

Headline	Developers seek extension of time		
MediaTitle	The Star		
Date	06 Apr 2020	Color	Full Color
Section	StarBiz	Circulation	175,986
Page No	1,2	Readership	527,958
Language	English	ArticleSize	553 cm ²
Journalist	Thean Lee Cheng	AdValue	RM 27,937
Frequency	Daily	PR Value	RM 83,812



Developers seek extension of time

Request deemed reasonable in view of ongoing MCO

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PETALING JAYA: Property developers are seeking an extension of time (EOT) from the government to complete their properties as a result of the movement control order (MCO), failing which they will have to pay buyers late delivery charges, among others.

The request was made by the Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM), which has been lobbying for assistance on behalf of various sectors of the economy.

The association said in a statement that it is "deeply concerned" that the property sector, long been in the doldrums, is expected to stay sluggish for even longer. The ripple effect of this would be to drag down the overall construction sector.

It is therefore seeking an EOT, especially for

ongoing housing schemes, or waiver of late delivery charges as a result of the ongoing MCO and other Covid-19 supply chain issues, among other assistance from the government.

The other proposals include the following:

- > Utility companies should reduce capital contribution charges by 50% since developers are already mandated to lay infrastructure for their respective projects;

- > Revert the Real Property Gains Tax rate back to 0% from 5% and 10% for property disposal held for more than five years by Malaysians, permanent residents and foreigners;

- > Special RPGT waiver on eventual sale for all properties bought in 2020 up to March 31, 2021;

- > Allow foreigners to buy any Malaysian properties;

- > Extend the home ownership campaign

until Dec 31, 2021 with all the exemptions that come with the campaign;

- > The Housing and Local Government Ministry should expedite the release of funds under Regulation 9 of the Approval of HDA Account Excess Money release in less than one month versus the current two to four months, to ease developers' financial woes; and

- > Request the Public Sector Home Financing Board to release payment to developers in less than two weeks, versus the current three to five weeks.

The Property, Real Estate Lawyers Association said the request by developers for extra time is down to reducing the monetary and economic fallout from the global pandemic, which led to the imposition of the MCO.

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Association: Virtually all developers affected



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Its president Datuk Pretam Singh said: "Construction is not considered as an essential activity and this has affected the sector."

"Therefore, it is only reasonable that the Housing and Local Government Ministry considers giving developers an extension of time (EOT) to complete their project post-MCO on a case-to-case basis. Developers will have to apply for this after the MCO is over," Pretam said.

Virtually all developers have been affected but "some may need it and some may not".

He said the Local Government and Housing Minister can exercise her powers under Section 2 (2) of the Housing Development (Control and Licensing) Act 1966 for the EOT.

To put it simply, EOTs are for the delivery of projects. If a sales and purchase agreement between a buyer and developer states that the project is to be handed over in 36 months but for whatever reason, a developer is unable to do this, he will have to pay buyers late delivery, or liquidated ascertained damages (LAD), for each day he is late.

The granting of EOTs has been a sticky issue in the past because developers have abused it in order to avoid having to pay buyers LAD.

In November 2019, the Federal Court ruled in favour of more than 100 condominium unit buyers of Sri Istana Condominium at Old Klang Road. The court ruled that the modification and granting of EOT to developer BHL Construction Sdn Bhd by the housing controller did not appear to protect or safeguard the buyers but rather the developer. It was a landmark decision.

In the recent collapse of condominium project Address II in Taman Desa in February 2020, Housing and Local Government Minister Zuraida Kamaruddin told the media that the developer was given 54 months to complete the residential development instead of the normal 36 months prior to its launch.

Pretam said he is aware that the granting of EOTs has been a sticky issue.

"But this pandemic and the subsequent MCO is beyond developers' control," he said.

"It is through no fault of developers. This is the same with the collapse of Highland Towers. In that instance, the government issued a stop work order to all high-rise constructions. After that, affected developers were granted EOTs by the minister," he said.

The Highland Towers in Taman Hillview, Ulu Klang collapsed in 1993.

The Association of Valuers, Property Managers, Estate Agents and Property Consultants in the Private Sector Malaysia (PEPS) said the granting of EOTs were abused in the past.

PEPS president Michael Kong said despite not experiencing "any extraordinary circumstances", developers delivered their projects late and they applied for EOTs in order not to pay their buyers late delivery charges. "This is wrong. However, we are now faced with an MCO which has been extended from the initial 14 days to another 14 days. And it is uncertain if it would be extended.

"So I would say it is fair for those affected to apply for an EOT. The supply chain has been halted. To kick-start the engine again may take a while and the construction industry will face problems.

"We are not in a normal situation today," Kong said.