



Persatuan Pemaju Hartanah Dan Perumahan Malaysia
马来西亚房地产发展商会
Real Estate And Housing Developers' Association Malaysia
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Kelana Jaya, Petaling Jaya

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Different Rates of Maintenance Charges for JMB in a Development

A recent ruling by the Court of Appeal held that the Joint Management Body (JMB) of high-rise buildings are not allowed to charge different rates on owners in mixed development projects. The ruling implies that once share units are determined and established in Schedule of Parcel (SoP), the different components are taken care of and only single rate for all is applicable. REHDA opines that a single rate is not equitable and does not reflect the actual usage and cost of maintenance for the common properties within each and different components.

Although the different categories and components of the integrated development are allocated their share units according to the formula, it does not take into consideration many other factors such as limited usage of common facilities within each component of the integrated development.

Another concern that will arise is the impact to the affordable housing owners within a strata development. If one fixed rate is used, the affordable housing owners will end up paying higher maintenance charges especially when there are plans for a minimum built-up area for these units.

Section 60(3) of the Strata Management Act (SMA) allows the Management Corporation (MC) to determine from time to time the amount to be raised and approved the different rates for different components. Similarly, JMB should be allowed to determine the different rates of charges to be paid in respect of parcels which are used for exclusive purposes as well. However, this problem can be resolved if there is simultaneous creation of Sub-MCs at the time when MCs are formed. The current challenge in the formation of Sub-MCs is due to the large number of proprietors who have not completed their transfer of titles and thus have inadequate quorum to achieve the comprehensive resolution needed to form the MC and Sub-MC. In addition, the task

of determining the different rates for the limited common facilities for the Sub-MCs is arduous as it is difficult to reach consensus in forming Sub-MC.

REHDA hereby urges KPKT to expeditiously look into the matter which had caused confusion amongst the industry stakeholders as well as strata owners. REHDA proposes that actions be taken as follows:-

1. Similar to MC, JMB should be allowed to determine the different rates of charges to be paid in respect of parcels which are used for exclusive purposes or different components if the formula for calculating the share units are not equitable. To amend the relevant Acts and Regulations to give effect this.
2. To amend the relevant Acts and Regulations to allow PTG with the power to approve the comprehensive formula and weightage factors to work out the share units for the different components according to the different property values, usage of common facilities and consumption of utilities as proposed by developers. Once the right calculation for share units of the different component is established, then a single flat rate is applicable which will be able to adequately address the need for different maintenance charges for different component.
3. To amend the relevant Acts to allow the formation of Sub-MC simultaneously with the MC and to determine and demarcate the limited common property at the early stage of design and planning and Sub-MCs be given the jurisdiction to determine different rates for their limited common property.

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