred ringgit in all. The SMA does not categorize the movable property items that can be seized. In the absence of any specific guidelines, religious items and basic necessities for living like rice cookers, gas tanks, water bottles or kettles are bound to be seized. On 5th Sept 2017, the Malay Mail published an article entitled 'Ministry begins enforcing Strata Act with condo raids, seizure over unpaid maintenance fees' which reported that amongst the items seized included flat-screen televisions, **rice cookers, gas tanks** and smartphones. To this, the HBA has strongly recommended that gas tanks, rice cooker, stove,

pot, bed, cutleries, clothing, utensils are items that ought not be subject to be seized.²⁷

Attachment of movable property belonging to a bankrupt defaulting parcel owner too raised an unresolved issue. Thus, it is advisable for the managing body and the COB to ensure that the parcel owner is not a bankrupt as the property will become divisible among his creditors and shall vest in the Director General of Insolvency. One must be cautious not to auction off property vested in the Director General of Insolvency.²⁸

Strata Management Tribunal (Tribunal)

The Tribunal was established under the SMA 2013. Its jurisdiction is specified in Part 1 of the Fourth Schedule and where the total amount in respect of which an award of the Tribunal is sought does not exceed two hundred and fifty thousand ringgit and it has the jurisdiction to hear a claim for the recovery of charges, or contribution to the sinking fund, or any amount which is declared by the provisions of the SMA as a debt.²⁹ The Tribunal has the power to make the following awards³⁰:

1. *The Tribunal may order a party to the proceedings to pay a sum of money to another party.*
2. *The Tribunal may order the price or other consideration paid by a party to be refunded to that party.*
3. *The Tribunal may order the payment of compensation or damages for any loss or damage suffered by a party.*
4. *The Tribunal may order the rectification, setting aside or variation of a contract or additional by-laws, wholly or in part.*
5. *The Tribunal may order costs to or against any party to be paid.*
6. *The Tribunal may order interest to be paid on any sum or monetary award at a rate not exceeding eight per centum per annum.*

7. The Tribunal may dismiss a claim which it considers to be frivolous or vexatious.
8. The Tribunal may make any order of which it has the jurisdiction to make under Part 1 of this Schedule or any other order as it deems just and expedient.
9. The Tribunal may make such ancillary or consequential orders or relief as may be necessary to give effect to any order made by the Tribunal.

In a case for non-payment of maintenance and contribution to the sinking fund, the SMT may, amongst others orders or give an award ordering the defaulting purchaser to pay a sum of money to the developer or JMB or MC. A frequent delay to collect the charges may also arise when a purchaser or proprietor being a company, is wound-up but the management body is unsure of the appropriate method to recover the unpaid charges and contribution to the sinking fund. This matter was eventually determined by the decision of the Federal Court in the case of **DUBON BHD V. WISMA COSWAY MANAGEMENT CORPORATION [2020] 6 CLJ 589**.

In this case, a company was the beneficial owner of a stratified dwelling sub-lot but was wound-up. The liquidator requested the developer to execute instruments to transfer the parcel into the Company's name in order to enable the liquidator to sell off the parcel. However, there were debts owed to the Developer and the Management. The issue was whether the sum owed to the developer and management corporation by the wound-up proprietor should rank equal with all unsecured creditors? It was held that the management body do not have a preference as a secured creditor over the assets of a company in liquidation and it would suffice for the recovery to be affected by way of filing of a proof of debt form in the wound-up court. The relevant portion of the judgement is reproduced below:

“To reiterate, the leave question reads as follows: Whether the right of a Joint Management Body or a Management Corporation to collect and receive

payment from a proprietor under sections 33 and 77 of the Strata Management Act 2013 respectively, gives it a lawful preference as a secured creditor over the assets of a company in liquidation? (emphasis added)

For the reasons we have enumerated above, we had no hesitation in answering the sole leave question in the negative.

It is apparent from our analysis above that the use of the word ‘guaranteed’ in the SMA ensures and assures straightforward recovery of the debt claimed by the MC. The fact of the existence of a debt is easily established and payment due ‘guaranteed’. What may well remain in issue is limitation. That issue is a matter of law and may be resolved without difficulty. It is certainly not a complex issue that requires adjudication in a court of law. We failed to see any exceptional issue in this case that precluded the respondent from filing a proof of debt in the wound-up court.”

As stated earlier, there exists a non-adversarial method adopted by the SMT which is the negotiation between disputing parties. Regulation 18³¹ gives the Secretary of the Tribunal the power to decide and classify the claim either for negotiation or hearing. If the secretary decides it should go for negotiation then the parties will be given a Form 5 (Notice of Negotiation) to attend the negotiation process at a specific date, place and time. Should the parties reach a solution amicably with the assistance of the Secretary or the President, the agreement will be recorded in an award. However, in the event that the parties fail to reach agreement, the matter will be fixed for hearing and a Form 4 (notice of hearing) will be sent informing the parties of the hearing date.

The importance of this provision should not be underestimated. Foreign jurisdiction such as Australia and Singapore have successfully integrated non-adversarial method into their system. There exists an opportunity to understand the problem that arose and allows both parties to arrive at a settlement amicably. On 2nd August 2019, the Star press

reported that at an apartment, the execution of the warrant of attachment of movable property was halted due to negotiations between the managing body and the defaulter, and the defaulters paid up the defaulting sum. Harmony is vital in strata living. Hauling up your own neighbours to answer in a Tribunal hearing without an attempt to solve it amicably beforehand through the negotiation process often is the root cause for animosity among the parties and the problem of non-payment may keep repeating itself. However, despite of the expressed provisions, the Tribunal which was operational since 1st July 2015, had only utilised the negotiation process twice. This is despite the fact that the non-payment of maintenance charges and contribution to the sinking fund forms the largest percentage amongst the type of cases filed in the Tribunal.

Dr. Faizal Kamarudin in his paper entitled "Reconciliatory and transformative approaches for the strata management"³² stated that "..... *The analysis of the concept of strata titles systems in this article showed that strata titles systems are a unique form of home ownership as they are based on the concept of self-governance. Such a concept requires members to develop a strong sense of community, civility, respect for privacy and rights of neighbours, a sense of belonging, mutual trust and common responsibility. The negative effects of disputes and conflicts may damage neighbour relations and distort the development of a sense of community. According to Toohey and Toohey, 'a community with entrenched conflict and deteriorating personal relationships is less likely to competently take responsibility for self-management or easily self-resolve future conflicts. Thus, it is proposed that the tribunal takes a comprehensive, integrated, therapeutic, humanistic and creative problem-solving approach to assist the disputing parties in resolving strata disputes. This can be achieved by the tribunal through the establishment of a well-structured negotiation process that targets mutual settlement, active engagement between the presiding member of the tribunal and the disputing*

parties; the tribunal taking a more inquisitorial role in resolving the disputes; the tribunal identifies the actual needs of the disputants beyond strict legal and individual rights, duties and liabilities; and finally the tribunal may provide educational experience to the disputing parties so that upon understanding the whole concept of strata living, they may then become effective transformative agents in their own strata neighbourhood."

The failure to increase the utilisation of the negotiation provisions effectively is partly due to the Ministry of Housing and Local Government (KPKT) Key Performance Indicator (KPI) which does not clearly resonate with the ambit of the SMA. Section 117 of the SMA provides that the SMA shall make its award without delay and, where practicable, within sixty days from the first day of the hearing before the Tribunal commences. Although there exists a time line as to when cases should be completed, the section takes into account the complexity of the strata management matters and does not make it mandatory to end it within 60 days.

The KPKT however, had set out its own KPI for completion for the disposal of strata management cases that are within 150 days from the date of filing of the case. The extent of the miscoordination and implementation of the KPKT's KPI against the working process of the Tribunal as provided in the SMA perhaps is best described by Table 1 of processes as extracted from the FAQ of the Tribunal.

From Table 1, at FAQ 12 the cases are fixed for hearing automatically. Thus, the provisions for negotiation under Regulation 18 of the SMR has been rendered redundant. Note that the number of days given to serve the relevant documents by each party is 42 days. There is a balance of 108 days left for the Tribunal to litigate the dispute. On the day of hearing, adjournments may occur due to unforeseeable conditions affecting the parties or the Presidents who preside over the hearings who are mainly advocates and solicitors, appointed by the Minister, and may have their own other professional

commitments which needs to be given priority over the SMT's proceedings. This may in turn result into SMT cases to be adjourned. The fact that the parties at the SMT proceeding is precluded from being represented by practising lawyers too would

contribute to affect the efficacy to dispose-off the SMT cases. In the quest of ensuring the disputing parties were accorded a fair opportunity to each party's case, the President presiding over the case too may exercise his discretion to grant adjournment.

Table 1: FAQ of Strata Management Tribunal

FAQ No.	Question	Answer
11	Apakah prosedur untuk memfailkan tuntutan di TPS?	<ul style="list-style-type: none"> i. Pihak Yang Menuntut boleh mendapatkan Pernyataan Tuntutan (Borang 1) dan Borang Butiran TPS di kaunter TPPS, KPKT atau memuat turun kedua-dua borang daripada laman sesawang KPKT. ii. Borang 1 hendaklah diisi dan dilengkapi dalam 4 salinan (salinan tambahan diperlukan sekiranya terdapat lebih daripada seorang penentang)
12.	Apakah proses seterusnya apabila Borang 1 difailkan?	<ul style="list-style-type: none"> i. TPS akan memeteraikan Borang 1 dengan dan akan meletakkan tarikh dan menandatangani Borang 1. ii. 2 salinan Borang 1 yang telah dimeterai akan dipulangkan kepada Pihak Yang Menuntut. <ul style="list-style-type: none"> • Satu salinan Borang 1 adalah salinan Pihak Yang Menuntut. • Satu salinan Borang 1 untuk Pihak Yang Menuntut serahkan kepada Penentang. iii. Notis Pendengaran (Borang 4) akan dikeluarkan kepada Pihak Yang Menuntut. Borang 4 tersebut akan menyatakan tarikh, masa dan tempat pendengaran.
13	Apakah kaedah penyerahan Borang 1 kepada Penentang?	<p>Pihak Yang Menuntut perlu menyerahkan Borang 1 kepada Penentang dalam tempoh 14 hari dari tarikh Borang 1 termeterai dikeluarkan oleh TPS. Pihak Yang Menuntut boleh menyerahkan Borang 1 kepada Penentang melalui kaedah-kaedah berikut:</p> <ul style="list-style-type: none"> i. Secara serahan tangan. Contoh bukti penyerahan bagi kaedah ini adalah salinan akuan penerimaan / tandatangan / cop penerimaan / gambar penyerahan dan tarikh penyerahan. ii. Melalui pos berdaftar yang dialamatkan kepada alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Penentang. Contoh bukti penyerahan bagi kaedah ini adalah bukti pengeposan. iii. Melekatkan Borang 1 pada bahagian utama di alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Penentang. Contoh bukti penyerahan bagi kaedah ini adalah gambar Borang 1 dilekatkan di premis tersebut dan tarikh penyerahan.
14	Apakah yang perlu dilakukan oleh Penentang apabila menerima Borang 1?	<p>Dalam tempoh 14 hari dari tarikh Penentang menerima Borang 1, Penentang hendaklah memfailkan Pernyataan Pembelaan dan Tuntutan Balas (Borang 2) dalam 4 salinan di TPS. Pemfailan Borang 2 boleh dilakukan melalui 2 kaedah iaitu:</p> <ul style="list-style-type: none"> a. Pemfailan di Kaunter TPPS, KPKT bersama dengan fi pemfailan sebanyak RM100.00 (kediaman) atau RM 200.00 (komersial / industri) dalam bentuk wang tunai / wang pos / bank draf / kiriman wang atas nama Ketua Setiausaha Kementerian Perumahan Dan Kerajaan Tempatan. <p>Bayaran melalui cek peribadi tidak akan diterima.</p> <ul style="list-style-type: none"> b. Pemfailan juga boleh dibuat dengan menghantar Borang 2 melalui Pos bersertakan dengan fi pemfailan RM100.00 (kediaman) atau RM 200.00 (komersial / industri) dalam bentuk wang pos / bank draf / kiriman wang atas nama Ketua Setiausaha Kementerian Perumahan Dan Kerajaan Tempatan. Bayaran melalui cek peribadi tidak akan diterima. <p>*Penentang hendaklah mengisikan nama Ketua Setiausaha Kementerian Perumahan Dan Kerajaan Tempatan pada wang pos / bank draf / kiriman wang sebelum pengeposan.</p> <p>*AMBIL PERHATIAN bahawa TPS tidak menerima wang tunai melalui pos.</p>
15	Apakah proses seterusnya apabila Borang 2 difailkan?	<ul style="list-style-type: none"> i. TPS akan memeteraikan Borang 2 dengan meterai TPS dan akan meletakkan tarikh dan menandatangani Borang 2. ii. 2 salinan Borang 2 yang telah dimeterai akan dipulangkan kepada Penentang. <ul style="list-style-type: none"> • Satu salinan Borang 2 adalah salinan Penentang. • Satu salinan Borang 2 untuk Penentang serahkan kepada Pihak Yang Menuntut.

16	Apakah kaedah penyerahan Borang 2 kepada Pihak Yang Menuntut?	<p>Penentang perlu menyerahkan Borang 2 kepada Pihak Yang Menuntut dalam tempoh 14 hari dari tarikh Borang 2 termeterai dikeluarkan oleh TPS. Penentang boleh menyerahkan Borang 2 kepada Pihak Yang Menuntut melalui kaedah-kaedah berikut:</p> <ol style="list-style-type: none"> Secara serahan tangan. Contoh bukti penyerahan bagi kaedah ini adalah salinan akuan penerimaan / tandatangan / cop penerimaan / gambar penyerahan dan tarikh penyerahan. Melalui pos berdaftar yang dialamatkan kepada alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Pihak Yang Menuntut. Contoh bukti penyerahan bagi kaedah ini adalah bukti pengeposan. Melekatkan Borang 2 pada bahagian utama di alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Pihak Yang Menuntut. Contoh bukti penyerahan bagi kaedah ini adalah gambar Borang 2 dilekatkan di premis tersebut dan tarikh penyerahan.
17	Apakah yang perlu dilakukan oleh Pihak Yang Menuntut apabila menerima Borang 2?	<p>Sekiranya terdapat Tuntutan Balas dalam Borang 2, dalam tempoh 14 hari dari tarikh Pihak Yang Menuntut menerima Borang 2, Pihak Yang Menuntut hendaklah memfailkan Pembelaan Kepada Tuntutan Balas (Borang 3) dalam 4 salinan di TPS. Pemfailan Borang 3 boleh dilakukan melalui 2 kaedah iaitu:</p> <p>Pemfailan Borang 3</p> <ol style="list-style-type: none"> Pemfailan di Kaunter TPPS, KPKT bersama dengan fi pemfailan sebanyak RM100.00 (kediaman) atau RM 200.00 (komersial / industri) dalam bentuk wang tunai / wang pos / bank draf / kiriman wang atas nama Ketua Setiausaha Kementerian Perumahan Dan Kerajaan Tempatan. <p>Bayaran melalui cek peribadi tidak akan diterima.</p> <ol style="list-style-type: none"> Pemfailan juga boleh dibuat dengan menghantar Borang 3 melalui Pos bersertakan dengan fi pemfailan RM100.00 (kediaman) atau RM 200.00 (komersial / industri) dalam bentuk wang pos / bank draf / kiriman wang atas nama Ketua Setiausaha Kementerian Perumahan Dan Kerajaan Tempatan. <p>Bayaran melalui cek peribadi tidak akan diterima.</p>
18	Apakah proses seterusnya apabila Borang 3 difailkan?	<ol style="list-style-type: none"> TPS akan memeteraikan Borang 3 dan akan meletakkan tarikh dan menandatangani Borang 3 2 salinan Borang 3 yang telah dimeterai akan dipulangkan kepada Pihak Yang Menuntut. <ul style="list-style-type: none"> Satu salinan Borang 3 adalah salinan Pihak Yang Menuntut. Satu salinan Borang 3 untuk Pihak Yang Menuntut serahkan kepada Penentang.
19	Apakah kaedah penyerahan Borang 3 kepada Penentang?	<p>Pihak Yang Menuntut perlu menyerahkan Borang 3 kepada Penentang dalam tempoh 14 hari dari tarikh Borang 3 termeterai dikeluarkan oleh TPS. Pihak Yang Menuntut boleh menyerahkan Borang 3 kepada Penentang melalui kaedah-kaedah berikut:</p> <ol style="list-style-type: none"> Secara serahan tangan. Contoh bukti penyerahan bagi kaedah ini adalah salinan akuan penerimaan / tandatangan / cop penerimaan / gambar penyerahan dan tarikh penyerahan. Melalui pos berdaftar yang dialamatkan kepada alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Penentang. Contoh bukti penyerahan bagi kaedah ini adalah bukti pengeposan. Melekatkan Borang 3 pada bahagian utama di alamat perniagaan, petak atau kediaman yang akhir diketahui bagi Penentang. Contoh bukti penyerahan bagi kaedah ini adalah gambar Borang 3 dilekatkan di premis tersebut dan tarikh penyerahan.

During the course of the trial, questions pertaining to technical or fiscal matter may arise which would warrant for the SMT's technical or fiscal team to examine and submit their reports to the SMT to enable the president to arrive at a fair and just decision. The technical or fiscal team is allowed to submit their report within 60 days from the date of receipt of the instruction. The balance of the KPI days would

stand at 48 days at best for the Tribunal to come and deliver its decision with or without needing to hear testimonies of witnesses as the parties may wish to tender. All of these scenarios indeed may warrant for SMT cases needing a period exceeding 150 days. The SMT should not under any circumstance be rushed to dispose-off proceedings on grounds of complying the Ministry's KPI.

If the SMT were to allow the parties to conduct settlement negotiation first, it may also contribute to adjournment.³³ The settlement negotiation will consume a certain amount of days and if the parties fail to reach amicable settlement,³⁴ the said dispute will be fixed for hearing. Form 4 will be issued which will take another 14 days thus may likely contribute the disposal of the case to exceed the 150 days of the Ministry's KPI. As such, cases are fixed for hearing once it is filed and the Form 4 bearing the date of the first hearing is given automatically on the day of filing thus giving no room at all for a negotiation process, unless pleaded by the parties or the presiding President views it as an option for speedy settlement. Under the whole circumstances, the KPI of the Ministry and the provision of s.117 requirement ought to be

harmonised for the benefit of strata dwellers and the Tribunal is not unnecessarily rushed to dispose-off the cases.

Other Contributing Factors

Bulk Filing

Bulk filing or "Pemfailan Berkelompok" is an approach adopted by the managing bodies against multiples defaulting parcel owners where the cases can reach up to 50 to 60 cases per strata development. Of late, it is common practise for management committees to proceed with bulk filing for maintenance claims in the SMT. When this occurs, it may lead to some complications. Form 1 has a 30-day expiry period whilst when a single case is filed at the SMT, the document will be quickly

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Maintenance: The causes & impact of non-payment

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Defaulter cases account for more than 90% of cases in the tribunals. Failure in the collection of maintenance funds is detrimental to the operations, safety, and functionality of the buildings. Street, Drainage and Building Act 1974 and Strata Management Act 2013 have provisions that the owners and the Management have the duty to upkeep the safety of the buildings.

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processed and returned to the claimant within the same day along with the date of hearing in Form 4.

The Claimant is required to serve on the Respondent within 14 days therefrom. However, when bulk filing is done by the managing bodies, the filings will take time to be processed by the limited strength of the Tribunal staff. Due to the enormous bulk of these types of cases, the managing body may not receive the Form 1 documents right away but within a delay of 3 to 7 days later. Once the managing body receives the return of Form 1, there will be another delay due to the need to prepare to serve on the respondents within 14 days. Notwithstanding of the 3 methods of service as provided under the Strata Management Act and the Regulations made thereunder, the delay in serving of the documents within 14 days is more likely to occur.

During the course of the hearing, it is also common for parcel owners to come to the SMT after receiving Form 4 from the Tribunal but who have yet to receive the Form 1. This compels the President of the Tribunal to adjourn the hearing to enable the parcel owners to be served with Form 1 to prepare and defend the case against them by filing Form 2. These related delays coupled with issues of bulk filings as mentioned above directly frustrates the speedy disposal of the claim by the management bodies to recover³⁵ the indebted maintenance charges and contribution to the sinking fund.

The Agony of Reminders

Another instance that impedes the swift disposal to recover the indebted maintenance charges and contribution to the sinking fund is the adoption of 'reminders to defaulters to pay up'. Whilst the reminder is considered as friendly approach, its indiscriminate usage often stifles the collection process. These reminders are not a legal requirement under the law but rather are purely administrative. An extra 14 days are given to defaulters for the first reminders and may culminate into further delays for subsequent reminders before proceeding to serve Form 11 or Form 20.

Unresolved Questions

Notwithstanding the fact that the parcel owners failed to comply with the provisions for payment of charges despite it is clearly spelt out in the SMA, the management bodies reaction to resort to actions beyond the purview of the SMA as a mean to force the defaulting parcel owner to pay for the maintenance charges and contribution to the sinking fund is unthinkable. Perhaps what hinders parcel owners from discharging their duty under the Act is the manner and conduct of the managing bodies. There are many cases when there is a default, instead of proceeding in the manner as stipulated in the SMA, the management bodies proceed to cut off the water supply to the defaulting parcel. The JMB and MC are creatures of the SMA. Its rights and obligations arise under the SMA. Hence, the recovery of funds from defaulting parties or other related matters governed under the SMA must be in accordance with the provisions of the SMA. There is no rational explanation whatsoever or howsoever for managing bodies not adhering to the legal mechanism to recover the sums due as provided by the Act. There is no slightest provision in Act 757 which provides or suggest to confer the power on managing bodies to disrupt water supply of parcel defaulters. Disruption of water supply is illegal and ultra-vires the SMA.

Non-provision of Building Maintenance

There is a strong correlation of the reluctance of some residents to pay in certain stratified building areas which were due to the poor maintenance of the building. The common question posed is that the charges were not commensurate or justify for the unsatisfactory maintenance service rendered or the non-service thereof. It is to be noted that under SMA, the residents are also entitled to bring a claim against the managing bodies inter alia, concerning the performance or failure to perform their duties under the SMA. In this respect, the COB must ensure parcel owners equally are aware of their rights under the SMA.

Share Units vs. Square Feet Calculation

Issues may also arise and contribute to the delay of payment of the maintenance and contribution to the sinking fund as conflict arises as to whether the charges should be paid on the basis of per square feet or share units. This matter was raised to the Court of Appeal in the case of **EKUITI SETEGAP SDN BHD v. PLAZA 393 MANAGEMENT CORPORATION (ESTABLISHED UNDER THE STA 1985) (2018) 4 MLJ 284**. The court held that it was clear, particularly by reference to s.36(c) of the Strata Titles Act (STA) that there was an express statutory provision on how the maintenance charges should be calculated. It was the share unit that should form the basis of the proportions payable by the defendant of the maintenance charges. The levy based on the area or square foot was not provided for under the STA. Despite of the express and clear provision of s.36(c) and under the SMA, many maintenance bodies are still using the square foot basis in determining the maintenance charges which creates conflict among the residents and ultimately leads to non-payment of the charges as a sign of protest by the parcel owners.

Delay in Registration of Tribunal Award in Court

The process of registering an award in court to enforce the Tribunal's award³⁶ which was not complied is not without its problem. Due to the enormous volume of notice of non-compliance of awards filed in the SMT, the processing of the next course of action to register the award in the civil court would consume time. Delay is inevitable. Once the award is sent to the civil court, the court registry will be burdened with the responsibility to register the various types of the Tribunal's awards.

Incompetent Management

Incompetent management committee does contribute to the funds not being collected properly. They are not conversant with the type of the specified forms to be used to obtain the maintenance charges and contribution to the sinking fund. Very often Form 11 and Form 20 is modified to suit a

specific management and in that process altered the wordings in those forms. Parcel defaulters do not pay up due to the confusion in the wording in Form 11 or Form 20. Even when Form 1 is filed, respondents do not pay up their dues as the amount claimed by the management differs from the unaltered Form 11 or form 20.



The Star 5/9/2017



The Star 30/1/2019

Enforcement

When a case is filed against the parcel defaulter, the SMT may order an award for the defaulter to pay the amount owed which shall be final and binding on all parties to the proceedings. The defaulter must pay the amount owed usually within 30 days, unless otherwise ordered by the Tribunal. If the defaulter fails or refuses to comply with the said award, it amounts to a non-compliance of the award³⁷. The managing body will then file a notice of non-compliance in the SMT whereby the SMT will register the award in the civil court and the award shall then be deemed a

THE PROPERTY MANAGER

court's order. When the registered order is returned, the managing body will have two course of actions.

Firstly, the managing body can enforce the registered award in the civil court³⁸ and secondly, since the non-compliance of an award made by the SMT is an offence under section 123 of the SMA, the COB may prosecute the defaulter in court whereby the parcel defaulter will, upon conviction be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or both.

It's worth to be noted that most managing bodies will not opt to go through the hassle of going to court to enforce the Tribunal's award. The managing bodies will rather rely on the COB to prosecute the defaulters. It must be understood that the prosecution initiated by the COB on the non-compliance of the SMT award is not for obtaining the maintenance charges for the managing bodies but to punish the parcel defaulter of the various offences committed under s.123 of the SMA. There are approximately 39 offences under the SMA to ensure that the objective of self-governance by the managing body is achieved.³⁹ The SMA laid out

comprehensive provisions for the administration of stratified residential properties but if the managing bodies are unable to comply due to poor cash flow in the collection and contribution of the maintenance and sinking funds, it will be futile and may lead to major defects to the building and common property which threatens the safety and health of strata unit residents and proprietors.

CONCLUSION

In conclusion, the quality of life and well-being in strata communities is strongly linked to the due collection and contribution and the management of the maintenance and sinking fund. The adverse impacts of poor maintenance may lead to loss of life, health and well-being of the occupants. Besides, the ramification of failure to execute due maintenance and improvements may cause severe and irreversible damage to the buildings. The managing bodies, the KPKT, COB and the SMT should continue to inculcate awareness on the importance for strata parcel owner or occupiers to honour their pledge to pay and contribute to the maintenance and the sinking funds in order to preserve and sustain the building for their safety, harmony living and well-being. ■



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CLIMATE CHANGE AND BUILDING RESILIENCY

KUAN YOU WAI

INTRODUCTION

Climate change, a topic debated hotly by the presidential candidates in United States of America recently, has been a common subject for discussion in the broadcast and media for the past decades. It is also a hot topic of debate among the world leaders, NGOs and young activists against climate change like Ms Greta Thunberg, a Swedish environmental activist who addressed the United Nations, US Congress and UK Parliament pertaining to the awareness and concern to adversity of climate change. On September 2019, she led the biggest climate strike known as “Global Week for the Future” that spanned across 4,500 locations in 150 countries (refer Figure 1).



Figure 1: Global climate week

Source: <https://globalclimatastrike.net/>

Unlike other countries, Malaysia is a blessed country situated away from the “Pacific Ring of Fire” - the earthquake belt. Malaysia is also blessed against tropical cyclones which bring pervasive damage to East Asia every year. Although the tail effect of tropical cyclone with reduced impacts hit Malaysia

most of the time, Sabah suffered from two (2) direct hit of tropical cyclones, namely Tropical Storm Greg in December, 1996 and Typhoon Vamei in December, 2001 with devastating damages.

CLIMATE CHANGE AND GREENHOUSE EFFECTS

Nevertheless, due to the increasing global warming caused by greenhouse effects, the frequency and intensity of natural disasters have brought in more precipitation, higher sea level, stronger heat waves and wind. It is a phenomenal increase in the average surface temperature of earth due to the exponential increase in the release of greenhouse gases to the atmosphere in the past century. These gases include carbon dioxide, methane, nitrous oxide and water vapor. The gases are derived primarily from the combustion of fossil fuel for power generation, agricultural and industrial activities. Vapor which makes up 60% of these gases, is the major component of greenhouse gases. Greenhouse gases possess high thermal capacity which enables them to retain more heat as compared to other gases causing an increase in average atmospheric temperature. The consequential impacts of global warming to the built environment and buildings include more flash floods due to heavier rainfall, occasionally uplifted roofs due to stronger winds. Additionally, the wind velocity has also increased as a result of urban heat island effect and density of high-rise buildings in the urban areas (refer Figure 2).

On October 12, 2020, United Nations general secretary special representative, Mr Mami Mizutori announced

his report “The Human Costs of Disasters 2000- 2019”, reported that extreme weather caused by climate change has resulted in at least 7,348 major disasters that had occurred between 2000 and 2019, claiming 1.23 million lives, affecting 4.2 billion people and costing the global economy some \$2.97 trillion. The report relied on statistics from the Emergency Events Database, which recorded all disasters that kill 10 or more people, affect 100 or more people or result in a state of emergency declaration. According to the data, Asia has suffered the highest number of disasters in the past 20 years with 3,068 disasters, followed by the Americas with 1,756 and Africa with 1,192. Asian countries like China, India and Bangladesh were highlighted in the report due to the high risks against flood and storm in the foreseeable future (Climate change triggers disasters, threaten millions - UN, Deutsche Welle, Germany, 12 Oct 2020).



Figure 3: Freak storm lashes Melaka, causing property damage, injuries

Source: <https://www.thestar.com.my/news/nation/2020/08/11/freak-storm-lashes-melaka-causing-property-damage-injuries>

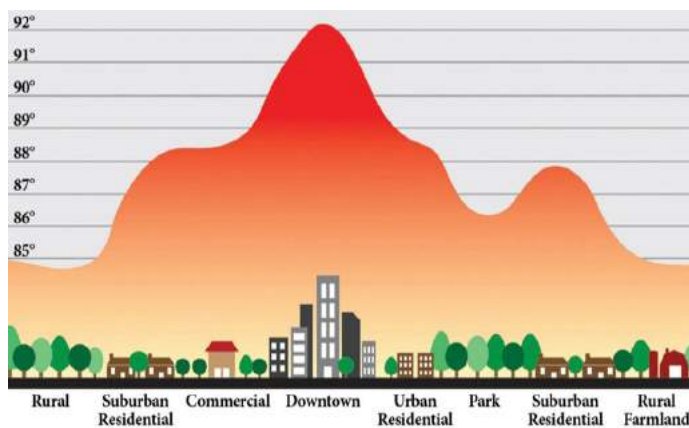


Figure 2: Heat island effects

Source: <https://www.greenroofs.com/2020/01/24/what-can-we-do-about-the-urban-heat-island-effect/>

TROPICAL CYCLONES IN MALAYSIA

The impacts of global warming have been experienced in our countries particularly in the Northern and Eastern Peninsular Malaysia and Sabah since the past decade. Strong wind, storm and flood has been disrupting our society and damaging buildings every year (refer Figure 3). The following is a list of storms linked to climate changes that occurred in Malaysia recently:

- 29 Oct 2020, “Over 80 houses in Kuala Besut damaged by storm”, Malay Mail online
- 11 Aug 2020, “Freak storm lashes Melaka, causing property damage, injuries”, The Star online
- 13 Sep 2019, “Strong winds, heavy rains hit Sabah”, The Star online
- 10 August 2019, “Typhoon Lekima behind Friday’s disastrous storm in northern states”, New Strait Time online
- 9 Aug 2019, “Thunderstorm wreaks havoc in Langkawi”, The Sun Daily online
- 8 November 2019, “Penang caught in the middle – TWO typhoons affecting the state this weekend”, The Rakyat Post online
- 10 August 2018, “Freak storm hits Penang again”, The Star online
- 22 December 2017, “Tropical Storm Tembin to pummel eastern Sabah with strong winds”, New Strait Time online
- December 21, 2017, “Tropical storm Kai-Tak to hit several states on Saturday”, New Strait Time online

- 5 November 2017, "Heavy Rain, High Winds Force Malaysians to Flee", VOA News online

These storms and strong wind not only caused economic losses every year, but also flash floods, soil erosion, landslides, falling trees, injury and fatality. The damages to the buildings are immense. In a case of a roof ripped off by a storm in Desa Rejang Public Housing in Setapak in 2019 alone, the City Council of Kuala Lumpur bear an estimate of RM350,000.00 for the repair of the damaged roof (The Star Online 21 May 2020). On the other hand, the Works Minister said in Kuching that the Federal government had allocated RM100 million for repairs of schools due to storm (MSN online 27 Sept 2019). Coupled by the damages suffered from direct hit from tropical cyclones e.g. Greg, Vamei and other storms, the amount for rectification is a worrisome sum that burdens the fiscal expenses of the government and the private sector.

Other impacts of heavy precipitation of the tropical cyclones, although not hit directly, include flooding in the urban and coastal areas. Rising water table has also brought about seepage of water in the basements of a number of high-rise buildings. Complaints in leaking caused by wind induced rain to the building enclosures have become common due to the surge in wind velocity.

DROUGHT, HEAT WAVES, HAZE AND WILD FIRE

Besides, draught, haze and wild fire are other induced disasters related to climate change in Malaysia, too. During a dry Southwest Monsoon season from May to September, 2020, Areas across the country have recorded average temperatures of between 33°C to 34°C, a few degrees short of a heat wave.

The health impact of heat waves is widely understood. However, little has been known pertaining to the adverse environmental impacts to the buildings. Differential coefficient of thermal expansion of concrete structures comprising of brick, concrete components and fenestrations with metal frames,

expand and contract in different volume and length when exposed to heat. The consequential cracking due to thermal stress will break the waterproofing membranes and induces infiltration of rain water which is detrimental to indoor environmental health, comfort and durability of buildings (refer Figure 4).



Figure 4: Heat induced cracking on walls and facades at the highest floor with flat roof

FLOODS AND RISING GROUND WATER

The heavy precipitation from the year-end monsoon often caused the flooding of houses, bridges, roads and highways in the state of Terengganu, Kelantan and Pahang. Excessive water current causes erosion, landslide and physical damage by the flood waves and interruption to the road traffic. Inundation of flood also softens the soil and causing a threat to structural integrity especially to low rise buildings with shallow footing or foundation.



Figure 5: Water seepage in basement floor due to rising water table

Water seepage into the basement floors and walls have become common in view of the rising water table due to heavier rainfall during the monsoons (refer Figure 5). The height of water table varies

according to the raining season which may cause seasonal damp and drying occurring in the basement. Depending on the pH and content of the ground water, the risk of corrosion at the foundations must be given due attention. Control in the height of ground water may be necessary depending on the assessment and situation of each building site.

“Black water” containing organics and microorganisms bring about health threat of biological contamination on the buildings and residents in the flood areas. All wet household materials in water submerged houses need to be dried up rapidly in order to prevent microbial growth. Organic fibrous materials contaminated by black water must be discarded but this is not normally

done. In America, biological contamination is regarded as public health concern. According to their statistics, up to 17% of water damaged homes suffer from biological contamination. Such study has not been done in Malaysia but low awareness on the potential health hazard brought about by floods requires urgent attention from the authorities in public health.

RESILIENT COMMUNITY, INFRASTRUCTURES AND BUILDINGS: IMPLICATION IN REPAIR AND RETROFITTING TO THE BUILDING MANAGERS

These natural disasters are expensive to respond to, but much of the destruction can be prevented with cost-effective mitigation features and advance

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planning. We need a paradigm shift in building design and retrofitting in order to break the cycle of destruction and rebuilding for the sustainability of our well-being and manageable social-economic impacts for a more resilient future.

At community level, bigger drainage system is needed to cater for heavier precipitation. Flood management with more reservoirs for the temporary catchment of sudden surge in rainfall is needed. Vegetative roofs and rain harvesting systems can also contribute in reducing the rapid run off of rain water into the drainage system that may cause flooding. In areas with high risk to the climate change, education in emergency preparedness is also needed including evacuation from the buildings to safer places, storage of supply of shelters, drinking water, food and medical support during the disasters.

In view of the poorly updated building codes which cannot cope with the impacts of climate change, some architectural communities in developed countries have taken proactive approach and voluntary actions to address the damages brought about by climate change with the concept of building resilience. In America in particular, awareness of the importance of preparedness against natural and manmade disasters in community disaster management and resilient building design has received due attention since the past five (5) years (VanGeem M., *Defining Resilience, The Interface*, International Institute of Building Enclosures Consultants, p8, Sept 2019).

According to Alex Wilson, founder of Building Green and Resilient Design Institute (USA), **resilience** is “the capacity to adapt to changing conditions and to maintain or regain functionality and vitality in the face of stress or disturbance. It is the capacity to bounce back after a disturbance or interruption”. **Resilient building design** is the intentional design of buildings, landscapes, communities, and regions in response to these vulnerabilities (<https://www.resilientdesign.org/>).

The resilient design principles:

1. **Resilience transcends scales.** Strategies to address resilience apply at scales of individual buildings, communities, and larger regional and ecosystem scales; they also apply at different time scales—from immediate to long-term.
2. **Resilient systems provide for basic human needs.** These include potable water, sanitation, energy, livable conditions (temperature and humidity), lighting, safe air, occupant health, and food; these should be equitably distributed.
3. **Diverse and redundant systems are inherently more resilient.** More diverse communities, ecosystems, economies, and social systems are better able to respond to interruptions or change, making them inherently more resilient. While sometimes in conflict with efficiency and green building priorities, *redundant* systems for such needs as electricity, water, and transportation, improve resilience.
4. **Simple, passive, and flexible systems are more resilient.** Passive or manual-override systems are more resilient than complex solutions that can break down and require ongoing maintenance. Flexible solutions are able to adapt to changing conditions both in the short- and long-term.
5. **Durability strengthens resilience. Strategies that increase durability enhance resilience.** Durability involves not only building practices, but also building design (beautiful buildings will be maintained and last longer), infrastructure, and ecosystems.
6. **Locally available, renewable, or reclaimed resources are more resilient.** Reliance on abundant local resources, such as solar energy, annually replenished groundwater, and local food provides greater resilience than dependence on nonrenewable resources or resources from far away.

7. **Resilience anticipates interruptions and a dynamic future.** Adaptation to a changing climate with higher temperatures, more intense storms, sea level rise, flooding, drought, and wildfire is a growing necessity, while non-climate-related natural disasters, such as earthquakes and solar flares, and anthropogenic actions like terrorism and cyberterrorism, also call for resilient design. Responding to change is an opportunity for a wide range of system improvements.
8. **Find and promote resilience in nature.** Natural systems have evolved to achieve resilience; we can enhance resilience by relying on and applying lessons from nature. Strategies that protect the natural environment enhance resilience for all living systems
9. **Social equity and community contribute to resilience.** Strong, culturally diverse communities in which people know, respect, and care for each other will fare better during times of stress or disturbance. Social aspects of resilience can be as important as physical responses.
10. **Resilience is not absolute.** Recognize that incremental steps can be taken and that *total resilience* in the face of all situations is not possible. Implement what is feasible in the short term and work to achieve greater resilience in stages.

(Source: <https://www.resilientdesign.org/the-resilient-design-principles/>)

RETROFITTING TOWARD RESILIENT BUILDINGS FOR THE TROPICAL MALAYSIA

Building designs vary according to local climate and availability of local materials. The resilient level of building design also depends on the hazard analysis of the specific locations. Any new design and retrofit projects are recommended to be more robust and resilient to stronger wind and other environmental hazards. According to Lee S.H. in his report “*Failure of Roof Structure Due to Wind Load*” in April, 2008, Lee discovered the existing construction practices of roofs of

low rise buildings, uplifting of the zinc sheeting occurs when basic wind speed in excess of 89 m/s. Uplifting of roofs occurs in medium rise buildings at wind speed of 42 m/s. Extra tying down mechanism is needed to increase robustness against such uplifting by strong wind. For pitched roofs with roof tiles, British Standard “BS 5534:2014+A2:2018 Slating and tiling for pitched roofs and vertical cladding. Code of practice” specifies new reinforcement and clipping system in view of the stronger wind due to climate change (refer Figure 6).

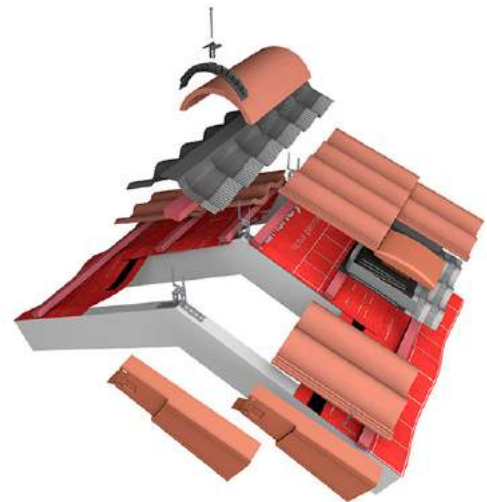


Figure 6: BS 5534:2014 Reinforced pitched roof system

Source: <https://www.marley.co.uk/blog/what-are-the-different-parts-of-a-roof>

Open terraces and walkways should be protected against ingress of wind induced rain. Storm-proof fenestrations with stronger reinforcement and tolerance for movement caused by thermal stress must be emphasized. Windows with sub-frames and curtain wall with stick system that do not have any built-in drainage and tolerance for movement should be avoided. Besides, lighter colors with higher reflectance are preferred on the facades and roofs due to the concern in thermal comfort as well as crack control.

Cool roofing with selection of light colour single ply membrane and vegetated roofs are measures in the prevention of excessive heat that causes horizontal volumetric expansion that cracks the facades (refer Figure 7).

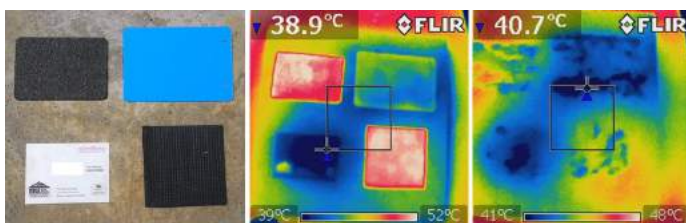


Figure 7: Heat profiles of different building materials in the Tropics

Use of double glazing glasses should be limited in the tropics due to the high thermal capacity of air in the air gap that retains comparatively higher level of heat (refer Figure 8).

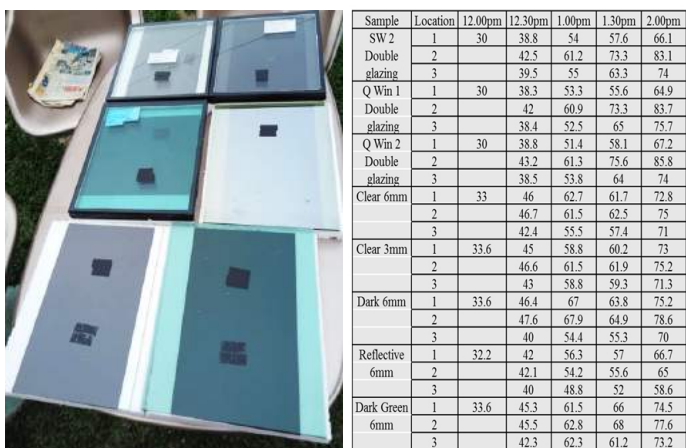


Figure 8: Comparative study of temperature on the glasses (1), below the glasses (2) and on the black paper under the glasses (3)

Water damaged cleaning and restoration is vital to restore the functionality and prevent biological contamination. Four strategies are highlighted in the American Standard: ANSI/IICRC S500 (refer Figure 9), namely:

- Extraction,
- Evaporation,
- Dehumidification, and
- Temperature control

Among these strategies, extraction method with wet vacuum is known to be 500 time more effective as compared to evaporation.

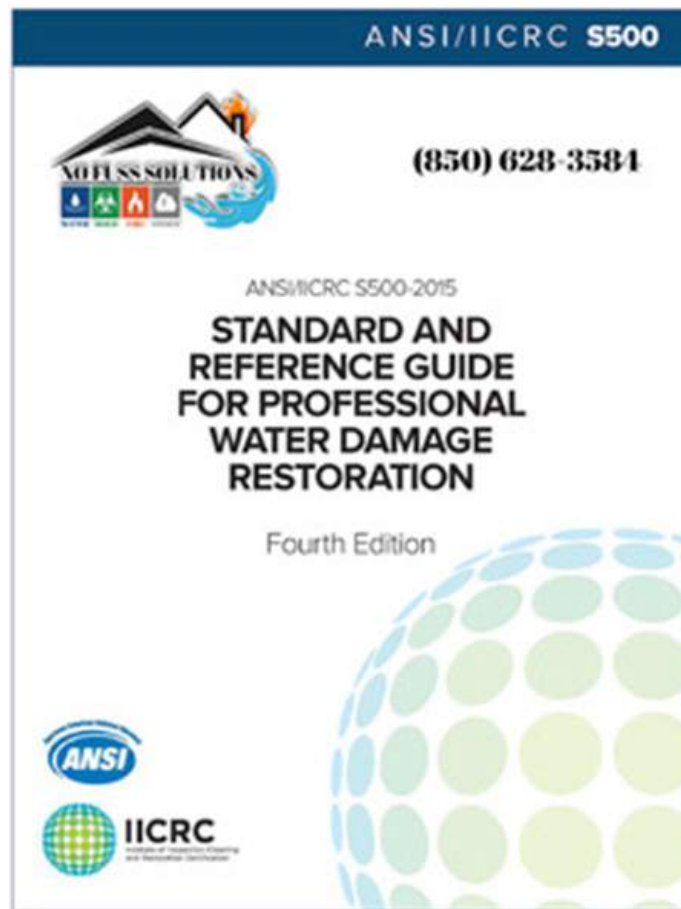


Figure 9: ANSI/ IICRC S520 Standard and Reference Guide for Professional Water Damage Restoration, Fourth Edition

Source: <https://webstore.iicrc.org/index.php/current-standards/s500/english/ansi-iicrc-s500-standard-and-reference-guide-for-professional-water-damage-restoration-fourth-edition-2015-pdf-ebook-adobe-drm.html>

Other useful resources in water damage restoration after floods include:

- https://www.fema.gov/sites/default/files/2020-08/sandy_factsheet1_cleaning_flooded_bldgs.pdf
- <https://www.epa.gov/sites/production/files/2015-09/documents/floods.pdf>

CONCLUSION AND RECOMMENDATIONS

The adverse social and economic impacts of climate change have reached our doorstep. It is an inevitable fact that the architectural community must address in view of the rising complaints in leakage, durability and performance issues in the built environment in Malaysia.

Besides the heat and water control measures mentioned above, building codes with consideration of flood resistant design and storm proof design is equally important. Such contribution must come from the structural engineers.

Any repair and retrofitting exercise must be made toward "resiliency" in view of the increasing adverse impacts brought about by the climate change. Although codification efforts on the climate-resilient design of commercial roofs and wall assemblies have begun in some developed countries, awareness among the architectural community in building resiliency is in infancy in Malaysia. More statistics and researches are needed in search for the feasible way of building resiliency with consideration to our unique condition in our design and construction practices in Malaysia. Such resiliency in our communities and buildings can sprout and be realized if awareness among and cooperation from all stakeholders in the government, professional bodies, higher tertiary education centres, building managers, developers, contractors and the general public is available. ■

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ENHANCING COMMUNICATIONS BETWEEN ASSET MANAGERS AND PROPERTY MANAGERS



More than ever before, communication between asset managers and property managers must be enhanced. In order to respond to today's rapidly changing and increasingly challenging real estate environment, each member of the management team must contribute his or her strengths and skills fully. But these strengths and skills can be exchanged only if managers communicate effectively. Enhanced communication will create the kind of synergy necessary to meet the complex challenges to be faced in the workplace.

This article will provide asset managers and property managers with suggestions on methods of communicating that have proven effective in many sophisticated real estate organizations over the years. These suggested techniques have aided in bridging the gap between the traditional roles of property manager as physical property generalist and asset manager as financial specialist.

SUGGESTIONS FOR ASSET MANAGERS

In the past, the primary responsibility of the asset manager was to interpret financial reports from the property manager and calculate a rate of return the investor could use in comparing its real estate investments to its other investments.

But as properties began to experience lower cash returns due to the competitive nature of most major real estate markets, asset managers became more involved in physical property management. As a consequence, increased two-way communication has become an imperative. These suggestions are designed to make efficient use of an asset manager's and property manager's time as they share the facts that will provide the optimal property operation.

- When arranging the site visit, the asset manager and property manager should discuss the items they wish to review before the visit. Once the

discussion topics are determined, the asset manager should prepare and distribute a copy of the agenda to the property manager prior to the meeting. This advance work will ensure a more efficient meeting focusing on the key issues of importance to both managers.

- After a site visit, the asset manager should prepare a letter to the property manager detailing the items discussed at the meeting that require follow-up by either the asset manager or the property manager. Such a letter will serve a checklist for both managers. It may also be helpful to state a date by which these items should be completed.
- Prior to the preparation of the annual valuation appraisal, the asset manager should seek the property manager's input regarding the specific property assumptions that should be used. The asset manager should send the property manager a worksheet of major appraisal assumptions.

Such a worksheet would include macro-level assumptions such as discount rates and capitalization rates typically mandated by the industry. However, it would also include specific property-level assumptions such as leasing of existing vacant space, miscellaneous revenue, operating and tax expense stops for the upcoming year, and expected tenant improvement costs. Such a worksheet provided to the property manager will facilitate the preparation of the appraisal by the asset manager.

The agenda for each site visit thereafter should include the status of recent developments with respect to these value concerns, thus ensuring the asset manager and property manager are communicating effectively throughout the year.

- Once the appraisal is complete, the asset manager should send a copy to the property manager. The managers should then discuss major sensitivities to long-term property value.

For instance, a successful tenant-retention program may significantly mitigate leasing exposure in the next 12 to 18 months and could result in an increase to building value. Such a program could then be structured between the asset manager and property manager, with clear guidelines so the property manager can work effectively and efficiently at attaining the highest and most stable building occupancy possible. In addition, each subsequent site visit should include a discussion of programs aimed at enhancing the building's long-term value.

- The asset manager should include the property manager in the preparation of the annual asset management plan. These strategic plans are aimed at determining the property's position in the investor's portfolio and in the marketplace. The plans include historical operating information as well as projections of market rental rates and project cash flow.

In the asset management plan, the asset manager is required to make specific recommendations regarding operations of the property in the next 12 months and positioning of the property for the long term. The asset manager has a valuable resource in the property manager and therefore should discuss these recommendations with the property manager prior to completing this plan. The property manager has already assisted in the preparation of this plan if he or she have been actively involved in the annual appraisal process.

Discussion of these recommendations is particularly important in the case of a loan or partnership, where it might reveal inconsistencies with the borrower's or developer's own plans for the property. These differences can then be addressed before specific, irreversible action has been taken by either party.

SUGGESTIONS FOR PROPERTY MANAGERS

The traditional property manager was an individual with a wide range of experience and background. There was no one academic requirement that properly prepared a property manager in effective

building management. Instead it was necessary to have an overall knowledge of mechanical systems, building operations, budgets, contracts, public relations, and leasing, to name a few.

In today's challenging real estate market, property managers must focus more than ever before on the impact of their decisions on the property's cash flow. Effective communication with the asset manager will enable both managers to combine their collective abilities to maximize property value.

- The property manager should be prepared for the asset manager's visit by reviewing the agenda items and adding to them, if necessary. The property manager should also check the last follow-up letter to determine what items, if any, are still outstanding from either party.

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- The property manager should notify the asset manager of the tenants' concerns about the building, which he or she has acquired through regular personal contact. If an annual tenant questionnaire regarding quality of service and adequacy of space is solicited from the tenants, the property manager should share the responses with the asset manager.
- The property manager should also discuss the measures that must be taken to address bona fide tenant complaints. By communicating these concerns to the asset manager, the property manager will make all parties aware of changes in the building that may affect its value, such as the need for capital expenditures or an early tenant move-out.
- The property manager is the asset manager's local contact and should keep him or her informed of changes in the marketplace, such as the announcement of new competitive projects, major tenant moves, or changes in competing buildings. The property manager may suggest local publications that may assist the asset manager in the quest for knowledge of the marketplace. Keeping an asset manager fully informed of trends in the local marketplace will assist the property manager in discussing budget or leasing plan changes.
- Prior to budget preparation, the property manager should plan a building inspection with the asset manager to point out the need for capital expenditures or preventive maintenance programs. The property manager should prepare a cost/benefit analysis of these planned expenses for discussion with the asset manager.
- The property manager should suggest changes to the asset management plan at any time during the year. If the asset manager is unable to change the approved plan during the year, these changes could be incorporated or considered for the next annual plan.

- The property manager should suggest ways to maximize income that may have been overlooked. For instance, a chronically vacant area could be used for tenant storage at a fee, or be improved for use by tenants as a central conference room, for a fee. The property manager should recommend additional building amenities that might enhance the building's competitive position in the marketplace or improve operating efficiencies.
- Most advisors meet with their investor clients formally once a year to review the portfolio managed by the advisor. At these meetings, advisors typically address specific property concerns and the effect of these concerns on the total portfolio. If a property manager does not attend the meetings, the asset manager should discuss the client's portfolio goals with the property manager.

PROPERTY VS. PORTFOLIO GOALS

Today's institutionally owned real estate is predominantly held by property investment funds that are invested in a variety of real estate products and investment types in order to mitigate risk. One particular building is typically included in a portfolio of varied real estate products. The investor's portfolio goals could affect the longterm objectives of owning or continuing to invest in a property. Recommendations of changes to an investor's portfolio are typically made by the property portfolio manager and are usually recommendations to hold, refinance, or sell.

Following are suggestions of how asset managers can communicate an investor's portfolio goals to property managers:

- The annual asset management plan should reveal any current plans by the investor to sell, refinance, or hold a property. As mentioned earlier, discussion of this annual plan will apprise the property manager of these goals.
- During the annual appraisal process, the asset manager performs sensitivity analyses on the investment, aimed at assessing the desirability of holding, refinancing, or selling. Again, involving the property manager in the appraisal process should include a discussion of these alternatives vis-a-vis the investor's goals.

THE WILL TO COMMUNICATE

If accomplished effectively, increased and enhanced communication between property managers and asset managers will result in a working team of real estate professionals sharing the information and ideas necessary to maximize a property's value. The challenges of this decade will require creative solutions that can be fostered only in an environment of cooperation and team work.

Instead of viewing real estate from distinctly different perspectives, property managers and asset managers who communicate will have the benefit of viewing real estate from the other's perspective. The property manager will be more aware of the effects changes in the building's cash flow have on the investor's portfolio; the asset manager will gain an understanding of the demands at the property level that will affect their long-term projections of value.

The investor will benefit from having a team of experts working together to maximise the value of its real estate investments. Effective communication promotes a win-win situation for everyone involved. ■

Source: Adapted from *Journal of Property Management*.

MAKING FLEXIBLE WORK, WORK: TOWARDS BETTER AND MORE INCLUSIVE WORK-LIFE PRACTICES

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The covid-19 pandemic has no doubt put the spotlight on how working from home has not just been adopted globally out of necessity, but also changed the way we think about conventional work settings.

According to a recent report by Talent Corporation Malaysia (TalentCorp) and United Nations Development Programme (UNDP) Malaysia, employers who embraced Flexible Work Arrangements (FWAs) saw increased productivity and their employees experienced better quality of life.

Released on 3th August, the report, entitled *Making Flexible Work, Work: Towards Better and More Inclusive Work-Life Practices*, identified eight key factors that contribute towards a success FWA.

The publication is a timely assessment of FWAs that result in a healthy and engaged workforce, despite disruptions caused by the Covid-19 global pandemic and the various movement control orders in the country implemented since March last year, which resulted in more Malaysians working from home.

It compiles critical findings and highlights key lessons derived from the Life at Work and Work-From-Home (WFH) surveys conducted by both organisations to support the successful implementation of Work-Life Practices (WLPs) and FWAs in Malaysia.

Human Resources Minister Datuk Seri M. Saravanan said that the report serves as a roadmap to how Malaysian employers can and must take the lead in preparing their workforce for the future of work.

"TalentCorp's efforts in this area is in line with the Ministry's agenda to develop a competent, productive, responsive and resilient national human capital base," he said in a press release.

After an initial period of uncertainty, many employers and employees are now able to make WFH work, with many now adopting a WFH Hybrid Model where employees work from home on a rotational basis.

Thomas Mathew, group chief executive officer of TalentCorp, said, "As the Human Resources Ministry's agency tasked to help steer the country's talent strategy, we are committed to advocating the wider adoption of WLPs in Malaysia.

"We continue to amplify our collaborations with the public and private sectors to support the government in uplifting the wellbeing of Malaysians via diversity and inclusion initiatives.

Niloy Banerjee, resident representative, UNDP Malaysia, Singapore and Brunei Darussalam, added that the pandemic has highlighted some fundamental issues about remote working, flexible working arrangements, office configurations and cost calculations associated with workspace infrastructure.

"The comfortable equivalence of workplace equals workspace no longer holds, or at the very least, is certainly under interrogation," said Banerjee.

"Ironically, a virus that nearly brought all work to a grinding halt, has also offered up that moment in time to reflect and effect a step-change in the evolution of working arrangements.

“We welcome this important conversation and this is our initial contribution to that relevant - and timely - conversation that the Government of Malaysia, the private sector and the wider rakyat are undertaking,” he said.

Here are the eight key lessons on FWAs/WFH arrangements:

FOR EMPLOYERS

1. Shift to trust-based working time/results-oriented arrangement.
2. Ensure top-down buy-in and support for FWAs at all levels.
3. Ensure inclusivity in FWAs design and implementation; prioritise employees with clear needs for FWAs (for example, working mothers).
4. Ensure clear and well thought-out policies that include providing technical support, material support, guidelines and expectations.

FOR EMPLOYEES

5. Take initiative to reciprocate with fair share of ownership; demonstrate commitment and productivity.
6. Have accountability - focus on outputs and outcomes, and manage work time and priorities.
7. Ensure constant communication and constructive dialogue with supervisors and co-workers to find workable solutions. Employees with children at home need to apply ground rules to reduce distractions.
8. Be familiar with employer policies on FWAs. This will help set limits to maintain boundaries between work and non-work spheres.

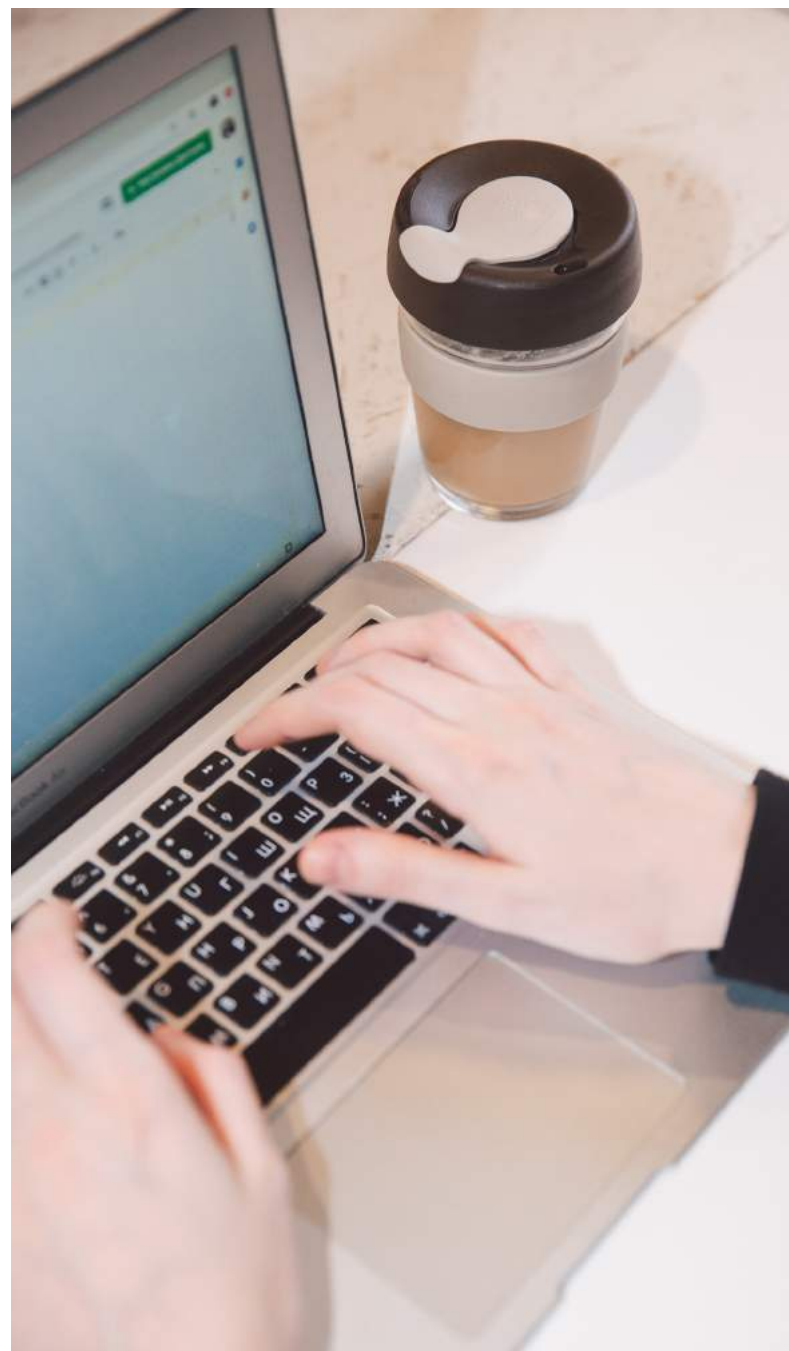
The joint publication is one of TalentCorp's efforts to optimise Malaysian talent via the diversity and inclusion agenda by providing end-to-end advisory services to support companies which adopt WLPs.

Through policies and measures to ensure that Malaysia's workforce benefits from WLPs, TalentCorp aims to see greater recognition of innovative workplace practices as an indispensable tool to drive productivity, boost organisational performance and support the needs and demands of tomorrow's workforce. ■

The web link for the report:

https://www.talentcorp.com.my/clients/TalentCorp_2016_7A6571AE-D9D0-4175-B35D-99EC514F2D24/contentms/img/Documents/TC-UNDP_FWAs_Making-Flexible-Work-Work_2021.pdf

Source: Wong Li Za (2021) For the future of Work, The Star, StarLifestyle, page 9, 18th August





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GUIDANCE NOTE ON VENTILATION AND INDOOR AIR QUALITY (IAQ) FOR RESIDENTIAL SETTING DURING COVID-19 PANDEMIC

1.0 Introduction

- 1.1 COVID-19 is a respiratory illness caused by the SARS-CoV-2 virus. It spreads from a person who is infected to others through respiratory droplets and aerosols created when an infected person breathes, coughs, sneezes, sings or talks. It can also be spread through virus aerosols in the air under certain settings, such as poorly ventilated enclosed environment. Hence, it is important to reduce this risk by improving ventilation and air quality in indoor environments.
- 1.2 This guidance will provide important information about measures to reduce the risk of transmission through the air of virus COVID-19 into the residential settings, where air-conditioning is used intermittently or continuously, as well as to naturally ventilated homes.
- 1.3 A building should be regarded as residential building when more than half of the floor area is used for dwelling purposes. There are two types of residential settings that can be distinguished as follows:
 - a) Houses (landed properties): comprising all types of houses (detached, semi-detached, terraced houses, houses built in a row, etc.) each dwelling of which has its own entrance directly from the ground;
 - b) Other residential settings - comprising of all residential settings other than landed properties (low/high rise apartments, condominiums etc.)

Both residential settings can be divided into two (2) types of ventilation as follows:

- a) Enclosed air conditioned residential settings without mechanical ventilation provision (e.g. air cooled split units or Fan Coil Units without fresh air supply)
 - b) Naturally ventilated residential settings (e.g. without air conditioners)
- 1.4 Ensuring proper ventilation with outside air can help reduce indoor airborne contaminants, including COVID-19. However, increasing ventilation by itself is not enough to protect people from exposure to the virus that causes COVID-19 but it should be done simultaneously with Standard Operating Procedures (SOPs) recommended by Ministry of Health (MOH).

Note:

Mechanical Ventilation Air-Conditioning (MVAC) system is also known as Air Conditioning and Mechanical Ventilation (ACMV) system.

- 1.5 Objective of this guidance is to guide public on improving ventilation and indoor air quality at the **residential setting** to reduce the risk of airborne transmission. It should be accompanied with the latest Standard Operating Procedures (SOP) established by *Majlis Keselamatan Negara (MKN)* and other key measures to reduce disease transmission, such as requiring building occupants to practice physical distancing, wearing masks, frequently washing hand, and carrying out regular disinfection of high-touch points within the building.
- 1.6 This guidance is developed based on Industry Code of Practice (ICOP) on Indoor Air Quality 2010 published by Department of Occupational Safety and Health (DOSH) and other established documents published by respective international organization and other countries on ventilation and indoor air quality during COVID-19 pandemic.
- 1.7 This guidance applies to premises which have mechanical ventilating and air conditioning (MVAC) system, air conditioning systems without fresh air supply and natural ventilation. This guidance is one of the best practices to be implemented by those who are involved in reducing the transmission of COVID-19 virus through airborne.

2.0 Carrying out a Risk Assessment

It is known that the load of the COVID-19 virus potentially released in any building depends on the activities performed inside, the number of occupants and whether or not the occupants are wearing mask. It is of importance that a risk assessment be carried out to facilitate the implementation of relevant countermeasures and to assess the minimum ventilation rate per person. If it is not possible to improve the ventilation, then action must be taken to adjust the maximum building occupancy.

3.0 Enclosed air conditioned residential settings without mechanical ventilation provision.

3.1 General guidance applicable to all homes (Landed Properties, Low/High Rise Apartments)

- a) The most effective ways to improve your home indoor air are to reduce or remove the sources of pollutants and to ventilate room spaces with clean outdoor air. The objective of ventilation in dwellings is to ensure that air in the dwelling is not stale and is healthy for breathing.
- b) Recommended indoor thermal conditions are in the range of 23-26 °C and 40-70% relative humidity (RH) and ensure air filters are clean.
- c) Electric fans such as ceiling fans or other fans available should be used to increase room air motion to enhance thermal comfort. Such improved air movement will reduce the over reliance on the use of air-conditioners.

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- d) The use of split-unit air-conditioners in residential homes in Malaysia is common. This may give a false sense of freshness as they do not have ventilation provisions and their filtration systems are inadequate to filter or inactivate airborne virus particles. Ventilation is necessary to improve indoor air quality as part of the risk mitigation measures. It can be achieved by the following methods:
- i. When air-conditioners are not being used, open as many windows and doors, where practical, as possible to ventilate your dwellings, especially in the morning and evening when outdoor air is relatively cooler.
 - ii. Operate the air-conditioners as recommended in 3.1b and 3.1c above.
 - iii. Small opening in windows is recommended to allow ventilation, provided the opening in windows do not cause excessive infiltration of air.
 - iv. Consider installing air ionizer that is capable of deactivating viruses in suitable air-conditioning system.
- e) There may be concern in opening windows and doors due to mosquitoes and insects. Mesh screens can be fitted to address such concern.
- f) Operate exhaust fans in bathrooms and toilets whenever they are being used. Toilet lids should normally remain closed, especially prior to flushing. If possible, exhaust fan should be operated intermittently when toilet is not in use.

3.2 Guidance applicable to Low/high rise apartments.

- a) Take extra care to reduce the risk of infection in one apartment unit from spreading to another.
- b) Minimise the use of open windows, especially windows adjacent to neighbouring units, in order to limit the potential transfer of infective air from nearby apartment units unless it is necessary to maintain acceptable indoor temperature and humidity levels.
- c) Avoid using the balcony in an apartment unit, which maybe in close proximity with neighbouring units.
- d) Building management should provide adequate ventilation in common areas such as the apartment lobby area.
- e) Building management should use combinations of filters and air cleaners that achieve MERV 13 or better levels of performance air recirculated by centralised air-conditioning system if the common areas are air-conditioned.

4.0 Naturally ventilated residential settings

4.1 Natural ventilation can be increased as follows:

- a) Open more than one window/door, if possible, unless outdoor air quality is poor or the weather condition does not allow.
- b) Increase cross-ventilation by opening windows/doors at opposite site of a home and keeping internal doors open.

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- c) Open all windows in a home at a same time (especially on different floors) to increase ventilation.
- d) Occupants of residential homes may improve home ventilation by opening doors and windows, especially when hosting non-household guests. Electric fans can be used to promote air circulation when needed.

4.2 Increase natural ventilation by using electric fans

- a) Open more than one window/door, if possible, unless outdoor air quality is poor or the weather condition does not allow.
- b) Position fans at windows to blow air outwards and increase air exchange. To reduce risks of airborne transmission, direct the air flow of the fan so that it does not flow directly from one person to another.
- c) Operate exhaust fans (e.g. toilet, kitchen) at full capacity to exhaust air from the indoor space. Keep windows or other openings (e.g. back door) around exhaust fans closed to avoid short-circuiting of air flow.
- d) Window mounted exhaust fans can be considered for installation to enhance air ventilation in a poorly ventilated space.

4.3 For low/high rise apartments extra care shall be taken to reduce the risk of infection in one dwelling unit from spreading to another:

a) **Ensure Water is in the Plumbing Traps**

The U-shaped trap in all plumbing drains shall not be allowed to go dry. The easiest action to take is to make sure every sink, shower, bathtub and floor drain is used at least once a day. 30 seconds of flow is sufficient.

b) **Maintain pressurization**

Use of exhaust fan systems is recommended to keep the home below the pressure of any adjacent common space, such as a corridor. Open windows should be minimized unless it's necessary to meet minimum ventilation requirements or maintain acceptable indoor temperature and humidity levels.

c) **Seal any openings between residence units**

Any large openings that might allow air to flow to the residence unit shall be sealed with caulk, foam, plastic or similar materials. Example of such openings includes plumbing or other utility penetrations.

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4.4 Creating an Isolation Space for Sick, Suspected or infected household members.

Additional precautions are required in order to reduce the risk to other household members.

- a) Select an isolation space that has the least-frequented occupant traffic. The isolation space should have its own bathroom facilities, without sharing with an adjacent room.
- b) If you need to share bathroom, make sure the room has good air flow by opening windows and turning on exhaust fan.
- c) If the bathroom in the isolation space has an exhaust fan, that fan should run continuously. By running this fan, the potential for aerosols to escape from the isolated space into the corridor can be reduced. If speed selection of the exhaust fan is available, select high speed for the operation of this fan. Windows adjacent to the exhaust fan should be closed to avoid short-circuiting of air flow.
- d) Exhaust fans in the main part of the home should be operated only on as-needed basis.
- e) Air-conditioner in isolation room should not be used. Windows should be opened instead for natural ventilation.
- f) Install air barriers between the isolation space and the common space. Seal any openings connecting the isolation space to the rest of the home.

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