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The ABCs of: AGM, EGM and committee meetings

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BY DATUK CHANG
KIM LOONG



Nancy (not her real name) and her fellow committee members were recently elected as Joint Management Committee (JMC) members of the Joint Management Body (JMB) of a relatively new condominium in Selangor. As this was the first time they were tasked to helm a JMB, they had mixed feelings. They were excited to have the blessings of fellow owners to run the JMB, but at the same time, they were not too familiar with the intricacies of the Strata Management Act, 2013 (SMA) and its regulations. During one of HBA's Meet the Public Sessions, HBA volunteers enlightened Nancy on the Annual General Meeting (AGM), Extraordinary General Meeting (EGM), Quorum of meeting, etc. Here is a summary of the Q&A for everyone's benefit.

It is pertinent to note that the executive committee of the JMB is known as the JMC, and the executive committee of the Management Corporation (MC), is simply known as the Management Committee under the SMA.

What are the consequences of missing the deadline?

AGMs shall be held once every year provided that no more than 15 months shall lapse between the date of one AGM and the next. This means that Nancy's JMB shall convene the next AGM no later than Aug 31, 2020.

Nevertheless, if the AGM breaches this rule, it shall not affect its validity. This means that if an AGM is held 15 months after the last AGM, the resolutions passed are valid under the SMA.

The usual business transacted at an AGM includes considering the audited annual accounts, election of the JMC and other matters related to the management and maintenance of the common property in the development.

What are the consequences of missing the deadline?

It is an offence under the SMA if an AGM fails to be convened before the deadline. In this case, the JMC and/or the members of the JMB have committed an offence and shall, on conviction, be liable to a fine not exceeding RM50,000 or imprisonment for a term not exceeding three years or both unless they can prove to the Court that they have tried to prevent missing the deadline.

If the JMC refuses or neglects to hold an AGM despite the fact that the last AGM were held more than 15 months ago, complaints may be lodged with the Commissioner of Buildings (COB) of the local authority area who is tasked with enforcing the SMA.

What are the things we are expected to do before an AGM?

The JMC shall give at least 14 days' notice of an AGM to every parcel owner, either-

- By hand with proper acknowledgement in writing, or
- By registered post addressed to the last-known address of business, parcel or residence of the person to be served or
- By attaching the notice or order in a prominent part of the last-known address of business, parcel or residence of the person to be served.

The notice of AGM may be displayed at a conspicuous part of the development area.

Every notice for AGM shall include the following information:-

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- The place, date and time for the meeting;
 - Each proposed resolution to be considered at the meeting;
 - Each parcel owner's voting rights to vote in person or by proxy at the meeting.
- In addition, a notice of AGM shall include the following documents:-

- A copy of the minutes of the last AGM;
 - A copy of the audited accounts together with the auditor's report on the accounts of the JMB;
 - Information on any other matters to be considered at the meeting.
- It is common to include a reminder in the notice of AGM that a parcel owner may appoint a proxy to attend and vote during the AGM provided that an instrument of appointing a proxy shall be deposited at the address of the JMB (which is usually the management office) at least 48 hours before the time of the AGM.

Parcel owners who have money due and payable to the JMB after the seventh day before the AGM are not entitled to vote during the meeting. The JMC shall put up a list of names of the persons who are entitled to vote on the notice board at least 48 hours before the meeting.

If some owners have issues pertaining to how the condominium is managed, how can a parcel owner introduce a new motion to be considered at the AGM?

No new fresh motion is allowed unless a 14-day notification of such motion has been given to every parcel owner pursuant to paragraph 12 of the Second Schedule, SMA.

This is to ensure that no fresh motion can be considered at a general meeting unless every parcel owner has been duly notified. This will give every parcel owner the opportunity to make himself available at the general meeting to debate and vote on the motion if it affects his or her interest.

However, pursuant to paragraphs 12 and 13 of the Second Schedule, SMA, any parcel owner may, by notice in writing to the management office of the JMB, not less than seven days before the meeting time, request for inclusion of a motion into the existing agenda.

In this case, it is best that the said motion is seconded by another parcel owner during the submission to the JMB.

What is the quorum required for an AGM?

The quorum is half of the total persons entitled to vote, either in person or by proxy. The said quorum is usually difficult to reach. Hence, the SMA adopts a pragmatic approach in order to avoid wastage of meeting expenses and also time, especially for those who have set aside their precious time to attend the meeting. Therefore, if a quorum is not present within half an hour after the appointed time for the AGM, those persons entitled to vote who are present shall constitute a quorum under the SMA and the AGM can then proceed.

Who shall preside over the AGM?

Every AGM shall be presided over by a chairman who shall be elected from amongst those persons entitled to vote

who are present at the AGM. The elected chairman shall preside over the AGM until its conclusion. The chairman of the JMC need not be the chairman of the AGM.

What about an EGM? Under what circumstances could an EGM be held?

A general meeting of the JMB other than an AGM is known as an EGM. The JMC shall convene an EGM in one of the three circumstances as follows:-

- Upon a requisition in writing made by the parcel owners who together hold no less than 25% of the aggregate share units;
- Upon receiving a direction in writing from the COB for the transaction of such business as the COB may direct;
- On such other occasions as the JMC thinks fit.

The requisition in writing by the parcel owners to convene an EGM shall state the objects or motions of the EGM and shall be signed by the requisitionists and deposited at the registered office of the JMB. In order to ease the process of collecting signatures of the requisitionists for EGM, the requisition in writing may not be in a single document. It may consist of several documents in like form, each signed by one or more requisitionists.

Is there a deadline to convene an EGM upon receiving the requisition in writing or direction from COB?

The EGM shall be held as soon as practicable but no later than six weeks upon receiving the requisition in writing or as directed by the COB.

The COB can authorise in writing any person to convene an EGM in the event, for example, a requisition in writing has been received by the JMC but an EGM is not held within the deadline.

All costs incurred by the person in convening the meeting shall first be paid by the JMB to that person and such costs shall be recoverable as a debt due from all the members of the JMC personally to the JMB.

What is the quorum required for ordinary JMC meetings? How frequently should we hold committee meetings?

The JMC shall meet at such time and place and at such intervals as the chairman decides. However, the chairman shall not allow more than two months to lapse between meetings.

Furthermore, the chairman shall call for a committee meeting if requested by the COB or by at least two members of the JMC.

The quorum of a committee meeting is half of the number of committee members rounding upwards. For example, where there are nine members, the quorum is five. If there is an even number, the chairman shall have a casting vote in the event of a tie in votes.

The above procedures will apply to any general meeting of the JMB, MC and subsidiary MC. The general rule for the notification period of a general meeting is 14 days for ordinary resolution; 21 days for special resolution and unanimous resolution; and 30 days for comprehensive resolution.



Datuk Chang Kim Loong is the Hon. Secretary-General of the National House Buyers Association (HBA). HBA can be contacted at: Email: info@hba.org.my Website: www.hba.org.my Tel: +6012 334 5676



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SUMMARIES

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