

Headline	Do we even need an urban renewal law?		
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**New proposal may set a dangerous precedent**

The government's plan to introduce a new urban renewal legislation that can compel minority home owners to "force sell" their homes, has led to a barrage of negative feedback. Malaysia is unlike more densely developed nations like Singapore and former British colony Hong Kong where land is truly scarce. Thus, do we really need such a law? **P. 20-21**

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# Do we even need an urban renewal law?

**T**he recent announcement on a proposed urban renewal legislation allowing for "forced" en bloc strata sale for urban redevelopment or renewal purposes, has raised the hackles of many organisations and individuals.

The new law, currently being mullied by the government, is expected to be similar to that of Singapore and Hong Kong, where the majority of owners can "force" the minority to sell their homes, whether they want to or not.

Federal Territories Minister Abdul Khalid Abdul Samad has come under fire after announcing the proposed urban renewal law.

Does Malaysia need this legislation since it is no where near to the land shortage faced by Hong Kong where the land cost is one of the highest in the world, or Singapore, where land prices are also astronomical.

For Singapore, if a building is less than 10 years old, 90% of the owners must agree to sell for a "forced" en bloc sale. And if a building is more than 10 years old, 80% of the owners must agree for the sale to go through.

The law is more stringent in Hong Kong than Singapore as minorities have greater rights in the former and unlike Singapore, the age threshold of buildings is 40 years, four times longer than in the Island-nation.

Currently, there are no specific laws to facilitate and implement redevelopment of cities in Malaysia. Instead, there is only a guideline on urban regeneration for the government and public sector.

However, the Land Acquisition Act provides prescribed reasons, including stipulated procedures in place, to ensure any forceful acquisition is undertaken having consideration of the interests and opinions of all



by Joseph Wong

- For now, there are no specific laws to facilitate and implement redevelopment of cities in Malaysia
- Proposed law can force minorities to sell indiscriminately

the owners and not a mere majority.

The reasons prescribed are also confined to those for the "benefit of the public" and not for commercial interests.

The National House Buyers Association (HBA) is against the proposed law, which seems to have ignored the very unconstitutional impact it will have on all

house owners in the country, says its secretary-general Datuk Chang Kim Loong.

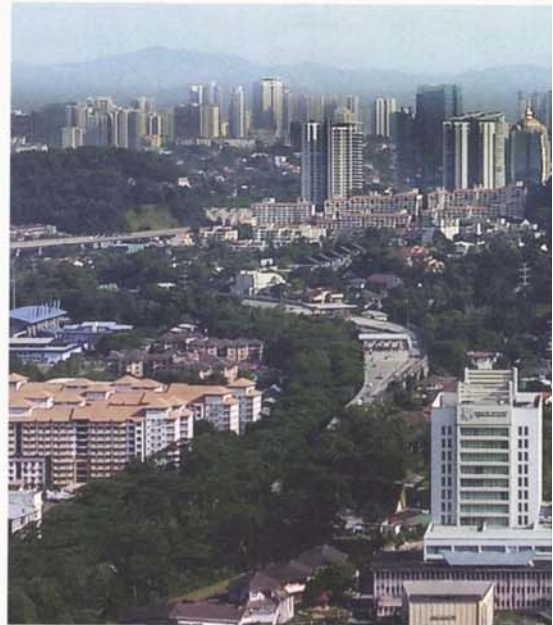
"Does the Federal Territories Minister not realise the implications and far-reaching damage such a redevelopment law will have on Article 13 of the Federal Constitution and the principles of indefeasibility of title as enshrined in the National Land Code which the Federal Territories are bound by?"

"We hope the Federal Territories Minister is not swayed by the whisperings of commercial minded developers, hence this mulling for a law to govern redevelopment or renewal," he says.

#### Forced sale

"We can certainly mull the enacting of a law for the greater good of the general public but the government must ensure that it understands that this purported 'redevelopment or renewal' proposed law is a another name for the impugned en bloc strata (forced) sale proposal which was put forth by commercial developers [about] 10 years ago," Chang says.

He points out that the primary



ABOVE: An aerial photo of commercial and residential properties in KL. Land is still available in the city

aim of "confiscating" land from its owners is for profit and not for any higher purpose of rejuvenation or renewal or beneficial interests of the owners.

He adds that commercial developers do not have in mind any pristine objective to contribute towards the comfort of the owners.

"Once the commercial developer obtains the land, the original buildings are demolished and a new development is erected, most likely a mixed development encompassing residential and commercial buildings which are priced high above the original rate of the demolished buildings," he says.

Sometimes the excuse that the original buildings are dilapidated or unsafe is subjective and not based on any authoritative find-



How long do buildings last? The old KTM station in Sentul was redone but much of the old structure was retained



A file photo of the Pekeliling Flats which are in the process of being redone without the need for an urban renewal law

## Being old is not a crime

**T**HERE are many older developments in Greater Kuala Lumpur that have survived and thrived beyond 10 years, some even surpassing one or two generations.

Moreover, many of these older houses and buildings have been well-maintained, pushing up their property value.

Hence, it came as a surprise when the government uses 10 years as a "marker" in deciding the percentage of votes required for en bloc strata sale under its proposed urban renewal legislation. In most cases, buildings over 10 years are still functional and not dilapidated.

"We also have the Strata Management

Act 2013 [SMA 2013] that provides for contributions by the owners to the Maintenance Account and the Sinking Fund Account in strata schemes so that strata buildings can be properly maintained, refurbished and upgraded without falling into dilapidation," says National House Buyers Association (HBA) secretary-general Datuk Chang Kim Loong.

"It is justified to redevelop strata development areas for urban renewal using either the current Land Acquisition Act or the SMA 2013, which is in line with Article 13 of the Federal Constitution and section 340 of the National Land Code to protect the rights of home owners.

"[This is opposed to applying] an irrelevant practice and law such as the one in Singapore and Hong Kong when in fact Malaysia [which still has ample land] is vastly different from Singapore's and Hong Kong's situation," he says.

Enacting the new law for en bloc sale albeit "under the disguise of urban redevelopment/renewal" without obtaining the genuine consent of all the owners will pave the way to create disharmony in any development, strata or landed, and potentially lead to social unrest, he says.

There is no valid justification to support this proposal since there are sufficient laws in place to push for "prettying up" of old

dilapidated buildings without sacrificing the interests of the owners, he says.

A joint management body committee member adds that the move appears to be a slap to the SMA 2013, which has already come under much scrutiny.

"The proposed urban renewal law takes into account that buildings will not be managed properly and become dilapidated within 10 years. Is this validation of its failure?"

"And if Malaysia is to adopt Singapore's version of the Urban Renewal Act, why not first adopt its Building Maintenance and SMA. They have fewer issues on property maintenance than in Malaysia," he says.

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ings and conclusions, Chang points out.

Moreover, there is a risk that such excuses could just be a smoke-screen to justify the forceful acquisition, especially if not validated by an independent party.

"The aim as perceived by HBA is the forceful acquisition of certain commercially situated land, for example the Desa Kudalari apartments. Why forceful? Because en bloc sale does not respect the opinions of the minority owners."

"En bloc sale/ redevelopment/ renewal law only upholds the might of the majority and profit margin per se. It ignores the objections of those who do not want to dispose of their property as it operates based on the majority rule," says Chang.

#### Leave it to market forces

Similarly, architect Mustapha Kamal Zulkarnain doesn't see the need for such a legislation in Malaysia as yet.

"We are not like Hong Kong and Singapore where scarcity of

land is acute. If we look at Kuala Lumpur, there are still many pockets of undeveloped land that can be used," he tells *FocusM*.

According to Chang, Singapore and Hong Kong are ranked as the world's third and fourth most densely populated countries respectively whilst Malaysia is ranked far behind at 112th, based on the projections of the United Nations in 2015.

While en bloc sale is arguably a necessary evil in Singapore and Hong Kong due to the pressing need for urban redevelopment, this argument is not valid for Malaysia, he says.

Mustapha says the government should leave it to market forces as practised in other developed nations.

"Why must we follow Singapore? And 10 years is too short a period of time," the past Malaysian Institute of Architects (PAM) committee member says, adding that most residential units are built to last a lifetime.

There are so many questions on the logic of using the age threshold of 10 years.

"Imagine opting for the rent-to-buy option for a PRiMA (Perbadanan PRiMA Malaysia) home and by the time you have decided to buy the unit, it is to be redeveloped.

"Will you still get the deposit amount that you have accumulated during the tenure?" asks a property investor.

"Or buyers taking a 30-year loan on their units and they are being forced to sell. Can they still afford a higher loan instalment if they are of the older generation who can qualify for a 20-year loan at this point of their lives?"

"How about the retired? If they are forced to sell, where will they go? They certainly can't afford to buy at today's high property prices," he says.

Mustapha also questions the need to force owners to sell.

"If they choose not to sell, build around them. There are many instances where owners choose not to sell their property in the US and you see highways built around these homes. There are always alternatives.

"In Indonesia, there is an apartment building where a couple of owners refused to sell their units and what happens is that the property was refurbished and the newer units saw price appreciation but not for the two units which remained the same," he says.

#### Where's the protection?

"A main concern is where there are a certain number of owners, let's say they are the minority, who do not wish to dispose of their property even with a considerable compensation because they have lived there their entire lives - raising families, building a life, losing their spouses [or have become] infirmed," says HBA's Chang.

"How is the proposed law guaranteeing the rights of the minority owners as enshrined under Article 13 of the Federal Constitution and the owners' indefeasible title over their property?" he asks.

"HBA's view is that there are no guarantees nor can any redevelopment/renewal law guarantee that the minority are protected.



How is the proposed law guaranteeing the rights of the minority owners? ask Chang

We are not like Hong Kong and Singapore where scarcity of land is acute, says Mustapha



"The government took Singapore as an example to justify the enactment of this law but the Minister perhaps is in the dark as to the effect on bloc sale as practised in Singapore had on the home owners who objected," he adds.

Chang says HBA has explained numerous times that, in Singapore and Hong Kong, there are only leasehold plots for existing buildings and new developments are scarce on the islands.

According to Mustapha, Hong Kong is no longer releasing land for development which makes its legislation a necessary "evil".

As for Singapore, its housing development is controlled by a single entity, he says, adding that "our situation is very different from both the nations".

There is plenty of land within Greater Kuala Lumpur, without having to congest inner Kuala Lumpur with more high-end expensive condominiums and commercial buildings, says Chang.

"We have to avoid over-building within the city. We have to deter urban migration by building outside Greater Klang Valley. We do not have to worsen the urban condition of inner Kuala Lumpur."

#### Fewer pros, more cons

In Singapore, for example, the minority owners are given

replacement units on the renewed and redeveloped land itself and not in some far-off location, says Chang.

However, the success stories do not highlight the plight of the minority owners (who are often old folks and the infirmed who have stayed in the same area for decades) in facing difficulties in coping with the forced situation perpetrated by the majority in having to give up their homes and relocating, he says.

Proceeding with the new legislation with a simple majority or any number of majority vote to deprive a home owner of his property is contrary to the constitutional right to own property.

This urban redevelopment or renewal is not what it says it is - it is merely draconian, he says.

"Will any aggrieved owner whose property is 'forcefully acquired' be given money only or both money and a replacement house in an obscure location on the fringes of the city?" Chang asks.

"Where are they supposed to live during the period of the so-called redevelopment for urban renewal and who will bear their expenses?"

"Is this the government's vision for a new, better and caring Malaysia? Business as usual irrespective of the changes the ordinary Malaysian voted for in 2018?" he questions. [FocusM](#)



Desa Kudalari is one of the buildings that will fall under the new Act if it comes into being