



Things to
remember before
the auction

Page 25

malaymail

REAL SPACES

YOUR PROPERTY GUIDE ON FRIDAYS



The creation of the Joint Management Body (JMB) washed away many doubts strata owners had to deal with, as they had no control over the management and maintenance of the common property in their own residential buildings.

Exposing the real motive to reinvent the wheel

IN the past, prior to the establishment of the Management Corporation (MC), the homebuyers had no control over the management and maintenance of the common property in their own residential buildings. They were at the mercy of those recalcitrant developers who find management and maintenance a 'cash cow'; where they could impose whatever charges they were not supposed to charge. They even self-awarded themselves with 'management fees'.

The National House Buyers Association (HBA) fought hard for the homebuyers and that resulted in the creation of a Joint Management Body (JMB) for each stratified development scheme where the developer and the homebuyers jointly managed the residential building under the

Building & Common Property (Maintenance & Management) Act 2007 [Act 663]. Currently, the JMB continues to carry out the same function under the new Strata Management Act 2013 [Act 757] that replaced the repealed Act 663 effective 1 June 2015.

A majority of the JMBs and MCs engage property managers to manage and maintain their common properties as they generally do not have the expertise or the time to do so. The needs for independent professional property managers become more acute and evident in the mixed-use development schemes where the property management is both complex and complicated.

The powers and duties of a developer, JMB or MC in the management and maintenance of the common property is regulated and

enforced by the Commissioner of Buildings (COB) under the Act 757. However, the said Act does not regulate the property managers who carry out professional practice in the property management of stratified development areas.

BOVAEA to be renamed "Board of Valuers, Appraisers, Estate Agents and Property Managers" under the recent amendments (Bill stage) to Act 242

The practice of professional property managers has always been regulated by the statutory Board of Valuers, Appraisers And Estate Agents (BOVAEA) under the Act 242 for the last 36 years. The BOVAEA is a centralized board under the control of the federal government. This group

of professional property managers are registered and licensed by BOVAEA after they passed a test of professional competence (TPC) in addition to the prerequisites of a university degree in property or estate management and the completion of at least two years of internship. The BOVAEA regulates and disciplines them through the Act 242, the rules and the Malaysian Property Management Standards. Hence, HBA is of the view that the interest of the homebuyers in stratified development schemes is better protected and safeguarded by this single regulatory control and licensing of the professional property managers (aka the registered property managers) under BOVAEA.

CONTINUED ON PAGE 28

VIEWPOINT



HBA not in favor of the new call by the Housing Ministry to 'reinvent the wheel' for a separate 'Licensing of Strata Property Managers' process to be regulated by the COBs under the provision of the Strata Management Act, 2013 (SMA).

■ CONTINUED FROM COVER PAGE

HBA also takes into account that there are currently a number of unregulated non-registered property managers who have been carrying out property management practice over the years in clear breach of the Act 242. Many of the unregulated non-registered property managers in this group have more

or less acquired the required level of skills in managing simple homogeneous stratified development schemes through many years of trials and errors without the benefit of tertiary education and qualifications. It is not that they are incapable and incompetent. It will be prudent and useful to harness this source of manpower. Hence, HBA has successfully convinced BOVAEA to have a

moratorium period of twelve (12) month to register those competent non-registered property managers from this group. This moratorium has been provided by BOVAEA and approved by the Attorney General's Chambers in the present amendment Bill to the Act 242 for the opening of the Register of Property Managers. The said amendment Bill has been passed by Parliament in the

House of Representatives (Dewan Rakyat) and awaiting approval at Senate (Dewan Negara).

At the same time, HBA has also successfully convinced BOVAEA to offer a seat in the Board to the Building Management Association of Malaysia (BMAM). However, BMAM, from what we understand (we stand corrected) shunned

VIEWPOINT

for them to do their jobs (aka carry out professional property management practice) while his Ministry is considering the proposal of setting up a board of building managers at the urging of BMAM. As far as HBA is concerned, that is totally misleading because the Act 757 does not provide for such registration or regulatory control by the COBs. To make matter worse, there is no centralized control of the COBs as they are under the separate control of their respective state governments instead of the federal government. What really concerns HBA is that the interest of homebuyers will be compromised if the COBs are distracted from their focus in the administration and enforcement of the Act 757. The COBs have been working overtime daily in trying to cope up with the inundated complaints, monitoring meetings, checking minutes and enforcement issues from homebuyers, JMBs, MCs, developers and managing agents ever since the implementation of Act 757 and its regulations on 1.6.2015

Furthermore, the COBs have been unable to supervise, check and enforce the mandatory bond of RM50,000 or a sum equivalent to 12 months' fees, whichever is the higher, that is required to be deposited by an unregulated non-registered property manager with the JMB/ MC under the Strata Management Regulations, 2015 since its implementation date on 1.6.2015. HBA is concern that owners' interests have been put at risk when all the unregulated non-registered property managers are managing stratified development areas in full breach of the mandatory bond that is intended to protect the owners' interests. Infact, COBs themselves have been objecting to the proposal to form a new Board of building managers in the numerous meetings that we have attended. They know their limitations and difficulties in enforcement.

There is now a call, instead, by the Housing Ministry for a separate 'Licensing of Strata Property Managers' process to be regulated by the COBs under the proviso of the Strata Management Act, 2013 (SMA). The current Housing Minister is YB Tan Sri Noh Omar.

You think it is a good idea to regulate it under the Housing Ministry when they can't even curb abandoned housing projects? They had to dissect those 'problematic projects' into three (3) categories – *Projek Lewat* (late projects); *Projek Sakit* (sick projects) and *Projek Terbengkalai* (abandoned projects) to down play the statistics. It also had something to do with KPIs. Surf the internet for our article titled: "One abandoned housing project (far) too many".

There is a common idiom: "Don't eat more than you can chew" meaning that they should not do more than they are capable of doing or to do something that is too difficult for them to achieve results. This idiom is apt for the current scenario.

Is there a need to 'reinvent the wheel'?

HBA is perturbed by the persistent call by BMAM to 'reinvent the wheel' by setting up another regulatory board for the same function – do they not know that property management is building management. Call it whatever you want: 'Board of building managers' or newly toyed phase: 'Licensing of Strata Property Managers', it means duplication of role and responsibilities, double expense on the Government coffers, future conflicting opinion and penalties. It's like having lawyers register with Bar

Council; Malaysia (regulated under the Legal Profession Act, 1976) and another equivalent (where there is none other).

A regulatory board needs to be totally independent, principled and free from the influence of any lobby group. The current BOVAEA is the sole independent regulatory board that has successfully regulated the professional property management practice for the last 36 years. Therefore, HBA vehemently objects to the 'reinventing of the wheel' for obvious reasons, especially not compromising the interest of the homebuyers in stratified development schemes. Furthermore, the 'reinventing of the wheel' for a new regulatory board will burden the tax payers (already suffocating enough — pun intended) with unnecessary costs in the setting up expenses and the daily operating expenses.

HBA is aware of the numerous complaints from homebuyers of the cases of mismanagement and serious misconducts committed by many unregulated non-registered property managers with impunity because they are not regulated or licensed by BOVAEA. These black sheep of the industry are left free to roam and to continue fleecing the non-suspecting homebuyers vis-à-vis stratified owners.

HBA is of the view that, instead of 'reinventing the wheel', the Dewan Negara should expeditiously approve the amendment Bill to Act 242 for the opening of the Register of Property Managers under the BOVAEA or the renamed: "Board of Valuers, Appraisers, Estate Agents and Property Managers". This will augur well for the registration of the existing unregulated non-registered property managers and thus safeguard the protection of the homebuyers' interest in the stratified development schemes. At the same time, it does not burden the government and the tax payers.

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 very 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.



Know your rights:
NATIONAL HOUSE BUYERS ASSOCIATION (HBA)
 No. 31, Level 3, Jalan Barat, Off Jalan Imbi, 55100, Kuala Lumpur
 Tel: 03-2142 2225 / 012- 334 5676
 Fax: 03-22601803
 Email: info@hba.org.my
 Web Site: www.hba.org.my

the offer because it did not want to come under the control of BOVAEA which is the sole independent regulatory Board.

A separate Board of Strata Property Managers? – Seeing Double

(duplicating jobs, double expenses on the government coffers and double everything) HBA became concern when it was

reported in The Edge that the then Housing Minister YB Dato Hj Abdul Rahman Dahlan announced at a seminar jointly organized by BMAM and Real Estate and Housing Developers' Association Malaysia (REHDA) on 14.1.2016 that building managers (aka non-registered property managers) could then be registered with the Commissioners of Buildings (COBs) in order to give legitimacy