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## Hastening development approval process

Focus Malaysia, Malaysia



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# property

**The need to speed up approval process**

The architect fraternity are voicing frustration over the extended time taken to obtain local council approval for their building plans. They are putting forth a proposal to cut down the process to an ideal target of 37-39 days. The entire process can be streamlined to speed up the approval.

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# Hastening development approval process

The architect fraternity is seeking a forum with the local councils and the Ministry of Housing and Local Government. It wants to put forth its proposal to cut down the time for drawings to be approved and permits issued, in commercial as well as residential developments.

At present, it takes months for architects to obtain approval from the councils for their building plans. Ideally, a target of 37-39 days has been ascertained as the benchmark for the approval process but consultants submitting the plans claim it takes much longer.

In the two-stage submission process, a consultant, usually the architect designing the building will first submit the plans to obtain a Planning Permission (PP) or Kebenaran Merancang (KM) which generally allows the development to be carried out on the designated land.

This involves the planning department. Upon obtaining this, the next stage is to submit the building plans for approval from the building department.

Board of Architects Malaysia president Zairul Azidin Badri points out that as procedures get complicated and governing laws and regulations are changed, there is a need to clear up many procedural requirements before a development can be approved by the local authorities and other government entities.

He adds that foreign bodies are constantly measuring Malaysian accessibility and comparing it with other countries.

He questions why obtaining approvals can be so easy in China, yet so difficult and riddled with bureaucracy in Malaysia that it could run into years. Zairul was referring to the World Bank study on Ease of Doing Business.

- It takes months for architects to obtain approval from local councils for building plans

- There is a need to divide projects into categories by size – small, medium and large – and reducing the requirements for smaller projects



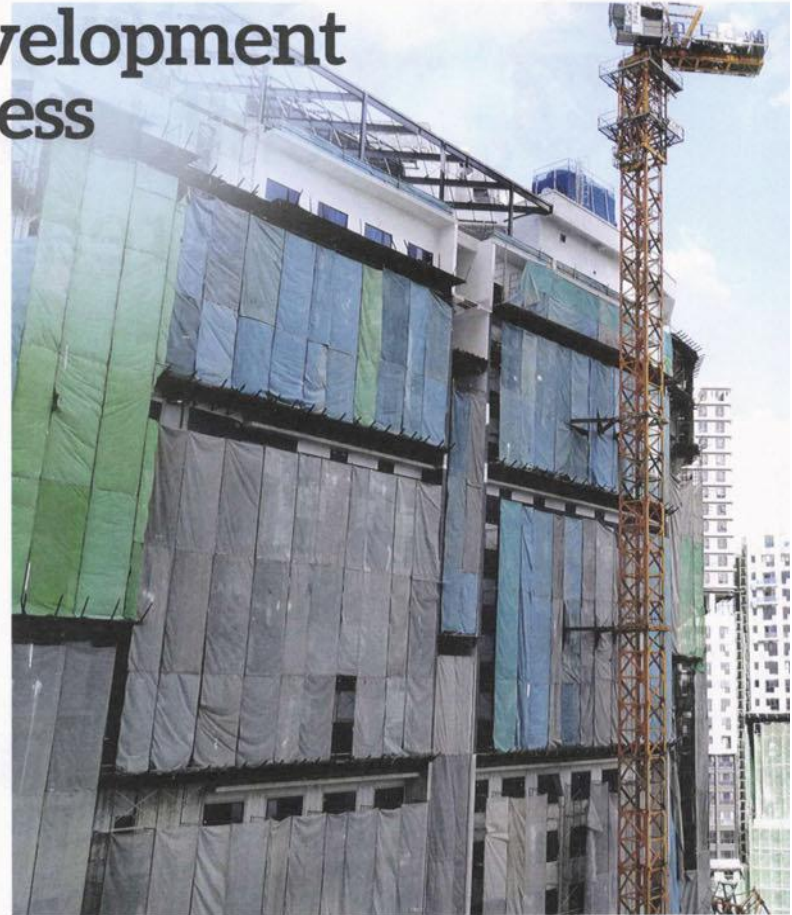
by VSanjugtha

"Why is it so difficult in the local context that we can't do the same? This is why we want to know which processes are the stumbling blocks towards getting easy access, so that the understanding is there.

"We welcome networking sessions with the local authorities that will allow this," he says after the launch of ArchiQ 2019 conference, which was organised by Association of Consulting Architects Malaysia (ACA:M).

According to Zairul, the federal government via the Ministry of Housing and Local Government, disseminates a set of guidelines and procedures to the states, which then trickles to a regional level, for implementation by the respective local authorities. He observes that each local authority interprets the guidelines and procedures differently.

"So developers and even we consultants face challenges getting consistency in the processing



of our application for development. This is the point we want to address so we can learn and be more open on what methods are of concern and what methods we should employ to hasten approval," he says.

Zairul explains that consultants or architects who are tasked to design a particular develop-

ment are equally responsible for a building as the developer. As such, there is a need to address pertinent issues to ensure all submissions adhere to the requirements without the need for constant, time-consuming changes to ensure the guidelines and regulations are met.

### Reducing the interactions

Construction Research Institute Malaysia (CRIM) general manager Aminah Abd Rahman observes that the more interactions there are in obtaining construction permits, the less efficient the system.

She points out that by managing the number of interactions and reducing the procedures involved in obtaining construction permits, Malaysia upped its ranking in the World Bank study of Ease in Doing Business globally, from a position of 137 out of 190 participants in 2007 to third in 2019. The number of procedures recorded were 11 and took a total of 54 days.

Aminah says to further strengthen the processes in Malaysia, there is a need to create a categorisation of types of projects by small, medium and large scale, and reducing the requirements for smaller-scale projects.

"It cannot be a one size fits all. If we are constructing a petrol station, the requirements

imposed cannot be the same as for constructing a house," she points out.

She calls for a reduction in procedures through a business process re-engineering where certain stages can be merged. She cites the example of Kuala Lumpur whereby previously a Building Plan was submitted first, followed by the Hoarding Plan. However, now, both can be submitted simultaneously.

ACA:M director of ArchiQ 2019 and founding president Jasmeet Sidhu also believes the way forward is to streamline the process, so approval will be faster. He believes the key to sustainable and managed development lies in the planning.

As such, he suggests freeing up the planning department to enable keen focus on the planning and coordination of development to ensure population density, traffic congestion, infrastructural support and feasibility of the project to its surroundings are better forecast to support and manage the development process in an area.

To enable this, Jasmeet suggests smaller jobs such as home renovations or facade changes to commercial buildings be allowed to bypass the first stage of obtaining a Planning Permission, easing the burden of the planning officers.



From left: ACA:M council member Normah Latiff, Chew, Jasmeet, Zairul and ACA:M council members Jafr Merican and Bobby Low at the ArchiQ 2019 launch





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At present, it takes months for architects to obtain approval from local councils for their building plans

Occupation (CFO) previously issued by the local authority. This holds the architect solely responsible for "everything inside the building and everything under the building plan".

"Since all responsibility is on us, we are asking for a reduction in bureaucracy so we submit the building plans for record and information purposes only," he says.

Low adds that as a Principal Submitting Person (PSP), the architect has professional liability towards the building, and the local authority now requires him to lodge the CCC upon completion of a development, to ensure the building is safe for occupancy.

The new system came into effect following the amendments to the Street, Drainage and Building Act which was enforced from April 12, 2007.

Under the former system, the CFO was issued by the local authority within the Uniform By-Laws of the Street, Drainage and Building (UBBL) Act 1974 (Act 133). It was believed to be time-consuming and subject to abuse. The system often faced delays due to non-compliance by the developer, additional conditions imposed by the local authority at the time of application of CFO, the involvement of many technical agencies and the lack of technical officers to process the CFO.

The delays hindered occupancy by buyers, despite delivery of vacant possession by the developer. The new CCC system based on self-regulation transfers the responsibility from the local authorities to the project's professionals or planners with the intention of providing better protection for house buyers and cutting red-tape in local government.

ACAAM honorary secretary Eric Chew adds that since the burden of responsibility with regards to the safety and structural integrity of the building rests solely on the shoulders of the consultant, usually the architect, they can be taken to court for negligence and the penalty is a maximum of 10 years' jail if found guilty.

### Who takes the blame?

"You can't take the local authority to court as the UBBL absolves them of all responsibility. In the event a problem arises, only the architect and engineer are held responsible," he says.

He cites the example of Highland Towers, where the federal Court found that the Ampang Jaya Municipal Council was not liable for its collapse as local councils cannot be held liable for losses suffered by anyone should a building collapse.

Among the defendants in this case were the engineer and architect, apart from the developer and finance company.

It is interesting to note that the architect and engineer were found to have "...colluded to obtain a Certificate of Fitness without fulfilling the conditions imposed by the fourth defendant (local authority)."

However, the judgment on the local authority, although found negligent in respect of its duties associated with the build-

## Long lead time

THE Association of Consulting Architects Malaysia (ACAAM) founding president Jasmeet Singh Sidhu does not discount that the long lead time between planning submission and approval of project could be a contributing factor to the mismatch between the demand and supply in the property market.

He points out that a developer may have planned a project at a particular location, based on a market survey.

"This would determine the scale and type of project, apart from an indication of selling price and potential demand. However, between the time he draws up a plan, submits it and gets approval, many parameters he worked on would have moved," Jasmeet explains.

This results in the development's completion under "very different circumstances" from when it was initially planned. Jasmeet believes this could be one of the driving factors for the government to work closely with the World Bank group in cutting red-tape and closing the gap for approvals to a much smaller timeframe.

He also points out that the developer faces a high holding cost awaiting approval as he cannot commence construction work, and his investments are tied up in the project. "There have been instances when the feasibility studies carried out for the project no longer hold, prompting the developer to abandon it," he says.

He adds that changes in laws and regulations also drive up cost when it takes too long to obtain approval. He cites the example of regulatory changes to the compulsory two car park bays, requiring costly changes to plans to adhere to the new laws.

A property consultant tells *FocusM* that although the approval period may have been cut to 37-39 days on paper, it is not actually so, as this timeframe does not take into consideration what is termed the "pre-consultation" period.

"Pre-consultation is when we consultants present our drawings and are told to make changes. That is not a problem as the quality and safety of a building is paramount," he notes.

"But the problem is when changes are required at practically every meet. For example the first time, the stairway needs to be wider, you comply but at the second consultation you are asked to make changes to something else. When you ask why it wasn't raised the last time, you are told that was a different officer and now there is a new officer in charge. This is time-consuming and it just goes back and forth," he adds.

The consultant opines that a lot of the regulations and guidelines can be bypassed by managing the administrative effects of the process. When the plans are finally approved and stamped, as far as the local authority is concerned it has kept to its key performance index because the pre-consultation process is not taken into consideration. "A forum for consultants to iron out key issues to reduce such red-tape is necessary. At present, it can take years to obtain approval for a development," he explains.



Aminah points out that the more interactions there are in obtaining construction permits, the less efficient the system

"Such changes do not involve structural changes to the surrounding, nor an addition of traffic or population. It is superficial changes to an existing premises that has already obtained prior approval from the planning department," he notes.

### Streamlining the process

He believes this will reduce the number of submissions for planning permission by at least half, allowing the planning department to focus on its key functions of controlling what is being developed.

At stage two, where a building plan is submitted for approval,



Why is it so easy to obtain approvals in China but so difficult in Malaysia? asks Zairul

Jasmeet suggests it is submitted for record purposes only, eliminating the need for local authorities to check. Reasoning that the burden of responsibility for the accuracy and adherence to regulatory requirements in the building plans still falls on the designing architect and engineer, doing away with this step hastens the process, allowing development to commence faster.

ACAAM council member Bobby Low concurs, pointing out that the architect is responsible for issuing the Certificate of Completion and Compliance (CCC) which effectively replaced the Certificate of Fitness for

ing, for example in respect of approval of building plans, to ensure implementation of the approved drainage system during construction and in the issue of the Certificate of Fitness, was conferred immunity.

This was due to Section 05(2) of the Street, Drainage and Building Act which states that local authorities should not be held liable.

The Highland Towers case begs the question of the role of the local authority in terms of the approval of Building Plans. It had been found that the architect and engineer did not fulfil regulatory conditions imposed by the local authority, yet somehow the plans were approved and the building constructed, only to meet a tragic fate years later.

### The Singapore experience

In Singapore, Building Plans are vetted by a third-party representative from the private sector, approved and registered by the authorities. In Australia, however, the process is a little different, with one party designing the building and another documenting the plans. In crux, the responsibility for the structural integrity of the building is held in

totality by the builder.

"We are hoping to discuss a reform in the system in that the local authority need not spend its manpower on checking the plans, but instead allow us to lodge it with the Building Department for record purposes along with the Form B, which is the start work notification to the council. This saves a lot of time," he explains.

Jasmeet acknowledges that certain parties may question the "free reign" accorded to architects but stresses that architects are professionals who have undergone a five-year course, a tough board qualification examination with 20% pass rate and a two-year compulsory working stint, akin to housemanship by doctors.

He elaborates that since the local authorities are absolved of all responsibility with regards to the check and approval of building plans, it need only receive the submission.

"When the checking authority does not bear responsibility, we would like to discuss the viability of this process. If done away with, the manpower can be deployed to enforce the regulations and procedures via periodic onsite inspections," he suggests.



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### SUMMARIES

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