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IN Articles 1 and 2 on Jan 18 and 25, 2025 respectively, JPN and I (we) outlined the parameters and explained why a change is necessary. In this week's article, we present some of our wish lists. The list below does not represent the actual amendments but rather the initial proposals being actively discussed among stakeholders.

We are currently discussing ways to streamline the definition of unanimous resolution in both the Strata Management Act 2013 (SMA 2013) and the Strata Titles Act 1985 (STA 1985). The goal is to ensure uniformity when interpreting these laws, particularly in matters such as leasing parts of the common property, which requires unanimous resolution under the STA 1985.

Harmonising the legislation would provide clarity on how a management corporation can grant a lease of the common property to generate income. Unanimous resolution is also the threshold required for terminating a strata scheme, which represents one of the most significant milestones in the lifecycle of a strata scheme. Given its importance, maintaining a high threshold is necessary. Additionally, the process for terminating a strata scheme should also align with the forthcoming Urban Renewal Act to ensure consistency.

Tackling nuisance

Currently, mechanisms for addressing the abatement of nuisance are primarily expected to be handled by the local authorities under the Local Government Act 1976 (LGA 1976) and the Street, Drainage and Building Act 1974. For example, Section 81 of the LGA 1976 identifies nuisances such as animals being kept in a way that constitutes a nuisance, while Section 82 provides the mechanism for addressing such issues.

However, we understand that despite complaints made to local authorities, notices to abate nuisances may not always be issued.

To enhance efficiency, we propose empowering developers, Joint Management Bodies (JMB) and Management Corporations (MC) with mechanisms within the Strata Management Act 2013 (SMA 2013) to handle nuisance issues directly.

Property management

Under the Strata Management Regulations 2015 (SMR 2015), non-registered property managers are allowed to manage and maintain strata schemes, provided they lodge a bond with the JMB or MC. However, the Valuers, Appraisers and Estate Agents (Amendment) Act 2017, which introduced Part VB into the Valuers, Appraisers, Estate Agents and Property Managers Act 1981 (VAEAPM 1981), expanded the scope to include property managers as a regulated professional category.

This amendment prohibits non-registered property managers or management companies from operating, which has caused concerns among unlicensed property managers.

While there is a desire to maintain consistency with VAEAPM 1981, we have been informed that there are insufficient numbers of licensed and registered property managers and firms to meet current demands.

As of August 2024, statistics reveal that only 597 firms are licensed by the Board of Valuers, Appraisers, Estate Agents and Property Managers to practice property management. Of these, only 332 firms specialise purely in property management, while the remaining 265 are primarily valuation firms or estate agencies, although they are also licensed to practice property management.

When compared to the existing strata schemes, the numbers highlight a significant imbalance. The 597 licensed property management firms are responsible for serving 22,898 strata schemes, comprising 1,953,917 strata units (statistics provided by JKPTG as of 2022). This equates to a ratio of one firm for every 38 strata schemes or one firm managing approximately 3,273 strata units.

The overarching goal is to maintain high standards for property managers and firms, ensuring they possess adequate knowledge, skills and an understanding of basic legal requirements. This, we believe, will ultimately benefit all strata owners and improve the management of strata properties.

Addressing operational challenges

We recognise the operational challenges that arise in practice. For example, if the issuance of the JMB certificate is delayed, it becomes impossible to open a bank account, preventing the Developer from transferring funds into the JMB's account within the legally mandated one-month period. To address this, we are actively engaging with various stakeholders to streamline the transition process and avoid unnecessary delays.

We have initiated discussions with the COBs in Kuala Lumpur and Selangor and plan to extend these engagements to other COBs to explore ways to expedite the

issuance of JMB certificates. Currently, it may take some COBs approximately two months from the date of the JMB's first AGM (28 days plus one additional month). Delays can be further exacerbated if the Developer or JMB fails to file the meeting minutes within the stipulated time-frame, potentially resulting in adverse consequences for strata proprietors.

Opening and maintenance of bank account

We will be meeting with the Association of Banks in Malaysia to streamline the process of opening bank accounts for JMBs and MCs. Opening such accounts should be as straightforward as setting up business accounts. Expediting this process ensures a smooth transition and enables the JMB or MC to efficiently take over charge collections and service provider payments.

Key documents required:

(a) The primary document to verify establishment should be:

(i) For a JMB – the certificate of JMB.

(ii) For an MC – the certificate of MC.

(b) To identify account signatories, we will propose the following:

(i) Refer to the Minutes of Meetings of the committee or general body (post-AGM).

(ii) During the preliminary management period, refer to the Developer's resolution appointing a signatory on behalf of the MC (as AGM minutes will not yet exist).

This process ensures the JMB or MC can seamlessly perform its functions and facilitate the transition of account signatories after each AGM. This allows newly elected committee members to quickly assume responsibility for maintenance and sinking fund accounts, ensuring service providers are paid and financial affairs are managed efficiently.

Freezing bank accounts due to internal disputes or faction complaints within the JMB/MC disrupts operations and negatively impacts proprietors. Account freezes should only be a last resort and should be supported by a court order after the court has assessed the merits of the case. While complaints should not be taken lightly, the courts are best suited to determine whether such drastic action is warranted.

E-strata lodgment

We are also advancing the setting up of a centralised e-lodgment system to be adopted in Peninsular Malaysia and Labuan for all strata schemes. This centralised e-Strata system should integrate with JPN's e-SPA portal to seamlessly extract relevant information, enabling more efficient management of strata schemes. The adoption of technology and its benefits will be further elaborated in a subsequent article.

Stay tuned for Part 2 next week, where we will delve into other essential areas and provide deeper insights into the topics at hand.

If you have any specific subject matter you feel strongly about which requires amendment, kindly email to info@cheehoe.com OR izzah@kpkt.gov.my.

