

Residential Strata Organisation System Choice For Strata Management Scheme In Malaysia

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Abstract: Nowadays, increasing urbanization and the scarcity of land for property development has changes from horizontal to vertical approach in high rise residential complex. People are beginning to realize that high-rise buildings require effective property management to maintain property values. At the same time, it should maintain a high return on investment. Demand for housing is rising, leading to rising housing prices due to shortage of land. The continued development of residential property strata demonstrates the importance of effective management needs especially in the area of strata management. This paper focused on the management of a residential strata development. The research methodology used for this study was a case study, which involve ten residential strata scheme within Kuala Lumpur. The major inquiry in this paper relates to the legitimate and handy outcomes of engaging with an in-house management or a Managing Agent to deal with residential strata scheme.

Index Terms: In-house Management, Laws, Malaysia, Management Corporation, Managing Agent, Residential Strata Scheme, Strata Management

1 INTRODUCTION

Malaysia are currently governed mainly by strata title act and strata management act 2013. the key of an individual ownership of strata schemes and shared ownership of common property remains in the strata scheme. while strata development comprises an innumerable of types including residential, single use, mixed use, commercial and industrial. there are currently 1,619,298 total of residential strata development in malaysia [1]. research methodology executed for this research is a case study of ten residential strata which utilised unlike strata management systems. these ten residential strata were selected randomly within the kuala lumpur. although it shares certain similar characteristic, each of it successfully employs a different system of strata management where part of it is managed by in-house management and the other part is by a professional managing agent. all the data was gathered through interviews with the management corporations, property managers, and committee members of the management. despite the fact that unit owners were not interviewed, the way that changing of the management committee whom chose by the owners inside the residential strata scheme will continued over a period of not more than two consecutive years then elected again in future indicate of their approval of the choice. these methods have also been used previously by researchers in this field of study, i.e. real estate [12], [13], [20], [21] and facility management [15], [16], [17], [18], [19], [22]. Information gained provide an insight of each one system and the variables wherein should guide a Management Corporation in its basic leadership on the strata management system. At the same time, it can light up the expectation of the unit owners to have the responsibilities they need to assume

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under the respective system. The study suggested that the advantages of one system can be integrated into the others and this will provide optimal gains and savings for Management Corporation in terms of costs and time in the management of the strata scheme.

2 STRATA MANAGEMENT

In management and maintenance of a residential strata scheme there is a legal responsibility. The Management Corporation obligations is one of the crucial highlights of strata title which is differentiation and separation of an ownership of an individual units and an ownership of the common property within the strata scheme [2]. Unit owners are liable for the maintenance and management of their own individual units while the lawful duty regarding the management and maintenance of the common property in strata scheme is abided with the Management Corporation. Responsibility for common property falls under the Management Corporation. The term of common property as defined in section 2 of Strata Management Act 2013 (SMA 2013), in relation to a building or land intended for subdivision into parcel, means so much of the development area:

- As is not compromised in any parcel or proposed parcel; and
- Used or capable of being used or enjoyed by occupiers of two or more parcels or proposed parcel; or

In relation to a subdivided building or land, means so much of the lot:

- As is not compromised in any parcel, including any accessory parcel, or any provisional block as shown in a certified strata plan; and
- Used or capable of being used or enjoyed by occupiers of two or more parcels.

An improper and negligence in managing a common property in strata scheme can lead to deteriorate in the value of the property for owners, damages to the property or even injury or death to the owners or tenants or invitees on the premises [2],[3]. Furthermore, there can be a few punishment if the Management Corporation neglects to complete its obligations

as recommend in section 59. In section 140 stated if the body corporate commits an offence may severely punished and the court has ward to make a request requiring the Management Corporation to perform the obligation and to make any such order as it might suspect appropriate. This shows the importance of the management and maintenance of the common property to be manage properly by the Management Corporations in strata scheme. In section 89 of SMA 2013 stated the Designation of Management Corporation's obligations to Managing Agent. Section 19 [4] stated that after the first Annual General Meeting (AGM), each Management Corporation will designate a Management Council. Section 86 gives that a Managing Agent maybe appointed to perform the assigned obligations by the Management Corporation or by the Managing Council. Interestingly with the situation in Singapore [5], there is by and by legitimate necessity had been enforced in Malaysia for Managing Agent to be authorized, controlled or even licensed. There started to have a requirement for Managing Agent to be licensed to be able to manage the residential strata scheme accordingly in the SMA 2013 unlike in the previous Act where there was no such regulation that there is need to be a licensed Managing Agent to manage a strata scheme. Presently, the Strata Management (Maintenance and Management) Regulation 2015 [6] under section 21(2), it allows unlicensed and non-registered Managing agent to manage and maintain the strata scheme but with condition. For those unlicensed Managing Agent are given a one year grace period to register themselves as certified professionals and have to lodge a bond of RM50,000 or a sum equivalent to twelve month's fee or whichever is higher with the Management Corporation or Joint Management Body in order to be able to maintain and manage the common property and strata scheme. This is to ensure the significance of a proper and professional management of the residential strata scheme. Presently the management of the residential strata scheme in Malaysia can take one of the two forms:

- (1) Through an in-house management and
- (2) Through the Management Corporation appointment of a Managing Agent.

The strata management is one of the crucial administrative choices which the Management Corporation and Committee members needs to make in choosing which management system to be used.

3. INHOUSE MANAGEMENT

The management of a residential strata scheme in Malaysia for an in-house management contains people who are under the immediate employment of the Management Corporation or Committee Members. They accomplish their tasks mostly with their work force nearby in the strata scheme and simultaneously under the immediate control and supervision of the Management Corporation. Organisational structure set up may contrasts from a Management Corporation to other Management Corporation which upon the components like the size of the residential strata scheme and scale of its requirement. The average size of an in-house management team is a normally with staff quality of around four to ten employees, but it also depends on the density of the residential. Various task and services are necessary for a

proper maintenance to be functioning in the strata scheme such as security and cleaning whether it is subcontracted to eternal firms or hiring the inside people among the residents.

3.1 Advantages of Inhouse Management

The benefits of employing an in-house management in managing the residential strata scheme in Malaysia will be discussed. One of the pluses of utilizing an in-house management in dealing with a residential strata scheme is continuousness. Based from the interview that had been done, four Management Corporation of the residential strata agreed that continuousness is one of the crucial advantage's aspect in the in-house management. The term of appointment of the Managing Agent can be rather short and it is subjected to the changing the inclinations of an incoming Management. On the chance that the incoming Management Corporation to utilise an alternate Managing Agent firm, at this point could mean unsettling influence, misfortune in persistence and an extra regulatory exertion in giving over procedure between the past to the new Managing Agent. If it is an in-house management, it will be easy to manage since there is continuousness in the management and the extent of the problem for the Management Corporation is less in employing in-house management. Like any other organisation, continuousness is less influenced by the shift in staff when contrasted with changing a Managing Agent since the whole arrangement of the structure and management can be overhauled. This at the same time can make lessen problems arises when there are less changes in the management and being managed by the same organisational management. There is also communication and control. Since the staff of the in-house management are legitimately under the Management Corporation, the Committee Council have direct command over the functions and activities of the group. Direction and guidance given to the in-house management can be made all the more effectively since there is no intervention of the outsider. Besides that, communication become easier since the management staff within the organisation are altogether arranged nearby. Since the Management Corporation are every one of the residents of the strata scheme, they can undoubtedly go to the administrative office and discuss straightforwardly with the staff for any guidelines and help and simultaneously to monitor any responses. At the same time, it will be easier to deal with the residents if there were problems to occur within the premises since communication is easier to be outspoken within them. Four Management Corporation agreed that communication is important in order to communicate with the staff as well as residents while at the same time to control any activities occurred within the organisation. Cost Saving is one of the advantages in employing an in-house management. Two of the Management Corporation agreed that employing an in-house management can save expenses to be used for any repair and maintenance in the residential strata scheme. Employing a Managing Agent required to pay monthly fee which is certainly not cheaper for the owners than to self-manage with an in-house management [7]. The in-house management purchases products that need to be periodic replacement can survey and research on the products first-hand to get a lower price. At the same time, the inhouse management have the option to choose for any

tenders that entered for repairs and maintenance to choose which offer lower price and can save their cost. In cost saving, it is essential to remember that recurring costs is essential for a proper running, upkeep and maintenance of the strata scheme. The inhouse management can understand well of the needs in their strata scheme especially in regard to budgeting and funding.

3.2 Disadvantages of In-house Management

Despite of the advantages above, there are some disadvantages of appointing an in-house management to manage the residential strata scheme in Malaysia. One of it is staff quality. Most of the Management Corporation interview two out of ten said that most of the in-house management do not have the knowledge and experiences to handle and manage the residential strata scheme. The staff from the Managing Agent is more likely better equipped in terms of experiences, qualifications and knowledges. Most of the Managing Agent staff employment are those who possess at least a diploma or a degree in estate or property management unlike for some in-house management where there are those who don't even have any background and knowledge in the management. Some of the in-house management might consist of those retiree and some without any background in property which at the same time will be difficult for them to manage the strata scheme. Besides that, an in-house management is considered as a voluntary work. There is no monetary provision for the in-house management which lead to one of the disadvantages of engaging in-house management. Based from the ten Management Corporation that been interviewed, eight of the Management Corporation agreed that in-house management is a hard for the in-house management since they have to work voluntary. When there is no monetary involvement, it will be hard for them to do the work efficiently and some might do the management work aimlessly without any goals and objectives. That is why there is statute to appoint a Managing Agent under section 19(2) of SMA 2013, the Commissioner may appoint a Managing Agent to maintain and manage the strata scheme if there is no person or body wants to manage it. This is to help in lessen the burden of the Management Corporation in managing a residential strata scheme.

4 THE MANAGING AGENT

In property and strata management, a Managing Agent is in general an organisation, or a company connected by the Management Corporation of a strata scheme to deal with the common property and an expense consequently [8]. Generally, the Managing Agent's services include an everyday activities in dealing with the strata scheme. Under section 91 of SMA 2013, the duration of a Managing Agent's appointment stated that if Managing Agent to be terminated, not more than one month Managing Agent need to prepare and submit to the Commissioner the unaudited accounts of the maintenance and sinking fund, complete list of asset and liabilities necessary or not later than three month submit to the Commissioner the audited accounts of the maintenance and sinking fund. This shows that there is no specific time of period of appointment the Managing Agent unless the Managing Agent fails to comply and commits offence. The Managing Agent terms of service may also be reviewed at every Annual

General Meeting. It is usually for larger Management Corporation which usually comprising more than 400 units to employ a professional Managing Agents in respect to financial, secretarial and maintenance matters in the strata scheme. Be as it may, the case study in this paper shows that even an enormous strata scheme may go for in-house management and successfully do.

4.1 Advantages of Managing Agent

One of the advantages is professionalism. Today, the diverse sorts of properties just as thee expanding variety of ownership utilised by investors make there is a need to have an expert property management expertise significantly increasingly basic [8]. It is likely that the Managing Agent will provide a better service compared to in-house management for a numerous reasons. Managing Agent is usually a member of a company specialised in the property management or members of a large multiservice real estate company. Alternatively, in-house management is generally comprising a group of individuals under the Management Corporation that mostly the owners of the strata scheme. In addition, the staffs utilized by Managing Agent Company are bound to have the requirement qualification and academic which include an authorized degree or diploma in the field of real estate management with or important involvement with overseeing real estate in Malaysia. Licensing is also compulsory in Malaysia for a Managing Agent to manage any stratified building in Malaysia which had been enforced in the Act under section 21 [4]. Managing Agent would be required to possess a qualified estate management graduates either from both local or overseas universities who had undergone two year post graduate internship and passed their test of professional competency (TPC) [10]. In order to be registered and licensed by the Board of Valuers, Appraisers, Estate Agents and Property Managers (BOVAEP), the Valuers, Appraisers, Estate Agents and Property Managers Act 1981 (as amended) (Act 242) there is a need to carry out the professional property management practice in accordance to the Act [9], adhere to keep and keep abreast of codes of professionals conduct and performance. Eight out of ten of the interviewed Management Corporation said that professionalism is an advantage in having a Managing Agent as the person or body to manage and maintain the residential strata scheme. Resources is one of advantages engaging a Managing Agent in a residential strata scheme. This had been agreed by two of the Management Corporation that had been interview. Compared to an in-house management, a Managing Agent have more resources in their finances and manpower due to the size and scale of the operation. Besides that, Managing Agent's company will have the flexibility and ability to dispatch additional staff to any of its clients when needed at short notice since they have prepared a pool of qualifies staff on standby. Besides that, the Managing Agent 's company also have their own legal advisor and experienced staff that can help solve any problems quickly since the have a good management control and resources to minimize any problems occurred.

4.2 Disadvantages of Managing Agent

Regardless of the advantages talked about above, it is essential to know about certain drawbacks in utilizing a

Managing Agent to deal with a residential strata scheme in Malaysia. One of it is the Managing Agent's fee. Based from the interviewed, four of the ten Management Corporations said that disadvantages in employing a Managing Agent is the fees. As a by-product of their services, Managing Agent ordinarily charge a month to month expenses. This charge is paid to the Managing Agent for their expert administration. It is additionally charged what's more for other essential expenses for the upkeep of the residential strata scheme such as staff pay rates, security and cleaning cost. There are different fees for the Managing Agent which depends on the types and range of services required by the Management Corporations. The Management Corporation is expected to pay a high monthly fee for the Managing Agent to perform daily task in the residential strata scheme. Some of the Management Corporation interviewed even said that if employing a Managing Agent, all the fund collected might be spend unwisely and they fear for their fund to be insufficient in future. Since Managing Agent is a company, the fee for monthly will be high since they are prone in profit making unlike in-house management, they are more particular in managing the resident wellbeing. Besides, communication and control are one of the disadvantages in engaging Managing Agent. The relationship between Management Corporation and Managing Agent in a strata scheme is between client and professional service provider. Appointing a Managing Agent through a company seems to be less efficient for the Management Corporation and Committee members that engaged with a Managing Agent in control and communication compared to in-house management. Six of the interviewed Management Corporation agreed that there can be difficulties in communication and control if hiring a Managing Agent. At the same time, instruction that are made by the Management Council and Committee members can directly be given to the staff of the in-house management and followed up on right away. There could be a miscommunication between the Managing Agent with the residents of the strata scheme. Unlike in-house management, they will know the problems that residents have and able to communicate with them if there were problems. For instance, collecting monthly maintenance and sinking fund fee from the owners. The in-house management will know the situation of the owner and able to communicate with them to pay the fee while Managing Agent might not even know the situation that the owners are having and will end up in taking a legal action. In the matter of control, there is a higher level of control in the hands of the Management Corporation with the in-house management team. When a Management Corporation employed a Managing Agent, the staff designated in the strata scheme are not on the immediate finance of the Management Corporation and they are employees of the Managing Agent. These staff are not directly to the Management Corporation but liable to their superior in the Managing Agent Company. In spite of the fact that the Management Corporation contracts and pays the Managing Agent's company for their administration and services, there is an extra layer differentiated in the connection between the Managing Agent's staff in the strata scheme and the Management Corporation. This may bring about a lower level of control.

DISCUSSION

Based on the interview with the Management Corporation and managing Agent of the ten residential strata scheme, the different strata management system is analysed to set up how fitting and reasonable they are for each strata scheme. Seven out of ten of the residential strata opt for an in-house management. The in-house management has a team heads which is all under the direct control of the Management Corporation. By having the whole team under the immediate work of the Management Corporation, the issue in control and communication is more efficient when compared to the strata scheme running by a Managing Agent. Employing an in-house management means all the staff have to report back to the Chairman or property manager and this will give a better understanding of the everyday happenings in the strata scheme. With this, the Management Corporation is able to respond promptly to the situation or any emergencies that arise. At same time, the in-house staff shows a high level of responsibility and loyalty which might contrasted with employing a Managing Agent that the Managing Agent will be committed in their employer of the company instead of to the Management Corporation that are assigned to work with. The study also reveals that in-house management employment permits as well as requires the Management Council to undertake greater power and control over how the strata scheme can run. This can continue in implementing a long-term strategies and goals for the Management Councils for better management of the daily activities and handling problems. Based from the study, seven of the Management Corporation mainly comprises retirees, who are often with experience and knowledge in real estate matter and who are willing to undertake the supervision of their in-house management to meet their own expectation as the owner of the residential strata scheme. There are some of the inhouse management that do not have the knowledge in the real estate matter will take the initiative went for a conference, real estate counselling and other related matters in property in order to learn and committed in managing the residential strata scheme. The main goal of a Management Councils seems to be to hold authority over essentially all aspects of the operations of the place to ensure that their need and wellbeing are being taken care off. As the Management Corporation for the Management Council, they are elected by the owners through the General Meeting. It is understood that the majority of the owners are in favour of such method of management. At the same time, in-house management would be able to control their own expenses as well. From the interviewed, most of them said that in-house management can save more money than appointing a Managing Agent. In cases for repairing of certain part of the building, in-house management will be able to choose tenders that offer a good price and at the same time they would be able to do research and discussion with the Councils members on ways to solve the repair as well as saving cost. This give an in-house management a greater control in managing their funds. As for the employment of Managing Agent, three of the interviewees of Management Corporation opt for the appointment of the Managing Agent. Three of this Managing Agent had been appointed for four years already and it is said that the Management Council will decide in the General Meeting if they wanted to continue with the same Managing Agent or change to other. This seem to

correspond with the disadvantages earlier discussed above of the lack in continuousness when employing a Managing Agent. Though under section 91 SMA 2013 stated that there is no duration but if need to be terminated, there is a procedure that need to be follow and prepared before the termination. Despite that, the Managing Agent has demonstrated advantageous to the strata scheme in advising the incoming Management Council on any pending issues as proceed with its long-term plan and strategies. In term of the Managing Agent resources, it happened that when a staff resign from Managing Agent's company, one of the Managing Agent interviewed said that the within a month or two, a replacement of the staff had been appointed to the property with a smooth handling over the duties from the predecessor. This might be difficult in the in-house management since the Managing Agent's company resource allow a prompt substitution through the current pool of trained staff. Employing Managing Agent is to ensure that their property to be managed by an experienced and professionalism of the Managing Agent that can be attributed to wealth through the management and taking care of issues in different strata scheme under their charge. It is significant that the Management Council and the Managing Agent to have an amicable and open relationship based on confidence and trust and it must be viewed as more than a merely a professional appointment whereby the Managing Agent basically carry out duties and responsibilities with diligence so as to legitimise its reappointment after each AGM. This is to ensure the Managing Agent to continue retain its services for a long time.

6 CONCLUSIONS

This paper has studied two type of strata management system available in residential strata scheme in Malaysia. Either it is through in-house management or through a Managing Agent. These two systems show that each of the system successfully being employ different system of strata management. After examining the pros and cons of the two system, apparently there is no conclusively predominant system for the management of the residential strata scheme. It would be better to engage a professional Managing Agent if the Management Corporation priority is practicality and efficiency. Alternatively, if the Management Corporation compromises of owners who are committed, sufficiently knowledgeable and prepared to offer their time in management on voluntary basis, it would be better to opt for an in-house management. Different impact decides the decision of the strata management system. From the findings, it is found out that most of the residential strata in Malaysia go for an in-house management compared to employing Managing Agent. Therefore, there is a need of sound understanding of the ramifications of the selection of strata management system and legal aspect as well as practical implications for owners is crucial. It will help the Management Corporation to settle on a better decision on the choice of strata management system for their strata scheme.

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