

Headline	'Redevelopment must have consent of all owners'		
MediaTitle	The Edge Financial Daily		
Date	10 May 2019	Color	Full Color
Section	TheEdgeProperty.com	Circulation	4,562
Page No	4	Readership	13,686
Language	English	ArticleSize	432 cm ²
Journalist	DATUK CHANG KIM LOONG	AdValue	RM 4,735
Frequency	Daily	PR Value	RM 14,205



'Redevelopment must have consent of all owners'

The National House Buyers Association (HBA) read with consternation recent articles in which the Federal Territories Minister said that the government is looking at an urban redevelopment/renewal law, while seeming to ignore the unconstitutional impact such a law will have on homeowners in Malaysia.

Little does he seem to realise the far reaching implications such a 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 FT Minister is not swayed by the whisperings of commercial-minded developers, hence this 'mulling of a proposed law to govern redevelopment or renewal.'

En bloc strata sale

This 'redevelopment or renewal' law is likely another name for the impugned 'En Bloc Strata (forced) sale' proposal, first put forth by developers 10 years ago.

En bloc strata sale is where a certain piece of land with buildings erected on it is identified for acquisition by commercial developers. A developer will approach owners and persuade them to part with their property in consideration for, perhaps, the market rate of said property. Upon obtaining the land, the original buildings are demolished to make way for a new development, likely a mixed development with residential and

BY DATUK CHANG
KIM LOONG



commercial buildings priced high above the original rate of the demolished buildings.

Sans authoritative findings and conclusions, the original buildings are termed dilapidated or unsafe. The issue of certification by the Local Council as 'condemned building' thus arise and precede.

The aim as perceived by HBA is the forceful acquisition of certain commercially situated land area. Forceful, because an en bloc sale/redevelopment/renewal law only upholds the might of the majority. What about the constitutional rights of those who do not wish to dispose of their property even with considerable compensation because they have lived there their entire lives?

Less 'pros' and more 'cons'

The FT Minister identified Singapore as an example where this law was enacted. Minority owners there were given replacement units on the renewed and redeveloped land itself and not in some far-off tertiary location. However, the success stories do not highlight the plight of the minority owners (who are often the old and infirm, who have stayed in the same area for decades) in coping with the forced hardship of adapting to new surroundings. Does the FT Minister actually care?

Singapore and Hong Kong are ranked as the world's 3rd and 4th most densely populated countries respectively. Malaysia is ranked 112th, based on the projections of the United Nations in 2015. While en bloc sale is arguably a necessary evil in land-scarce Singapore and Hong Kong due to the pressing need for urban redevelopment, this argument is not relevant for Malaysia.

Land Acquisition Act

The Land Acquisition Act, which we now have, has prescribed reasons and procedures in place to ensure any forceful acquisition is undertaken with consideration of the interests and opinions of all the owners and not a mere majority. Reasons prescribed are confined to those for the 'benefit of the public' and not for commercial interests.

We also have the Strata Management Act 2013 (SMA) 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.

It is justified to redevelop strata developments for urban renewal using either the current Land Acquisition Act or the SMA which is in line with Article 13 of the Federal Constitution and section 340 of the National Land Code to protect the rights of homeowners rather than apply law more suited to countries that are land-scarce.

Being old is not a crime

Homeowners should have the freedom to decide how to redevelop their housing schemes without a law that allows the majority and third parties (commercial developers, government or political entities) to override the constitutional right of minority homeowners who may be old, infirm, have no living relatives or a voice. Older people often have difficulty adapting to living in a new place.

Does this proposed law envision the rights of the minority should the minority want to be compensated with a replacement home on the same site after redevelopment without having to pay for said unit, and that all expenses for temporary accommodation be borne by the developers?

There is no valid justification to support this proposal. HBA's stand is that any redevelopment/rejuvenation/renewal must have the consent of all owners. Current laws are sufficient for renewing dilapidated buildings without sacrificing the interests of owners.



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