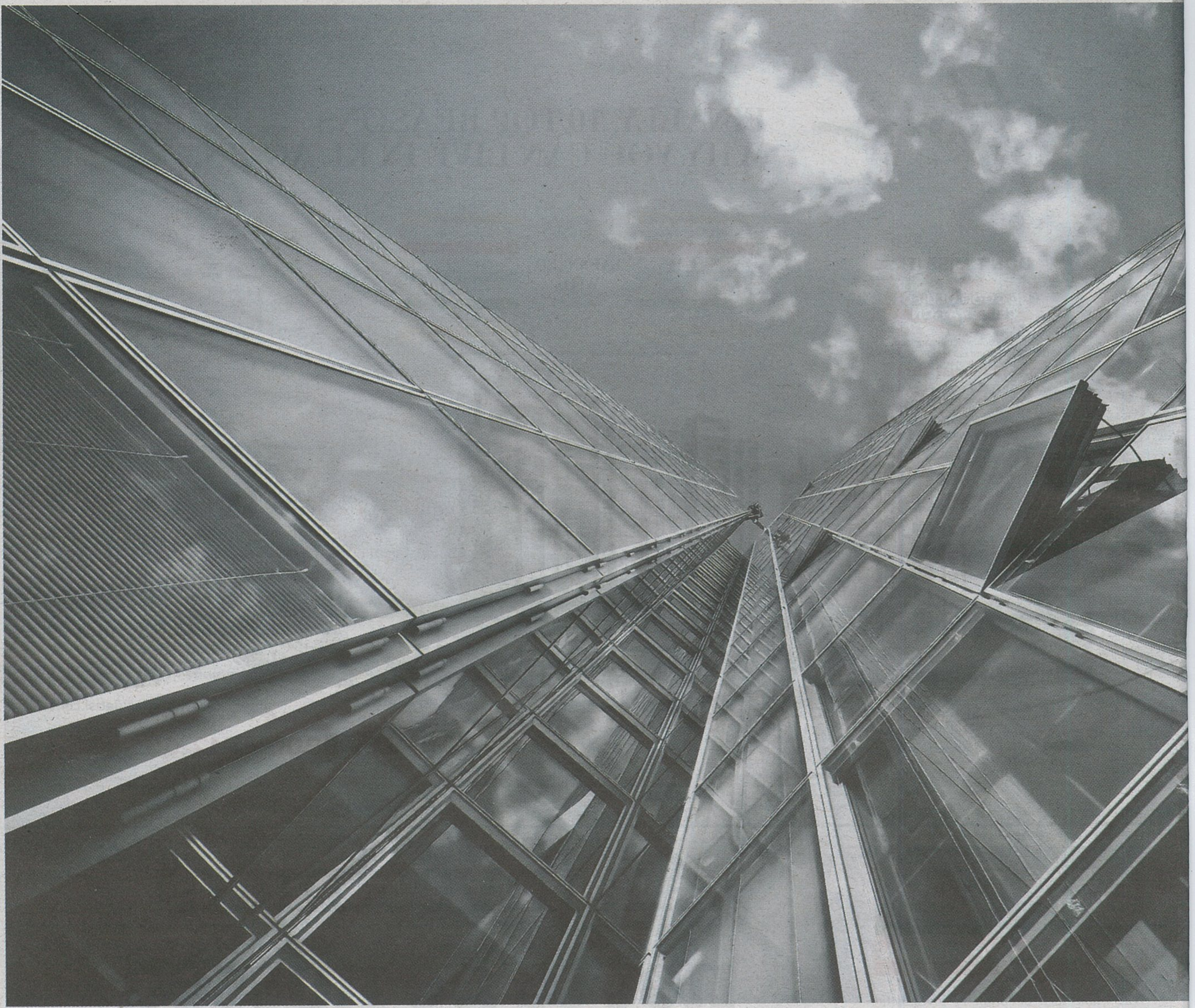
VIEWPOINT



The proposed Register of Property Managers in Act 242

A BILL was tabled in the current session of Parliament on 1.8.2017 for its First Reading and subsequently on 3.8.2017 for its Second and Third Readings. It is titled RANG UNDANG-UNDANG - D.R 26/2017 – Bill to amend the Valuers, Appraisers and Estate Agents Act, 1981 (Act 242). The proposal by the Ministry of Finance to amend the Act primarily was to substitute the principal Act to read "Valuers, Appraisers, Estate Agents and Property Managers Act, 1981" to give clarity that the legislation covers aspects of 'property managers' and its proposed Register of Property Managers amongst other issues.

Readers could download the proposals from: http://www.parlimen.gov.my/

Pertinent Points to Note

The National House Buyers Association (HBA) is in support of the Bill to amend the Valuers, Appraisers and Estate Agents Act 1981 [**"Act 242"**] for these reasons:-

- Modern highrise buildings, both stratified and non-stratified, are proliferating and increasing in large numbers in the urban centres across the country. There are at least 15,000 stratified buildings in Peninsular Malaysia with 30% of the urban population or 6 million people staying in such buildings.

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HBA recognizes and accept The Board as the sole regulatory board that regulates the valuers, property managers and estate agents under the Ministry of Finance since 1981 upon the enactment of the Act 242.

- The safety and wellbeing of people staying in the highrise buildings are of paramount importance. The building management and maintenance by unregulated property managers will definitely compromise the safety and wellbeing of the occupiers. There are numerous cases of gross mismanagement with impunity by the unregulated non-registered property managers that had been reported to HBA, the Commissioners of Buildings, the Police, and the regulatory Board of Valuers, Appraisers and Estate Agents ("The Board").

- HBA has been pushing for the regulatory control of the non-registered property managers for the last 10 years to safeguard the home buyers' interest.

- Therefore, HBA indeed welcome the proposed Bill to amend Act 242 to set up a Register of Property Managers that will bring great benefits to the public:-

- Public interest is safeguarded through proper registration and regulatory control of property managers throughout the country including Sabah and Sarawak by The Board that requires compliance with the Malaysian Property Management Standards, ethics and rules under the Act 242;

- Allows all the existing non-registered property managers with sufficient experience and competency to be registered during the first 12-months moratorium window opening period. This will bring such existing non-registered property managers into the fold where they can be regulated by The Board and safeguard the public with mandatory professional indemnity insurance to cover professional negligence and liability.

- HBA is glad to note the Bill also includes the setting-up of a Register of Probationers for aspiring property managers from persons who have passed The Board's examinations; from graduates with tertiary qualifications recognized by The Board; and, during first 12-months moratorium window opening period, from estate agents with at least 10 years' experience as estate agent. The probationary property managers will become registered property managers after undergoing internship training and passing a test of professional competency by The Board. This will provide a continuous stream of competent registered property managers to the industry, thereby continuously enlarging the pool of registered property managers that will be of benefit to the country.

- HBA recognizes and accept The Board as the sole regulatory board that regulates the valuers, property managers and estate agents under the Ministry of Finance since 1981 upon the enactment of the Act 242. Historically, it originated with the general practice surveyors, all of whom underwent a tertiary education with a property management degree (also known as estate management degree) that provided them with three main disciplines of professional practices, namely property valuation, property management and estate agency. The Royal Institution of Surveyors, Malaysia has also released a press statement dated 5 August 2017 on the same subject. A copy of the said press statement is attached for reference.

- In 2012 when the Strata Management Bill was tabled in Parliament by the Datuk Seri Chor Chee Heung, the Minister of Housing and Local Government at that time, the said Minister removed the registered property manager as the independent property manager from the Strata Management Bill and mentioned that the government would put it back when the Ministry of Finance opens the Register of Property Managers in future. An excerpt of the relevant pages of the Parliament Hansard are as shown below:-

DR 26.11.2012, page 81
Datuk Seri Chor Chee Heung: Saya hendak memastikan bawah buat masa ini we maintain states quo, balik kepada 2007 akta itu (Building And common Property Act 2007 or Act 663) yang tidak sebut (registered property manager). Selepas itu kita tengok next year kalau kewangan (Ministry of Finance) kata okey, board (Board of Valuers, Appraisers and Estate Agents) boleh buka (open the Register of Property Managers) kita buat pindaan (amendment to restore registered property manager back into the Strata Management Act) pula to cater for that.

DN 19.12.2012, page 87
Datuk Seri Chor Chee Heung: Katalah esok kita sudah selesai dengan kewangan (Ministry of Finance) dari segi pendaftaran (the Register of Property Managers). Semua sudah dapat satu pendekatan yang sudah okey sudah. Selepas itu kita buat pula pindaan (amendment to restore registered property manager back into the Strata Management Act).

- HBA would like to point out that the Strata Management Act 2013 does not have laws on regulatory control over the property managers save and except the developer, the JMB, the MC and the Subsidiary MC. Hence, in order to safeguard the public interest, it is timely for Parliament to approve the Bill for the formation of the Register of Property Managers under the Act 242 for such regulatory control of all persons and companies that profess to carry out professional property management practice in the country.

- In the public's interest, HBA will object to any proposal by Ministry of Urban Wellbeing, Housing and Local Government (KPKT) to carry out licensing of professional property managers under the respective Commissioner of Buildings (COB) level as it is grossly inappropriate to do so and furthermore it is localised in each State save and except Sabah and Sarawak that do not have COBs. In addition, HBA will object to any proposal to set up another Board of Building Managers under KPKT as there is no necessity to reinvent the wheel and increase unnecessary costs to the government which is facing financial constraints.

- Due to the current situation, the universities and their under-graduates and graduates of the Property Management or Estate Management Faculties are under great apprehension, fear and concern as regard to their future in the professional property management practice in this country. The timely Bill for the Register of Property Managers under the Act 242 will once and for all remove all their fears and gives clear direction to them, assuring them that government recognizes the established main stream of tertiary education on their established courses and degrees in Property Management or Estate Management in both our local universities and aboard

- HBA notes that the property management of the stratified and non-stratified buildings is essentially the same as it relates to the core activities of the building comprising the M&E installations and systems, communal facilities, security services, cleaning services, pest control services, landscape maintenance and keeping of proper accounts.

Why Regulate?

The answer is simple: Because lives and properties worth millions of ringgit are being entrusted to property managers to care, control and manage. Those not registered but have the experience and know-how should make it an effort to make enquiries with a view towards registration under the statutory Register of Property Managers. They should not fight the system that works towards safeguarding the interest of the public. It is the duty of The Board to ensure that the public is protected from unscrupulous and illegal property managers.

In Conclusion

The Act 242 amendment Bill with the proposed moratorium period (window period) of one (1) year in the register of property managers to include the registration of the existing non-registered property managers throughout the country (including Sabah and Sarawak) will be the right step forward to enhance and improve the progress and growth of the existing professionals in the country (including Sabah and Sarawak).

HBA has given our support to the Bill to amend the Valuers, Appraisers and Estate Agents Act 1981 ["Act 242"] for the set-up of the Register of Property Managers. Incidentally, the Bill was passed by Dewan Rakyat in the late afternoon on 7 August 2017 after a six (6) hours debate.

Know your rights:
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