

SARAWAK HOUSING AND REAL ESTATE DEVELOPERS' ASSOCIATION

砂 朥 越 房 地 產 發 展 商 商 會

www.sheda.org.my



PERSATUAN PEMAJU PERUMAHAN DAN HARTA TANAH SARAWAK

9 January 2018

Yang Arif Datuk Talat Mahmood Abdul Rashid

State Attorney General

State Attorney-General's Chambers
15 & 16 Floors, Wisma Bapa Malaysia
93502 Petrajaya, Kuching, Sarawak.

Dear Yang Arif Datuk,

Courtesy Visit by SHEDA to Discuss on the Proposed Amendments to Strata Title Ordinance

Reference is respectfully made to the abovementioned matter.

We are given to understand that the State Government is considering tabling the above bill to the Dewan Undangan Negeri (DUN) for their endorsement.

During the 14th State Housing Coordination Committee Meeting held on 26th August 2016, it has in principle agreed by the State Attorney General office to provide the draft copy of the proposed amendments to SHEDA and to include SHEDA in the discussion as well.

SHEDA has submitted a comprehensive proposal to Ministry of Resource Planning and Environment on 5 May 2017 (*as attached*). The proposals made by SHEDA herein are important to improve the existing regulatory and implementation framework on the issuance of strata title as well as Strata Management before and after existence of Management Corporation.

SHEDA humbly requests permission to pay a courtesy visit to Yang Arif Datuk's good office in order to discuss on the Proposed Amendments to Strata Title Ordinance and Management related provision. SHEDA represents majority of the property developers in Sarawak and we appreciate if Yang Arif Datuk takes SHEDA's into participation in the policies review for the betterment of housing industry in Sarawak.

We look forward to hearing from the office of Yang Arif Datuk and to a proposed date for the requested meeting soon.

Thank you for Yang Arif Datuk's valuable time and attention to this matter.

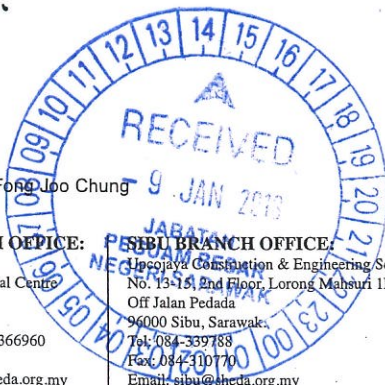
Best Regards.

Yours Sincerely,

for Sarawak Housing and Real Estate Developers' Association

Joseph Wong Kee Liong
President

Cc: State Legal Counsel, Datuk Fong Joo Chung



Acknowledge receipt of the document(s) by:	
Company
Date
Name
Signature	<i>Zainon</i>
I.C:	<i>9/1/2018</i>

SECRETARIAT:

Sub-Lot 42, 2nd Floor,
Tabuan Stutong Commercial Centre,
Jalan Setia Raja, 93350 Kuching, Sarawak.
Tel: 082-366334, 366434, 366960
Fax: 082-365001
Email: secretariat@sheda.org.my

KUCHING BRANCH OFFICE:

Sub-Lot 42, 2nd Floor
Tabuan Stutong Commercial Centre
Jalan Setia Raja,
93350 Kuching, Sarawak.
Tel: 082-366334, 366434, 366960
Fax: 084-365001
Email: secretariat.kch@sheda.org.my

SIBU BRANCH OFFICE:

Ujeorjay Construction & Engineering Sdn Bhd
No. 15-15, 2nd Floor, Lorong Mahsuri 1B
Off Jalan Pedada
96000 Sibu, Sarawak.
Tel: 084-339788
Fax: 084-310770
Email: sibu@sheda.org.my

BINTULU BRANCH OFFICE:

Sarawak Land (Kemena Park) Sdn. Bhd.
No. 461, Lot 4110,
Parkcity Commerce Square,
Phase 5, Jalan Kambur Bubin,
P. O. Box 1338, 97008 Bintulu, Sarawak.
Tel: 086-313099 Fax: 086-313088
Email: bintulu@sheda.org.my

MIRI BRANCH OFFICE:

Borwak Sdn Bhd
Lot 2114, 2nd Floor, Jalan Jee Foh 5
Taman Yakin Shophouse Krokop
98000 Miri, Sarawak.
Tel: 085-415060
Fax: 085-415060
Email: miri@sheda.org.my

Index

1.0 SHEDA'S COMMENTS AND PROPOSED CLAUSES TO BE INCLUDED IN THE AMENDMENT OF THE STRATA TITLE ORDINANCE 1995

- A) Key changes/proposal to revise Strata Title Ordinance
- B) Proposed clauses to be inserted in the amended Strata Title Ordinance

2.0 ISSUANCE OF STRATA TITLE WITHIN SIX MONTHS OF ISSUANCE OF OP AND SHARE UNIT CALCULATION AND WEIGHTAGE

- (1) Sheda's proposed improvement in processing issuance of Strata title (APPENDIX A)
- (2) Share Unit entitlements
- (3) Dealing in accessory parcel allowed independent of a parcel
- (4) Formulae for share units

3.0 PROPOSED STRATA MANAGEMENT BEFORE AND AFTER SET UP OF MANAGEMENT CORPORATION

(A) Developer's Management After Occupation Permit (OP)

- | | |
|-----------|--------------------------------------------------------------------------|
| Section 1 | Duties and powers of developer during developer's management period |
| Section 2 | Developer to establish maintenance account |
| Section 3 | Developer to establish sinking fund account |
| Section 4 | Purchaser and developer to pay Charges, and contribution to sinking fund |
| Section 5 | Prohibition on collection of moneys before accounts are opened |
| Section 6 | Duties of developer in relation to accounts |
| Section 7 | Handing over by developer to the joint management body |
| Section 8 | Balances not transferred shall vest in joint management body |

(B) Strata Management by Joint Management Body (JMB)

- | | |
|------------|--------------------------------------------------------------------------------------------------|
| Section 9 | Establishment of a joint management body |
| Section 10 | First annual general meeting of joint management body |
| Section 11 | Duty of joint management body to inform its name to the Controller |
| Section 12 | Duties and powers of joint management body |
| Section 13 | Joint management committee |
| Section 14 | Joint management body to establish maintenance account |
| Section 15 | Joint management body to establish sinking fund account |
| Section 16 | Parcel owners to pay Charges, and contribution to the sinking fund, to the joint management body |
| Section 17 | Duties of joint management body in relation to accounts |
| Section 18 | Dissolution of joint management body |
| Section 19 | Balances not transferred shall vest in management corporation |
| Section 20 | Right of parcel owner or prospective purchaser |
| Section 21 | Recovery of sum as a debt due to joint management body |
| Section 22 | Procedure on recovery of sums due |
| Section 23 | Recovery of sums by attachment of movable property and/or the parcel itself |

(C) Strata management after existence of management corporation

- | | |
|------------|---------------------------------------------------|
| Section 24 | Handing over of control to management corporation |
| Section 25 | Duties and powers of management corporation |

Section 26 Limited common property and subsidiary management corporations allowed

(D) Features of Committee

Sheda's proposed Features of Committee for Joint Management Body, Management Corporation and Subsidiary Management Corporation

(E) Enforcement

Section 27 Recovery of sums due
Section 28 Failure to pay contributions
Section 29 Recovery of sums by attachment of movable property and immovable property
Section 30 The recovery of sum as debt due to Management Corporation

(F) Appointment of managing agent by Controller

Section 31 Appointment of managing agent by Controller
Section 32 Powers and duties of managing agent
Section 33 Developer not to be relieved of his obligations to carry out repairs, etc.
Section 34 Termination of management agreement

(G) Managing Agent appointed by Controller

Section 35 Management agreement
Section 36 Charges and contribution to the sinking fund during management by managing agent

(H) Miscellaneous provisions

Section 37 Service of documents
Section 38 Inter floor leakage
Section 39 Inspection of affected parcel
Section 40 Matters to be considered in determining cause of leakage
Section 41 Inter-floor leakage caused by defective workmanship, etc. within the defect liability period
Section 42 Access
Section 43 Reference to Controller
Section 44 Damage to Party Wall
Section 45 Meaning of party wall
Section 46 Meaning of damage to a party wall

FORM

- i) Form 1
 Section ____ (Recovery of sums by attachment of movable property)(WARRANT OF ATTACHMENT)
- ii) Form 2
 Section ____ (Recovery of sums by attachment of movable property) (NOTICE AND INVENTORY)
- iii) Form 3
 Section ____ (Recovery of sums by attachment of immovable property)(WARRANT OF ATTACHMENT)
- iv) Form 4
 Section ____ (Recovery of sums by attachment of immovable property)(NOTICE AND INVENTORY)

1.0 SHEDA'S COMMENTS AND PROPOSED CLAUSES TO BE INCLUDED IN THE AMENDMENT OF THE STRATA TITLE ORDINANCE 1995

(A) Key changes proposed to revised Strata Title Ordinance

- 1) Issuance of strata titles to parcels and common property within six (6) months from issuance of OP. Accessory parcels such as car parks to be capable of having its own title and capable of being transferred to individuals or private entities (as commonly done in Australia and Hong Kong). This is to recognize the significant costs of producing a car park whether on-street (land value is higher than building cost) or basement (building cost is higher than land value) and to allow for the base price of a strata property to be lowered (exclude the otherwise embedded cost of the car park).
2. Joint Management Body ("JMB") to be formed between Developer and parcel owners within three (3) months from issuance of OP.
3. JMB to be converted to Management Corporation ("MC") who may appoint the developer or an external property manager within six (6) months from the issuance of strata titles.
4. In the event that no parcel owner(s) or the developer is able to convene a special meeting (whether by AGM or any name called) to facilitate the handover of the management of the strata property within six months of the issuance of strata titles, the Controller shall be empowered to appoint the developer or an external managing agent to take over the management of the strata property and to assume all the powers of the JMB/MC in relation to the management of the strata property.
5. The amount of the Charges (including sinking fund contribution) to be charged to the parcel owner(s) shall be determined by JMB/MC from time to time in proportion to the allocated share units of each parcel.
6. Allow for creation of sub-MC for mixed-use developments eg. Sub-MC office, Sub-MC Retail, Sub-MC residential /service apartments and Limited Common Property (for exclusive use and cost borne by the designated sub-MC) and shared Common Property (eg. Basement car park servicing all of the development. Share unit, service charges and sinking fund to be measured differently to (i) reflect difference in market value and commercial utility rates and assessments (where applicable) and (ii) to give due weightage to the voting right of the parcel owners of the respective sub-MC and MC.
7. Enforcement laws and regulations for non-payment of service charges, sinking fund, late payment interest and utility bills etc. including the power of JMB/MC to inter alia, cut water supply, all key card access and to ultimately auction off the parcel and/or the contents therein to recover bad debts (non-payment of service charges and sinking fund).
8. En block sale/ re-development of Strata Property with at least 70% majority decision.

(B) **Proposed clauses to be inserted in the amended Strata Titles Ordinance**

Definitions

Interpretation and construction

“**sinking fund account**” means an account required to be opened and maintained by a developer, joint management body, management corporation or subsidiary management corporation, as the case may be, to be deposited into the sinking fund bank account.

“**maintenance account**” means an account required to be opened and maintained by a developer, joint management body, management corporation or subsidiary management corporation, as the case may be, with a bank or financial institution;

“**Accessory parcel**” – means any parcel shown in the certified plan as an accessory parcel which is appurtenant to and for intended use in conjunction with a land or building parcel provided always that its usage shall be limited only for car park, storage yards, and such area so designated for solely used of that parcel.

“**Charges**” means any money collected by a developer, joint management body, management corporation or subsidiary management corporation, as the case may be, to be deposited into the maintenance account;

“**Common Property**” shall exclude accessory parcel and individual parcel.

“**Controller**” means the Controller of Housing appointed under section 5 of the HOUSING DEVELOPMENT (CONTROL AND LICENSING) ORDINANCE, 2013 and includes the Deputy Controller

“**managing agent**” means a person who is appointed by the Controller under [section 27];

“**Minister**” means the Minister charged with the responsibility for Housing;

“**Parcel**” means building parcel and land parcel.

“**Tribunal**” means the Tribunal for Housing Purchaser Claims established under section 34 of the Housing Development (Control and Licensing) Ordinance, 2013.

2.0 ISSUANCE OF STRATA TITLE WITHIN SIX MONTHS OF ISSUANCE OF OP AND SHARE UNIT CALCULATION AND WEIGHTAGE

(1) Procedure for application

Sheda's proposed improvement in processing issuance of strata title (See Appendix A)

(2) Share Unit entitlements

The value of each parcel, except in the case of an accessory parcel where no share value shall be allotted, shall be taken as the share unit entitlement, and in the case of a provisional block the value shall be taken as the provisional share unit entitlement. The share units of a parcel or the provisional share units in the case of a provisional block as specified in the strata title or in the provisional strata title, as the case may be, shall determine :-

- (a) the voting rights of the subsidiary proprietors and;
- (b) the quantum of the undivided share of each subsidiary proprietor in the common property; and
- (c) the proportion payable by each subsidiary proprietor of the contribution levied by the management corporation.

(3) Dealing in accessory parcel allowed independent of a parcel (to allow for sale of car parks and storage separately)

An accessory parcel or any share or interests therein can be dealt with independently of the parcel to which such accessory parcel has been made appurtenant as shown on the approved strata plan provided that the dealing of accessory parcel can only be by any of the current parcel owner.

(4) Formulae for share units

(Surveyors to contribute for this)

3.0 PROPOSED STRATA MANAGEMENT BEFORE AND AFTER SET UP OF MANAGEMENT CORPORATION

(A) Developer's Management After Occupation Permit (OP)

Section 1. Duties and powers of developer during developer's management period

(1) Subject to the provisions of this Ordinance, a developer shall, during the developer's management period, which shall be no longer than three (3) months from the date of issuance of Occupation Permit to the parcels and the common property be responsible to maintain and manage any building or land intended for subdivision into parcels and the common property.

(2) Without prejudice to the generality of subsection (1), the duties of the developer during the developer's management period shall be as follows:

- (a) to determine and impose the Charges to be deposited into the maintenance account;
- (b) to determine and impose the contribution to the sinking fund to be deposited into the sinking fund account;
- (c) to effect insurance according to this Ordinance;
- (d) to comply with any notice or order given or made by the local authority or any competent public authority requiring the abatement of any nuisance on the common property, or ordering repairs or other work to be done in respect of the common property or other improvements to the common property;
- (e) to prepare and maintain a register of all parcel owners of the buildings or lands intended for subdivision into parcels;
- (f) to ensure that the accounts required to be maintained by the developer under this Ordinance are audited and to provide audited financial statements for information to all purchasers;
- (g) to enforce by-laws; and
- (h) to do such other things as may be expedient or necessary for the proper maintenance and management of the buildings or lands intended for subdivision into parcels and the common property.

(3) The powers of the developer during the developer's management period shall be as follows:

- (a) to collect the Charges from the parcel owners in proportion to the allocated share units of their respective parcels;
- (b) to collect the contribution to the sinking fund from the parcel owners;
- (c) to authorize expenditure for the carrying out of maintenance and management of the buildings or lands intended for subdivision into parcels and the common property;
- (d) to recover from any parcel owner any sum expended by the developer in respect of that parcel in complying with any such notice or order referred to under paragraph (2)(d); and
- (e) to do all things reasonably necessary for the performance of its duties under this Ordinance.

(4) During the developer's management period—

The developer shall ensure that a separate and distinct area is set aside out of the common property of the development area for the sole purpose of an administration office for the carrying out of duties of the developer under this Ordinance; and

(5) Any developer who fails to comply with subsection (1), (2) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 2. Developer to establish maintenance account

(1) A developer shall open one maintenance account in respect of each development area with a bank or financial institution—

- (a) if vacant possession of a parcel was delivered before the commencement of this Ordinance, on the date of the commencement of this Ordinance; or
- (b) if vacant possession of a parcel is delivered after the commencement of this Ordinance, at any time before the delivery of vacant possession, but in any case, before the Charges are collected from the purchaser of any parcel in the development area.

(2) Each maintenance account shall be operated and maintained by the developer until the expiry of the developer's management period.

(3) The developer shall deposit into the maintenance account—

- (a) the Charges received by the developer from the purchasers in the development area; and
- (b) the Charges to be paid by the developer in respect of those parcels in the development area which have not been sold, and all such moneys shall be deposited into the maintenance account within three working days of receiving the moneys.

(4) Notwithstanding any other written law to the contrary, all moneys in the maintenance account shall—

- (a) not form part of the property of the developer;
- (b) be held in trust for the purchasers; and
- (c) only be used by the developer solely for the purpose of meeting the actual or expected general or regular expenditure necessary in respect of the following matters:
 - (i) maintaining the common property in good condition on a day-to-day basis;
 - (ii) paying for the expenses incurred in providing cleaning services for the common property, security services and amenities for the occupiers of the building;
 - (iii) paying any premiums for the insurance effected under this Ordinance;
 - (iv) complying with any notice or order given or made by the local authority in respect of periodical inspection of any building in the development area in the manner as the law required;
 - (v) minor painting work on premises of the common property;
 - (vi) carrying out inspection of all electrical wiring systems of the common property and replacing or repairing any faulty wiring system, if any;
 - (vii) carrying out inspection, maintenance and repair of the main water tanks;
 - (viii) paying rent and rates, if any;

- (ix) paying any fee incurred for the auditing of the accounts required to be maintained by the developer under this Ordinance;
 - (x) paying all charges reasonably incurred for the administration of the accounts required to be maintained by the developer under this Ordinance as may be determined by the Controller;
 - (xi) paying the remuneration or fees for the managing agent appointed (if any);
 - (xii) paying any expenses, costs or expenditure in relation to the procurement of services, including the engagement of consultants, legal fees or costs and other fees and costs, properly incurred or accepted by the developer in the performance of its functions and the exercise of its powers under this Ordinance; or
 - (xiii) meeting other expenses of a general or regular nature relating to the maintenance and management of the building or land intended for subdivision into parcels and the common property.
- (5) In the event that—
- (a) the developer enters into any composition or arrangement with his creditors or has a receiving order or an adjudication order made against him; or
 - (b) the developer, being a company, goes into voluntary or compulsory liquidation, the moneys in the maintenance account shall vest in the administrator, official receiver, trustee in bankruptcy or liquidator, as the case may be, to be applied for all or any of the purposes for which moneys in the maintenance account are authorized to be applied under this Ordinance.
- (6) Any money remaining in the maintenance account, after all payments have been properly made under this Ordinance, shall be held by the administrator, official receiver, trustee in bankruptcy or liquidator, as the case may be, and shall be transferred into a maintenance account in the name of the joint management body.
- (7) Any person who fails to comply with subsection (1), (2), (3), (4), (5) or (6) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 3. Developer to establish sinking fund account

- (1) A developer shall open one sinking fund account in respect of each development area with a bank or financial institution—
- (a) if vacant possession of a parcel was delivered before the commencement of this Ordinance, on the date of the commencement of this Ordinance; or
 - (b) if vacant possession of a parcel is delivered after the commencement of this Ordinance, at any time before the delivery of vacant possession, but in any case, before the contribution to the sinking fund is collected from the purchaser of any parcel in the development area.
- (2) Each sinking fund account shall be operated and maintained by the developer until the expiry of the developer's management period.
- (3) The developer shall deposit into the sinking fund account—
- (a) the contribution to the sinking fund received by the developer from the purchasers in the development area; and

- (b) the contribution to the sinking fund to be paid by the developer in respect of those parcels in the development area which have not been sold by the developer, and all such moneys shall be deposited into the sinking fund account within three working days of receiving the moneys.
- (4) Notwithstanding any other written law to the contrary, all moneys in the sinking fund account shall—
 - (a) not form part of the property of the developer;
 - (b) be held in trust for the purchasers; and
 - (c) be used by the developer solely for the purpose of meeting the Actual or expected capital expenditure necessary in respect of the following matters:
 - (i) the painting or repainting of any part of the common property;
 - (ii) the acquisition of any movable property for use in relation to the common property; or
 - (iii) the renewal or replacement of any fixture or fitting comprised in any common property.
- (5) In the event that—
 - (a) the developer enters into any composition or arrangement with his creditors or has a receiving order or an adjudication order made against him; or
 - (b) the developer, being a company, goes into voluntary or compulsory liquidation, the moneys in the sinking fund account shall vest in the administrator, official receiver, trustee in bankruptcy or liquidator, as the case may be, to be applied for all or any of the purposes for which moneys in the sinking fund account are authorized to be applied under this Ordinance.
- (6) Any money remaining in the sinking fund account, after all payments have been properly made under this Ordinance, shall be held by the administrator, official receiver, trustee in bankruptcy or liquidator, as the case may be, and shall be transferred into a sinking fund account in the name of the joint management body.
- (7) Any person who fails to comply with subsection (1), (2), (3), (4), (5) or (6) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 4. Purchaser and developer to pay Charges, and contribution to sinking fund

- (1) Each purchaser shall pay the Charges, and contribution to the sinking fund, in respect of his parcel to the developer for the maintenance and management of the buildings or lands intended for subdivision into parcels and the common property in a development area.
- (2) The developer shall pay the Charges, and contribution to the sinking fund, in respect of those parcels in the development area which have not been sold, being a sum equivalent to the Charges, and contribution to the sinking fund, payable by the purchasers to the developer had the parcels been sold.
- (3) The amount of the Charges to be paid under subsections (1) and (2) shall be determined by the developer in proportion to the allocated share units of each parcel.
- (4) The amount of contribution to the sinking fund to be paid under subsections (1) and (2) shall be a sum to be equivalent not more than twenty five percent.
- (5) The purchaser shall, within fourteen days of receiving a notice from the developer, pay the Charges, and contribution to the sinking fund, to the developer and if any sum remains unpaid by the purchaser in respect

of his parcel at the expiry of the period of fourteen days, the developer may recover the sum in the manner set out in section 22.

(6) If any sum remains unpaid by the purchaser in respect of his parcel at the expiry of the period of fourteen days specified in subsection (5), the purchaser shall pay interest at the rate of ten per cent per annum on a daily basis.

(7) Any purchaser who is not satisfied with the sums determined by the developer under subsection (3) or (4) may apply to the Controller for a review and the Controller may—

- (a) determine the sum to be paid as the Charges, or contribution to the sinking fund; or
- (b) instruct the developer to appoint, at the developer's own cost and expense, a registered property manager to recommend the sum payable as the Charges, or contribution to the sinking fund, and submit a copy of the registered property manager's report to the Controller.

(8) Upon receiving the report under paragraph (7)(b), the Controller shall determine the sum payable as he thinks just and reasonable, and any sum so determined by the Controller shall be deemed to be the sum payable as the Charges, or contribution to the sinking fund.

(9) Any developer who fails to comply with subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit, to a further fine not exceeding one thousand ringgit for every day or part thereof during which the offence continues after conviction.

Section 5. Prohibition on collection of moneys before accounts are opened

(1) No person shall at any time collect any Charge, or contribution to the sinking fund from any purchaser for the maintenance and management of any building or land intended for subdivision into parcels and the common property unless—

- (a) a maintenance account and a sinking fund account have been opened in respect of the development area; and
- (b) vacant possession of the parcel purchased by the purchaser has been delivered to the purchaser.

(2) Notwithstanding subsection (1), any developer of a development area which has been completed on or before the commencement of this Ordinance and has, immediately before that date, been collecting moneys from the purchasers for the maintenance and management of any building or land intended for subdivision into parcels and the common property comprised in the development area, may continue to do so until the joint management body is established, provided that all moneys shall be collected and dealt with by the developer in accordance with this Ordinance.

(3) Any person who fails to comply with subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 6. Duties of developer in relation to accounts

(1) A developer shall, in respect of the maintenance account and the sinking fund account—

- (a) cause to be prepared such accounts and records of accounts as will sufficiently explain the transactions of the accounts and enable true and fair balance sheet, income and expenditure statement and profit and loss statement to be prepared for the period starting from the commencement of the developer's management period;

- (b) appoint an approved company auditor to carry out the audit of the accounts annually and the accounts shall be—
 - (i) in the case where moneys are to be transferred under paragraph 7(1)(a), audited up to the date of the Actual transfer; and
 - (ii) in the case where the accounts are to be presented at the first annual general meeting of the joint management body, audited up to a date not earlier than three months before the meeting;
 - (c) file with the Controller a certified true copy of the audited accounts together with the auditor's report within fourteen days of the accounts being audited; and
 - (d) permit the Controller or any person authorized by the Controller in writing to Ordinance on its behalf full and free access to the accounts and records of accounts and to make copies or extracts of such accounts and records of accounts.
- (2) Notwithstanding subsection (1), the Controller shall have, at any time, the right to appoint an approved company auditor to investigate the accounts and records of accounts specified in subsection (1), and the developer shall pay all the expenses incurred for that purpose.
- (3) The developer shall furnish to the Controller or any public authority such returns, reports, accounts and information with respect to its Activities and finances as the Controller may, from time to time, require or direct.
- (4) The returns, reports, accounts and information referred to in subsection (3) shall be in such form as the Controller may, from time to time, specify.
- (5) Any developer who fails to comply with subsection (1), (2), (3) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 7. Handing over by developer to the joint management body

- (1) A developer shall, before the developer's management period expires—
- (a) transfer all balances of moneys in the maintenance account and the sinking fund account, after payment of all the expenditure which have been properly charged to the accounts, to the joint management body;
 - (b) hand over to the joint management body—
 - (i) the administration office set up by the developer under paragraph 1(4)(a);
 - (ii) the audited accounts of the maintenance account and the sinking fund account or, if such accounts have not been audited, the unaudited accounts;
 - (iii) all the assets of the development area;
 - (iv) all records relating to and necessary for the maintenance and management of the buildings or lands intended for subdivision into parcels and the common property of the development area; and
 - (v) all invoices, receipts and payment vouchers in respect of the maintenance account and sinking fund account.
- (2) If only unaudited accounts have been handed over under subparagraph (1)(b)(ii), the developer shall, upon the expiry of the developer's management period, hand over to the joint management body the accounts certified by an accountant up to the date of transfer of the balances of moneys referred to in paragraph (1)(a).

(3) Without prejudice to the generality of subparagraph (1)(b)(iv), the developer shall deliver to the joint management body copies of all of the following documents:

- (a) all approved plans for buildings or lands intended for subdivision into parcels relating to the development area;
- (b) any document in the developer's possession that indicates, as far as practicable, the Actual location of any pipe, wire, cable, chute, duct or other facility for the passage or provision of systems or services, if the developer has reason to believe that the pipe, wire, cable, chute, duct or other facility is not located as shown on an approved plan or an approved amended plan;
- (c) all contracts entered into by the developer in respect of the maintenance or management of any building or land intended for subdivision into parcels and the common property comprised in the development area;
- (d) a copy of the schedule of parcels or the amended schedule of parcels filed with the Controller under subsection 6(1) or (2), if applicable, or a copy of the proposed strata plan filed with the Director of L&S under the provisions of the Strata Titles Ordinance 1985, if any;
- (e) the names and addresses of such contracts, subcontracts and persons who supplied labour or materials to the development area during the construction of any building or land intended for subdivision into parcels and the common property comprised in the development area;
- (f) all warranties, manuals, schematic drawings, operating instructions, service guides, manufacturer's documentation and other similar information in respect of the construction, installation, operation, maintenance, repair and servicing of any common property, including any warranty or information provided to the developer by any person referred to in paragraph (e);
- (g) the register of all parcel owners of the buildings or lands intended for subdivision into parcels;
- (h) the original copy of all insurance policies effected under this Ordinance.

(4) Any developer who fails to comply with subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part thereof during which the offence continues after conviction.

Section 8. Balances not transferred shall vest in joint management body

(1) If any balance of moneys in the maintenance account and in the sinking fund account has not been transferred by the developer under paragraph 15(1)(a), the moneys shall vest in the joint management body on the date of the expiry of the developer's management period.

(2) Any right, power or remedy granted to the developer under this Part in respect of the Charges, contribution to the sinking fund, and any other assets of the maintenance account and the sinking fund account, shall vest in the joint management body on the date of the expiry of the developer's management period, and the joint management body shall have the same right, power or remedy as if it had at all times been a right, power or remedy of the joint management body, including those rights in respect of any legal proceedings or applications to any authority by the developer pending immediately before the expiry of the developer's management period.

(3) Any judgment or award of any arbitral or other tribunal obtained by a developer in respect of the Charges, contribution to the sinking fund and any other assets of the maintenance account and the sinking fund account, and not fully satisfied before the expiry of the developer's management period shall be enforceable by the joint management bod

(B) Strata Management by Joint Management Body (JMB)

Section 9. Establishment of a joint management body

- (1) A joint management body shall be established upon —
 - (a) if vacant possession was delivered before the commencement of this Ordinance, not later than twelve months from the commencement of this Ordinance; or
 - (b) if vacant possession is delivered after the commencement of this Ordinance, not later than three months from the date of delivery of vacant possession of a parcel to a purchaser.
- (2) The joint management body established by subsection (1) shall be a body corporate having perpetual succession and a common seal.
- (3) The joint management body may sue and be sued in its name.
- (4) The joint management body shall comprise the developer and the purchasers.

Section 10. First annual general meeting of joint management body

- (1) The agenda for the first annual general meeting of the joint management body shall include the following matters:
 - (a) to determine the number of members of the joint management committee and to elect the members of the joint management committee;
 - (b) to consider the annual budget prepared by the developer ;
 - (c) subject to subsections 16(2) and (3), to determine the amount to be paid by a parcel owner as the Charges, and contribution to the sinking fund;
 - (d) to determine the rate of interest payable by a parcel owner in respect of any late payment of the Charges, or contribution to the sinking fund, by the parcel owner;
 - (e) to consider the audited accounts specified in subparagraph 6(1)(b)(ii);
 - (f) to confirm the taking over by the joint management body of insurances effected by the developer under this Ordinance;
 - (g) to make additional by-laws; and
 - (h) to consider any other matter connected with the maintenance and management of the common property of the building or land intended for subdivision into parcels.
- (2) If within half an hour after the time appointed for the meeting no purchaser entitled to vote turns up or all the purchasers present, for any reason, refuse to be members of the joint management committee, the developer or the person appointed by the Controller to convene the meeting shall, within seven days of the date of the meeting inform the Controller of the fact and the Controller may—
 - (a) appoint a new date for the election of the joint management committee; or
 - (b) appoint a managing agent to maintain or manage the buildings or lands intended for subdivision into parcels and the common property comprised in the development area.

Section 11. Duty of joint management body to inform its name to the Controller

- (1) A joint management body shall inform and register with the Controller the name of the joint management body within thirty days from the date of the first annual general meeting.
- (2) The Controller may, upon an application by the joint management body, issue a certificate certifying that the joint management body has been duly established under this Ordinance on the day when the first annual general meeting was convened.
- (3) The constitution of the joint management body under this Ordinance shall not be affected in the event that the first annual general meeting is subsequently invalidated or the provision of subsection 19(1) is not complied with or a situation under subsection 10(2) occurs.

Section 12. Duties and powers of joint management body

- (1) The duties of a joint management body shall be as follows:
 - (a) to properly maintain and manage the building or land intended for subdivision into parcels and the common property, and keep it in a state of good and serviceable repair;
 - (b) to determine and impose the Charges to be deposited into the maintenance account for the purpose of the proper maintenance and management of the buildings or lands intended for subdivision into parcels and the common property;
 - (c) to determine and impose the contribution to the sinking fund to be deposited into the sinking fund account for the purpose of meeting the Actual or expected expenditure specified under subsection 15(2);
 - (d) to effect insurance according to this Ordinance or to insure against such other risks as the parcel owners may by special resolution direct;
 - (e) to comply with any notice or order given or made by the local authority or any competent public authority requiring the abatement of any nuisance on the common property, or ordering repairs or other work to be done in respect of the common property or other improvements to the common property;
 - (f) to prepare and maintain a register of all parcel owners of the buildings or lands intended for subdivision into parcels;
 - (g) to ensure that the accounts required to be maintained by the joint management body under this Ordinance are audited and to provide audited financial statements for the information to its members;
 - (h) to enforce the by-laws; and
 - (i) to do such other things as may be expedient or necessary for the proper maintenance and management of the buildings or lands intended for subdivision into parcels and the common property.
- (2) The powers of the joint management body shall be as follows:
 - (a) to collect the Charges from the parcel owners in proportion to the allocated share units of their respective parcels;
 - (b) to collect the contribution to the sinking fund from the parcel owners;
 - (c) to authorize expenditure for the carrying out of the maintenance and management of the buildings or lands intended for subdivision into parcels and the common property;

- (d) to recover from any parcel owner any sum expended by the joint management body in respect of that parcel in complying with any such notice or order as referred to in paragraph (1)(c);
- (e) to purchase, hire or otherwise acquire movable property for use by the parcel owners in connection with their enjoyment of the common property;
- (f) to employ or arrange and secure the services of any person or agent to undertake the maintenance and management of the common property of the building or lands intended for subdivision into parcels;
- (g) to make additional by-laws for the proper maintenance and management of the buildings or lands intended for subdivision into parcels and the common property; and
- (h) to do all things reasonably necessary for the performance of its duties under this Ordinance and for the enforcement of the by-laws.

(3) Notwithstanding any other provisions of this Ordinance, the joint management body shall not enter into any contract relating to the maintenance and management of any building or land intended for subdivision into parcels and the common property in the development area for any period exceeding twelve months.

(4) Where—

- (a) the joint management body incurs any expenditure or performs any repairs, work or Ordinance that it is required or authorized by or under this Part or by or under any other written law to perform, irrespective of whether or not the expenditure was incurred or the repairs, work or Ordinance were or was performed consequent upon the service of any notice or order on it by any Government or statutory authority; and
- (b) the expenditure or the repairs, work or Ordinance referred to in paragraph (a) were or was rendered necessary by reason of any willful or negligent Ordinance or omission on the part of, or breach of any provision of its by-laws by, any parcel owner or his tenant, lessee, licensee or invitee,

the amount of the expenditure of any money expended by the joint management body in performing the repairs, work or Ordinance shall be recoverable by it from that parcel owner as a debt in an Action in any court of competent jurisdiction or before the Tribunal.

(5) The generality of this section shall not be prejudiced by any other provision in this Part conferring a power or imposing a duty on the joint management body.

Section 13. Joint management committee

A joint management body shall elect a joint management committee which shall, subject to any restriction imposed or direction given by the joint management body at a general meeting, perform the joint management body's duties and conduct the joint management body's business on its behalf, and may for that purpose exercise any of the powers of the joint management body.

Section 14. Joint management body to establish maintenance account

(1) A joint management body shall open and maintain a maintenance account with a bank or financial institution for the purposes specified in subsection (3).

(2) The maintenance account shall be administered and controlled by the joint management body and shall consist of—

- (a) all balances of moneys in the maintenance account transferred by the developer to the joint management body under paragraph 7(1)(a);

- (b) all or any part of the Charges imposed by or payable to the joint management body under this Ordinance;
 - (c) all moneys derived from the lease, rent or use of any property which may be lawfully charged by the joint management body;
 - (d) all other moneys and property which may in any manner become payable to or vested in the joint management body in respect of any matter incidental to its functions and powers; and
 - (e) all other moneys lawfully received by the joint management body, including interest, donation and trust.
- (3) The maintenance account referred to in subsection (1) shall be used solely for the purpose of meeting the Actual or expected general or regular expenditure necessary in respect of the following matters:
- (a) maintaining the common property in good condition on a day-to-day basis;
 - (b) paying for the expenses incurred in providing cleaning services for the common property, security services and amenities for the occupiers of the building;
 - (c) paying any premiums for the insurance effected under this Ordinance or any other insurance approved by a special resolution in a general meeting;
 - (d) complying with any notice or order given or made by the local authority in respect of periodical inspection of any building in the development area in the manner as specified in the manner as the law required.
 - (e) minor painting works on the premises of the common property;
 - (f) carrying out inspection of all electrical wiring systems of the common property and replacing or repairing any faulty wiring systems, if any;
 - (g) carrying out inspection, maintenance and repair of the main water tanks;
 - (h) paying rent and rates, if any;
 - (i) paying any fee incurred for the auditing of the accounts required to be maintained by the joint management body under this Ordinance;
 - (j) paying all charges reasonably incurred for the administration of the accounts required to be maintained by the joint management body under this Ordinance as may be determined by the Controller;
 - (k) paying the remuneration or fees for the managing agent appointed;
 - (l) paying for the allowances and other expenses of the members of the joint management body and members of the joint management committee according to such rates as may be approved by the Controller;
 - (m) paying any expenses, costs or expenditure in relation to the procurement of services, including the engagement of consultants, legal fees or costs and other fees and costs, properly incurred or accepted by the joint management body in the performance of its functions and the exercise of its power under this Ordinance; or
 - (n) meeting other expenses of a general or regular nature relating to the maintenance and management of the building or land intended for subdivision into parcels and the common property.

Section 15. Joint management body to establish sinking fund account

(1) A joint management body shall open and maintain a sinking fund account with a bank or financial institution, into which shall be deposited all balances of moneys in the sinking fund account transferred by the developer to the joint management body under paragraph 7(1)(a), and all contributions to the sinking fund paid by the parcel owners to the joint management body.

(2) The sinking fund account shall be used solely for the purposes of meeting the Actual or expected capital expenditure in respect of the following matters:

- (a) the painting or repainting of any part of the common property;
- (b) the acquisition of any movable property for use in relation to the common property;
- (c) the renewal or replacement of any fixture or fitting comprised in any common property;
- (d) the upgrading and refurbishment of the common property; or
- (e) any other capital expenditure as the joint management body deems necessary.

Section 16. Parcel owners to pay Charges, and contribution to the sinking fund, to the joint management body

(1) Each purchaser shall pay the Charges, and contribution to the sinking fund, in respect of his parcel to the joint management body for the maintenance and management of the buildings or lands intended for subdivision into parcels and the common property in a development area.

(2) The developer shall pay the Charges, and contribution to the sinking fund, to the joint management body in respect of those parcels in the development area which have not been sold, being a sum equivalent to the Charges, and contribution to the sinking fund, payable by the purchasers to the joint management body had the parcels been sold.

(3) The amount of the Charges to be paid under subsections (1) and (2) shall be determined by the joint management body from time to time in proportion to the allocated share units of each parcel.

(4) The amount of contribution to the sinking fund to be paid under subsections (1) and (2) shall be a sum not more than twenty five per cent of the Charges unless otherwise determined by the joint management body from time to time at a general meeting which shall not be more than twenty five percent of the Charges.

(5) A parcel owner shall, within fourteen days of receiving a notice from the joint management body, pay the Charges, and contribution to the sinking fund, to the joint management body.

(6) If any sum remains unpaid by the parcel owner in respect of his parcel at the expiry of the period of fourteen days specified in subsection (5)—

- (a) the joint management body may recover the sum in the manner set out in section 22; and
- (b) the parcel owner shall pay interest at the rate to be determined by the joint management body under paragraph 10(1)(d) but such interest shall not exceed ten per cent per annum.

Section 17. Duties of joint management body in relation to accounts

- (1) A joint management body shall in respect of the maintenance account and the sinking fund account—
 - (a) cause to be prepared such accounts and records of accounts as will sufficiently explain the transactions of the accounts and enable true and fair balance sheet, income and expenditure statement and profit and loss statement to be prepared for the period starting from its first annual general meeting;
 - (b) appoint an approved company auditor to carry out the audit of the accounts annually and the accounts shall be—
 - (i) in the case where moneys are to be transferred under paragraph 27(2)(a), audited up to the date of the Actual transfer; and
 - (ii) in the case where the accounts are to be presented at the first annual general meeting of the management corporation, audited up to a date not earlier than three months before the meeting;
 - (c) file with the Controller a certified true copy of the audited accounts together with the auditor's report within fourteen days of the accounts being audited; and
 - (d) permit the Controller or any person authorized by the Controller in writing to Ordinance on its behalf full and free access to the accounts and records of accounts and to make copies or extracts of those accounts and records of accounts.
- (2) Notwithstanding subsection (1), the Controller shall have, at any time, the right to appoint an approved company auditor to investigate the accounts and records of accounts specified in subsection (1), and the joint management body shall pay all the expenses incurred for that purpose.
- (3) The joint management body shall furnish to the Controller or any public authority such returns, reports, accounts and information with respect to its Activities and finances as the Controller may, from time to time, require or direct.
- (4) The returns, reports, accounts and information referred to in subsection (3) shall be in such form as the Controller may, from time to time, specify.
- (5) If the joint management body fails to comply with subsection (1), (2), (3) or (4), every member of the joint management committee commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.
- (6) In proceedings against the member of the joint management committee for an offence under subsection (5), it is a defence if the member proves that—
 - (a) the offence was committed without his knowledge, consent or connivance; and
 - (b) he had taken all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

Section 18. Dissolution of joint management body

- (1) A joint management body shall dissolve three months from the date of the first annual general meeting of the management corporation for the development area.
- (2) The joint management body shall, not more than one month from the date of the first annual general meeting of the management corporation—

- (a) transfer all balances of moneys in the maintenance account and in the sinking fund account, after payment of all the expenditure which have been properly charged to the accounts, to the management corporation;
- (b) hand over to the management corporation—
 - (i) any additional by-laws;
 - (ii) the audited accounts of the maintenance account and the sinking fund account or, if such accounts have not been audited, the unaudited accounts;
 - (iii) all the assets and liabilities of the joint management body;
 - (iv) all the documents delivered by the developer to the joint management body under subsection 7(3); and
 - (v) all records relating to and necessary for the maintenance and management of the building or land intended for subdivision into parcels and the common property.

(3) If only unaudited accounts have been handed over under subparagraph (2)(b)(ii), the joint management body shall hand over to the management corporation the audited accounts of the joint management body not more than three months from the date of the first annual general meeting of the management corporation.

(4) If the joint management body fails to comply with subsection (2) or (3), every member of the joint management committee commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(5) In proceedings against the member of the joint management committee for an offence under subsection (4), it is a defence if the member proves that—

- (a) the offence was committed without his knowledge, consent or connivance; and
- (b) he had taken all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

Section 19. Balances not transferred shall vest in management corporation

(1) If any balance of moneys in the maintenance account and in the sinking fund account has not been transferred by the joint management body under paragraph 18(2)(a), the moneys shall vest in the management corporation on the date of the expiry of the period specified in subsection 18(2).

(2) Any right, power or remedy granted to, or any liability imposed on, the joint management body under this Part in respect of the development area, including Charges, contribution to the sinking fund, and any other assets of maintenance account and the sinking fund account, shall vest in the management corporation on the date of the expiry of the period specified in subsection 18(2), and the management corporation shall have the same right, power, remedy or liability as if it had at all times been a right, power, remedy or liability of the management corporation, including those rights in respect of any legal proceedings or applications to any authority by or against the joint management body pending immediately before the date of the expiry of the period specified in subsection 18(2).

(3) Any judgment or award of any arbitral or other tribunal obtained by the joint management body in respect of the development area, including the Charges, contribution to the sinking fund and any other assets of the maintenance account and the sinking fund account, and not fully satisfied before the expiry of the period specified in subsection 18(2), shall be enforceable by the management corporation.

Section 20. Right of parcel owner or prospective purchaser

Subject to a payment of a fee not exceeding one hundred ringgit, on application by or on behalf of a person who is a parcel owner, or by or on behalf of a person who is a prospective purchaser, the developer or the joint management body, as the case may be, shall issue to that person a certificate certifying—

- (a) the amount of the Charges, and contribution to the sinking fund, payable by a parcel owner;
- (b) the time and manner of payment of the amount of such Charges, and contributions to the sinking fund;
- (c) the amount, if any, of arrears of such Charges, and contributions to the sinking fund, in respect of the parcel;
- (d) the sum standing to the credit of the maintenance account and the sum in the account that has been committed or reserved for expenses already incurred by the developer or the joint management body, as the case may be;
- (e) the sum standing to the credit of the sinking fund account and the sum in the account that has been committed or reserved for expenses already incurred by the developer or the joint management body, as the case may be; and
- (f) the nature of the repairs and estimated expenditure, if any, where the developer or the joint management body, as the case may be, has incurred any expenditure or is about to perform any repairs, work or Ordinance in respect of which a liability is likely to be incurred by the parcel owner of the parcel under any provision of this Ordinance.

Section 21. Recovery of sum as a debt due to joint management body

- (1) The payment of any amount of money lawfully incurred by the joint management body in the course of the exercise of any of its powers or functions or the carrying out of its duties or obligations shall by virtue of this section be guaranteed by the parcel owners for the time being constituting the joint management body.
- (2) Each parcel owner shall be liable under the guarantee referred to in subsection (1) only for such proportion of the money so incurred as the allocated share units of his parcel bear to the aggregate share units.
- (3) Where any parcel owner has not discharged or fully discharged his liability for the purpose of subsection (1), the joint management body shall be entitled to recover from the parcel owner in a court of competent jurisdiction or in the Tribunal as a debt due to it.
- (4) Where for reasons of insufficiency of funds to meet the sum guaranteed under subsection (1), the joint management body may, at an annual general meeting or at an extraordinary general meeting, determine the amount to be contributed by each parcel owner and decide any other issue or matter relating to the settlement of the said sum

Section 22. Procedure on recovery of sums due

- (1) Where a sum becomes recoverable by the developer from the purchaser in respect of his parcel by virtue of subsection 4(5), or by the joint management body from the parcel owner in respect of his parcel by virtue of subsection 16(6) or 21(3), the developer or the joint management body may serve on the purchaser or the parcel owner, as the case may be, a written notice demanding payment of the sum due within the period as may be specified in the notice which shall not be less than fourteen days from the date of service of the notice.

(2) If any sum remains unpaid by the purchaser or parcel owner at the end of the period specified in the notice under subsection (1), the developer or the joint management body, as the case may be, may file a summons or claim in a court of competent jurisdiction or in the **Tribunal** for the recovery of the said sum or as an alternative to recovery under this section, resort to recovery under section 23.

(3) Any purchaser or parcel owner who, without reasonable excuse, fails to comply with the notice referred to in subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit, and in the case of a continuing offence, to a further fine not exceeding fifty ringgit for every day or part thereof during which the offence continues after conviction.

Section 23. Recovery of sums by attachment of movable property and/or the parcel itself

(1) The Controller may, upon sworn application in writing made by the developer or any member of the joint management committee, issue a warrant of attachment in Form A of the Third Schedule authorizing the attachment of any movable property belonging to the defaulting parcel owner which may be found in the building or elsewhere in the State and/or the parcel itself.

(2) The warrant of attachment under subsection (1)(a) and/or (b) shall be executed by the developer or a member of the joint management committee or by a person specially employed by the developer or the joint management body to execute such warrant, in the presence of the Controller or an officer from the office of the Controller.

(3) If the developer or the member of the joint management committee or the person referred to in subsection (2) encounters difficulties in executing the warrant, such developer, member or person may seek the assistance of the Controller, and in providing such assistance, the Controller may request for the assistance of a police officer not below the rank of Inspector.

(4) A person executing the warrant—

(a) may, in the daytime, effect forcible entry into any house or building or any part of the house or building for the purpose of executing the warrant; and

(b) shall, immediately after attachment, make an inventory of the property attached under the warrant and serve a notice in Form B of the Third Schedule on the person who, at the time of attachment, was or appeared to be in possession of the property.

(5) Any tenant, subtenant, or occupier who, in order to avoid the attachment or sale of the movable property for non-payment of any sum due to the developer or the joint management body by the parcel owner, pays such sum may—

(a) in the absence of any written agreement to the contrary, deduct the amount so paid by him from the rent due or to become due by him to the parcel owner; and

(b) retain possession of the property until such amount so paid by him has been fully reimbursed to him whether by deduction from the rent or otherwise.

(6) The receipt issued by the developer or the joint management body for any amount so paid by any such tenant, subtenant or occupier under subsection (5) shall be deemed a discharge in full for the like amount of rent.

(7) If any person whose property is attached disputes the legality of the attachment, he may, within fourteen days of the date of attachment, apply to the Magistrate's Court having jurisdiction in the place of attachment for an order for the release of the property, and the Magistrate's Court, after making such enquiry as may be necessary, shall grant or refuse to grant the order.

(8) If the sum due is not paid within fourteen days from the date of attachment, the property attached or such portion of the property attached as may be sufficient to realize the sum shall be sold by auction conducted by the developer or the joint management body under the supervision of the Controller unless within that period

an application is made under subsection (7), in which case, the property shall be held pending the decision of the Magistrate's Court and shall then be dealt with as the Magistrate's Court may order.

(9) if the Magistrate's Court refuses to grant an order for the release of the property, and that decision of the Magistrate's Court is reached within fourteen days from the date of attachment, the property shall not be sold before the expiry of that period.

(10) Notwithstanding subsections (8) and (9), if the property is of a perishable nature, it may be sold at once, and in that case, the proceeds of sale shall be held pending the decision of the Magistrate's Court and shall then be dealt with as the Magistrate's Court may order.

(11) in any other case, the proceeds of sale shall be applied in satisfaction of the sum due together with the costs of the attachment and sale, and any surplus and/or any property not sold shall be paid or returned to the person who, at the time of attachment, was or appeared to be in possession of the property.

(12) The costs of attachment shall include the expenses of the maintenance of livestock and the custody of movable property and/or immovable property as the case may be.

(13) Where any property is sold by virtue of subsection (10) before the expiry of fourteen days from the date of attachment, the reference in subsection (7) to "an order for the release of the property" shall be construed as a reference to an order for the release of the proceeds of the sale of the property.

(C) STRATA MANAGEMENT AFTER EXISTENCE OF MANAGEMENT CORPORATION

Section 24. Handing over of control to management corporation

(1) A JMB shall, not later than six (6) months of issuance of the strata titles for the parcels and the common property—

- (a) transfer the control of all balances of moneys in the maintenance account and in the sinking fund account to the management committee of the management corporation; and
- (b) hand over to the management committee of the management corporation—
 - (i) the administration office set up by the JMB (if any);
 - (ii) the audited accounts of the maintenance account and the sinking fund account or, if such accounts have not been audited, the unaudited accounts;
 - (iii) all the assets of the management corporation; and
 - (iv) all records related to and necessary for the maintenance and management of the subdivided building or land and the common property of the development area.

(2) If only unaudited accounts have been handed over under subparagraph (1)(b)(ii), the JMB shall hand over to the management committee of the management corporation the audited accounts up to the date of transfer of control of all balances of moneys in the maintenance account and sinking fund account not later than three months after the expiry of the preliminary management period.

(3) Without prejudice to the generality of subparagraph (1)(b)(iv), the JMB shall deliver to the management committee of the management corporation copies of all the following documents:

- (a) all approved plans for the subdivided buildings or land relating to the development area;
- (b) any document in the developer's possession that indicates, as far as practicable, the Actual location of any pipe, wire, cable, chute, duct or other facility for the passage or provision of systems or services, if the developer has reason to believe that the pipe, wire, cable, chute,

duct or other facility is not located as shown on an approved plan or an approved amended plan;

- (c) all contracts entered into by the developer in respect of the maintenance or management of any subdivided building or land and the common property comprised in the development area;
- (d) a copy of the schedule of parcels or the amended schedule of parcels filed with the Controller under subsection 6(1) or (2), if applicable, or the certified strata plan filed by the Director of Land & Surveys under the provisions of the Strata Ordinance 1995;
- (e) the names and addresses of such contracts, subcontracts and persons who supplied labour or materials to the development area during construction of any subdivided building or land and the common property comprised in the development area; and
- (f) all warranties, manuals, schematic drawings, operating instructions, service guides, manufacturer's documentation and other similar information in respect of the construction, installation, operation, maintenance, repair and servicing of any common property, including any warranty or information provided to the developer by any person referred to in paragraph (e).

(4) Any JMB who fails to comply with subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit, to a further fine not exceeding one thousand ringgit for every day or part thereof during which the offence continues after conviction.

Section 25. Duties and powers of management corporation

(1) The duties of a management corporation shall be as follows:

- (a) to properly maintain and manage the subdivided building or land and the common property and keep it in a state of good and serviceable repair;
- (b) to determine and impose the Charges to be deposited into the maintenance account for the purposes of proper maintenance and management of the subdivided buildings or lands and the common property;
- (c) to determine and impose the contribution to the sinking fund to be deposited into the sinking fund account for the purposes of meeting the Actual or expected expenditure;
- (d) to effect insurance according to this Ordinance or to insure against such other risks as the proprietors may by special resolution direct;
- (e) to comply with any notice or order given or made by the local authority or any competent public authority requiring the abatement of any nuisance on the common property, or ordering repairs or other work to be done in respect of the common property or other improvements to the common property;
- (f) to prepare and maintain a strata roll for the subdivided buildings or lands;
- (g) to ensure that the accounts required to be maintained by the management corporation under this Ordinance are audited and to provide audited financial statements for the information to its members;
- (h) to enforce the by-laws; and
- (i) to do such other things as may be expedient or necessary for the proper maintenance and management of the subdivided buildings or lands and the common property.

(2) The powers of the management corporation shall be as follows:

- (a) to collect the Charges from the proprietors in proportion to the share units or provisional share units of their respective parcels or provisional blocks;
- (b) to collect the contribution to the sinking fund from the proprietors of an amount equivalent to ten percent of the Charges;
- (c) to authorize expenditure for the carrying out of the maintenance and management of the subdivided buildings or lands and the common property;
- (d) to recover from any proprietor any sum expended by the management corporation in respect of that proprietor's parcel in complying with any such notice or order as referred to in paragraph (1)(e);
- (e) to purchase, hire or otherwise acquire movable property for use by the proprietors in connection with their use and enjoyment of the common property;
- (f) to employ or arrange and secure the services of any person or agent to undertake the maintenance and management of the common property of the subdivided building or land;
- (g) to make additional by-laws for the proper maintenance and management of the subdivided buildings or lands and the common property;
- (h) to borrow moneys required by the management corporation in the exercise of its powers or the performance of its duties;
- (i) to secure the repayment of moneys borrowed by it and the payment of interest thereon by negotiable instrument or by a charge of unpaid Charges to the maintenance account (whether already imposed or not), or by a charge of any property vested in it or by a combination of any of those means; and
- (j) to do all things reasonably necessary for the performance of its duties under this Ordinance and for the enforcement of the by-laws.

(3) Where the management corporation performs any repairs, work or Ordinance that are or is required or authorized by or under this Part or by or under any other written law to perform, whether or not the repairs, work or Ordinance were or was performed consequent upon the service on it by any Government or statutory authority of any notice or order, but the repairs, work or Ordinance were or was wholly or substantially the liability or the responsibility of the proprietor of a parcel only, or wholly or substantially for the benefit of some of the parcels only, any money expended by the management corporation in performing the repairs, work or Ordinance shall—

- (a) in the case where the repairs, work or Ordinance were or was wholly or substantially the liability or the responsibility of the proprietor of a parcel only, be recoverable by the management corporation in an Action in a court of competent jurisdiction or before the Tribunal as a debt due to it jointly and severally from—
 - (i) the relevant proprietor of the parcel at the time when the repairs, work or Ordinance were or was performed; and
 - (ii) the relevant proprietor of the parcel at the time when the Action was commenced; or
- (b) in the case where the repairs, work or Ordinance were or was wholly or substantially for the benefit of some of the parcels only, or wholly or substantially the liability or the responsibility of the proprietors of some of the parcels only, be recoverable by the management corporation in an Action in a court of competent jurisdiction or before the Tribunal as a debt due to it jointly and severally from—

- (i) the relevant proprietor of each of such parcels at the time when the repairs, work or Ordinance were or was performed; and
 - (ii) the relevant proprietor of each of such parcels at the time when the Action was commenced.
- (4) The amount payable by any proprietor and former proprietor under subsection (3) in respect of any parcel shall not be more than the proportion of the debt which the share unit of the parcel then bears to the total share units of all those parcels.
- (5) A proprietor of a parcel who is not the proprietor of the parcel at the time when the repairs, work or Ordinance referred to in subsection (3) were or was performed shall not be liable to pay the management corporation any amount due under that subsection if he has, at any time on or within twenty-one days before the date he acquired the title or interest in the parcel, made a requisition in writing to the management corporation to inquire about the amount, if any, recoverable by the management corporation under that subsection in respect of the parcel, and the management corporation has—
- (a) certified that no amount is recoverable by the management corporation in respect of the parcel; or
 - (b) not given a reply to the requisition at any time within fourteen days of the date of the service of the requisition.
- (6) Where—
- (a) the management corporation incurs any expenditure or performs any repairs, work or Ordinance that it is required or authorized by or under this Part or by or under any other written law to perform, irrespective of whether or not the expenditure was incurred or the repairs, work or Ordinance were or was performed consequent upon the service on it of any notice or order by any Government or statutory authority; and
 - (b) the expenditure or the repairs, work or Ordinance referred to in paragraph (a) were or was rendered necessary by reason of any willful or negligent Ordinance or omission on the part of, or breach of any provision of its by-laws by, any person or his tenant, lessee, licensee or invitee, the amount of the expenditure of any money expended by the management corporation in performing the repairs, work or Ordinance shall be recoverable by it from that person as a debt in an Action in any court of competent jurisdiction or before the Tribunal.
- (7) The generality of this section shall not be prejudiced by any other provision in this Part conferring a power or imposing a duty on the management corporation.

Section 26. Limited common property and subsidiary management corporations allowed

- (1) The management corporation may designate limited common property and create one or more subsidiary management corporations only for the purpose of representing the different interests of subsidiary proprietors by way of comprehensive resolution conducted under Section 26(2).
- (2) Limited common property designated by a comprehensive resolution passed by the management corporation shall—
- (a) *describe, identify or define the boundaries or area of the limited common property in the special plan;*
 - (b) *specifies each parcel comprised in that special plan whose subsidiary proprietors are entitled to the exclusive benefit of the limited common property; and*
 - (c) *conform with any other details as may be prescribed by the Director of Survey.*

(3) The management corporation shall make an application in Form as prescribed by the Director for the approval of the Director for the issue of certificate of subsidiary management corporation for the designated limited common property and shall be accompanied by—

- (a) *such fee as may be prescribed;*
- (b) *a copy of the comprehensive resolution together with a certificate signed by the Controller certifying the receipt of the same filed with him by the management corporation; and*
- (c) *a special plan prepared under subsection (2), and any approved amendments thereto.*

(4) Upon receipt of the application, the Director shall the refer the application to the Director of Survey and the Director of Survey shall thereupon check the special plan and shall—

- (a) *advise the Director as to whether the plans are in order; and*
- (b) *notify the Director of the amount of fees to be collected in respect of such work been done.*

(5) The Director shall thereupon if he is satisfied that the application and the other documents presented therewith are in order, accept and issue a certificate certifying that the subsidiary management corporation is a body corporate constituted under this Ordinance on the day specified in the certificate.

(6) The subsidiary management corporation may sue and be sued.

(D) FEATURES OF COMMITTEE

Sheda's proposed Features of Committee for Joint Management Body, Management Corporation and Subsidiary Management Corporation

Management Body Features of Committee	Joint Management Body	Management Corporation	Subsidiary Management Corporation
Committee's Name	Joint Management Committee	Management Committee	Subsidiary Management Corporation
Number of Members of Committee	Number of Committee's member shall be at least 3 and not more than 13 person. However for cases where there are not more than 3 Strata Owners, all Strata Owners are the members of Committee.		
Members of Committee	The members of Committee shall be elected from AGM. In every AGM, all members of Committee shall retire and they are eligible to be re-elected as members subject to the condition that no chairman, secretary or treasurer shall hold office for more than 2 consecutive years and no members of Committee shall hold office for more than 3 consecutive terms.		
Qualification of Candidate of Committee Members	The basic requirement for a candidate of Committee member are the candidate must be a natural person who is at least 21 years old.		
Meeting	<ul style="list-style-type: none"> • Chairman shall not allow more than 2 months to lapse between meetings. • Chairman shall vacate or shall be deemed to have vacate his office if he absents himself from 3 consecutive schedule meetings without the leave of Committee. • Any members (other than Chairman) shall vacate or shall be deemed to have vacate his office if he absents himself from three consecutive meetings without the leave in writing of Chairman. 		

Table 1: Features of Committee

(E) ENFORCEMENT

Section 27 Recovery of sums due

- (1) Where a sum becomes recoverable by the management corporation from a subsidiary proprietor by virtue of paragraph 17(2)(a) and subsection 20(5), the management corporation may serve on the subsidiary proprietor a written notice requesting payment of the sum due within such period, which shall not be less than two weeks from the date of service of the notice, as may be specified in the notice.
- (2) If at the end of the period specified in the notice under subsection (1) the sum or part of the sum due remains unpaid, the management corporation may serve on the subsidiary proprietor a written notice demanding payment of the sum due within two weeks from the date of service of the notice; and if upon expiry of the said period, the sum due still remains unpaid, the management corporation may exercise its discretion to restrict or temporarily (for the duration the outstanding sum is not discharged by the parcel owner(s) to the satisfaction of the management corporation) suspend services or deny usage of common property to the parcel owner(s) in default including but not limited to supply of water, card access to the car park or common property such as the gym, swimming pool and lift and/or file a summons in any court of competent jurisdiction for the recovery of the said sum and/or, in addition or as an alternative to recovery under this section, resort to recovery under subsection (Recovery of sums by attachment of movable property and immovable property)

Section 28 Failure to pay contributions

Where any subsidiary proprietor has failed to pay the contribution demanded by the management corporation in the manner set out in subsection Recovery of sums due, the subsidiary proprietor shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit and to a further fine not exceeding fifty ringgit for every day during which the contribution remains unpaid after conviction.

Section 29 Recovery of sums by attachment of movable property and immovable property

- (1) In the like circumstances in which the management corporation may, by virtue of subsection (Recovery of sums due), file a summons for the recovery of a sum which becomes recoverable as mentioned in subsection (1) of that section, the local authority may, upon sworn application in writing made by any member of the council of the management corporation, issue a warrant of attachment in Form-WARRANT OF ATTACHMENT authorizing the attachment of any movable property belonging to the defaulting subsidiary proprietor which may be found in the building or elsewhere in the State of Sarawak.
- (2) The warrant shall be executed by a member of the council of the management corporation or by a person specially employed by the council to execute such warrants; and a person executing the warrant shall be deemed to be a public servant for the purposes of the Penal Code.
- (2A) If the management corporation encounters difficulties in executing the warrant, it may seek the assistance of the Director, and in providing such assistance, the Director may request for the assistance of a police officer not below the rank of Inspector.
- (3) A person executing the warrant—
 - (a) may, in the daytime, effect forcible entry into any house or building or any part thereof for the purpose of executing the warrant; and
 - (b) shall, immediately after attachment, make an inventory of the property attached under the warrant and serve a notice in Form as prescribed by the local authority on the person who, at the time of attachment, was or appeared to be in possession of the property.
- (3A) Any tenant, sub-tenant, or occupier who, in order to avoid the attachment or sale of the movable property for non-payment of any sum due to the management corporation by the subsidiary proprietor of that

parcel, pays such sum may thereafter, in the absence of any written agreement to the contrary, deduct the amount so paid by him from the rent due or to become due by him to the subsidiary proprietor of that parcel, and may retain possession until such amount has been fully reimbursed to him whether by deduction from the rent or otherwise.

- (3B) The receipt issued by the management corporation for any amount so paid by any such tenant, sub-tenant or occupier shall be deemed an acquittance in full for the like amount of rent.
- (4) If any person whose property is attached disputes the legality of the attachment, he may, within fourteen days of the date of attachment, apply to the Magistrate's Court having jurisdiction in the place of attachment for an order for the release of the property, and the Magistrate's Court, after making such enquiry as may be necessary, shall grant or refuse to grant the order.
- (5) If the sum due is not paid within fourteen days from the date of attachment, the property attached or such portion thereof as may be sufficient to realize the sum shall be sold by public auction, unless within that period an application is made under subsection (4), in which case the property shall be held pending the decision of the Magistrate's Court and shall then be dealt with as the Magistrate's Court may order.
- (6) If the Magistrate's Court refuses to grant an order for the release of the property, and that decision of the Magistrate's Court is reached within fourteen days from the date of attachment, the property shall not be sold before the expiry of that period.
- (7) Notwithstanding subsections (5) and (6), if the property is of a perishable nature, it may be sold at once, and in that case the proceeds of sale shall be held pending the decision of the Magistrate's Court and shall then be dealt with as the Magistrate's Court may order.
- (8) In any other case, the proceeds of sale shall be applied in satisfaction of the sum due together with the costs of the attachment and sale, and any surplus and any property not sold shall be paid or returned to the person who, at the time of attachment, was or appeared to be in possession of the property.
- (9) The costs of attachment shall include the expenses of the maintenance of livestock and the custody of movable property.
- (10) In this section, unless the context otherwise requires, "subsidiary proprietor", in relation to the recovery of a sum recoverable by virtue of subsection 25(5) from a subsidiary proprietor of that parcel, includes any successor in title to the subsidiary proprietor of that parcel.
- (11) Where any property is sold by virtue of subsection (7) before the expiry of fourteen days from the date of attachment, the reference in subsection (4) to an order for the release of the property shall be construed as a reference to an order for the release of the proceeds of the sale of the property.

Section 30 The recovery of sum as debt due to Management Corporation

- (1) The payment of any amount lawfully incurred by the management corporation in the course of the exercise of any of its powers or functions or carrying out of its duties or obligations shall by virtue of this section be guaranteed by the subsidiary proprietors for the time being constituting the management corporation, each subsidiary proprietor being liable under such guarantee only for such proportion of the money so incurred as the share units of his parcel or the provisional share units of his provisional block bear to the aggregate share units.
- (2) Where any subsidiary proprietor has not discharged or fully discharged his liability for the purpose of subsection (1), the management corporation shall be entitled to recover from the subsidiary proprietor in any court of competent jurisdiction as a debt due to it.
- (3) Where for reasons of insufficiency of fund to meet the sum guaranteed under subsection (1), the management corporation may at an annual general meeting or at an extraordinary general meeting determine the amount to be contributed by each subsidiary proprietor and decide any other issue or matter relating to the settlement of the said sum.

(F) APPOINTMENT OF MANAGING AGENT BY CONTROLLER

Section 31. Appointment of managing agent by Controller

(1) Where—

- (a) If within half an hour after the time appointed for the first annual general meeting of the joint management body no purchaser entitled to vote turns up or all the purchasers present, for any reason, refuse to be members of the joint management committee, the developer or the person appointed by the Controller to convene the meeting shall, within seven days of the date of the meeting inform the Commissioner of the fact and the Controller may—
 - (i) appoint a new date for the election of the joint management committee; or
 - (ii) appoint a managing agent under [Part VI] to maintain or manage the buildings or lands intended for subdivision into parcels and the common property comprised in the development area.
- (b) after due inquiry has been carried out by the Controller or a person appointed by him based on a complaint made to the Controller by a purchaser or a proprietor or any other person or body having an interest in a parcel, registered or otherwise, the Controller is satisfied that the maintenance and management of a building or land intended for subdivision into parcels or any subdivided building or land and common property is not carried out satisfactorily by the developer, joint management body, management corporation or subsidiary management corporation, as the case may be,

the Controller may appoint, by written notification, one or more persons to Ordinance as managing agent to maintain and manage the building or land intended for subdivision into parcels or any subdivided building or land and the common property for a period to be specified by the Controller.

(2) A managing agent appointed under this Part shall enter into a management agreement with the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, to carry out the duties and powers of the developer, joint management body, management corporation or subsidiary management corporation, respectively as provided for under this Ordinance.

(3) The managing agent shall be entitled to be paid such remuneration or fees as may be agreed upon between the managing agent and the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, with the concurrence of the Controller, and such remuneration or fees shall be charged to the maintenance account.

Section 32. Powers and duties of managing agent

(1) Where a managing agent has been appointed under subsection 86(1), the managing agent shall have control over the moneys in the maintenance account and the sinking fund account.

(2) Subject to the general directions of the Controller, the managing agent appointed shall perform the duties and exercise the powers with regard to the maintenance and management of the building as if he were acting as the developer, joint management body, management corporation or subsidiary management corporation, as the case may be.

(3) It shall be the duty of the managing agent to pay all moneys received by him in his capacity as managing agent into the accounts specified in subsection (1) of that development area within three working days of receiving the moneys.

(4) As soon as practicable after his appointment, but in any case not more than one month after his appointment, a managing agent shall prepare and submit to the Controller a statement showing as at the date of his appointment—

- (a) the moneys standing to the credit of the maintenance account or the sinking fund account;
- (b) the amounts due and owing by the parcel owners or proprietors which are to be deposited into the maintenance account or the sinking fund account;
- (c) any income derived from the common property or the proposed limited common property of the development area, which is to be deposited into the maintenance account or the sinking fund account; and
- (d) any sum incurred for the maintenance and management of any building or land, which is authorized to be paid out of the maintenance account or the sinking fund account, and which remains unpaid.

(5) Any managing agent who fails to comply with subsection (3) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit , and in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for every day or part thereof during which the offence continues after conviction

Section 33. Developer not to be relieved of his obligations to carry out repairs, etc.

The appointment of a managing agent shall not relieve the developer of his obligation—

- (a) towards the purchasers in his development area to carry out repairs to the common property or to make good any defect, shrinkage or other faults in the common property during the defects liability period; and
- (b) to carry out repairs and varied and additional works to ensure that the development is constructed in accordance with the specifications and plan approved by the competent authority.

Section 34. Termination of management agreement

(1) Upon the termination of a management agreement, the managing agent shall—

- (a) not more than one month from such termination, prepare and submit to the Controller the unaudited accounts of the maintenance account and the sinking fund account, and hand over to the Controller a complete list of the assets and liabilities of such maintenance account and sinking fund account and all records related to and necessary for the maintenance and management of the building or land; and
- (b) not later than three months from such termination, submit to the Controller the audited accounts of the maintenance account and the sinking fund account.

(2) Any managing agent who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(3) in the event of the termination of the management agreement, the Controller may appoint another managing agent to maintain and manage the building or land for a period to be specified by the Controller.

(G) MANAGING AGENT APPOINTED BY CONTROLLER

Section 35 Management agreement

(1) At the time of appointment of a managing agent under subsection 27(1) or 30(3) of the Ordinance, the Controller shall specify—

- (a) the period of appointment;
- (b) the remuneration or fees of the managing agent as agreed upon between the managing agent and the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, with the concurrence of the Controller, or the amount of remuneration or fees of the managing agent as determined by the Controller under subregulation (2); and
- (c) the amount of bond required to be lodged by the managing agent with the Controller.

(2) If the remuneration or fees of the managing agent could not be agreed upon between the managing agent and the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, the Controller shall determine the remuneration or fees of the managing agent which shall be charged to the maintenance account.

(3) Within fourteen days from the date of appointment, the managing agent appointed by the Controller shall enter into a management agreement with the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, and the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, shall sign the management agreement within the fourteen days specified.

(4) If the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, does not sign the management agreement, the Controller may appoint any purchaser, parcel owner or proprietor, as the case may be, to sign the management agreement on behalf of the developer, joint management body, management corporation or subsidiary management corporation, as the case may be.

(5) Any person or body who fails to comply with subregulation (3) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Section 36 Charges and contribution to the sinking fund during management by managing agent

(1) If a managing agent has been appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance and the Charges or contribution to the sinking fund to be paid by a purchaser, parcel owner or proprietor in respect of his parcel has not been determined by the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, for any reason whatsoever, the amount of the Charges to be paid by a purchaser, parcel owner or proprietor under the Ordinance shall be determined by the managing agent in proportion to the allocated share units or share units of each parcel and the amount of contribution to the sinking fund to be paid shall be a sum equivalent to ten per cent of the Charges.

(2) Any purchaser, parcel owner or proprietor who is not satisfied with the sums determined by the managing agent under subregulation (1) may apply to the Controller for a review and the Controller may— (a) determine the sum to be paid as the Charges or contribution to the sinking fund; or (b) instruct the managing agent to appoint, at the cost and expense of the developer, joint management body, management corporation or subsidiary management corporation, as the case may be, a registered property manager to recommend the sum payable as the Charges or contribution to the sinking fund and submit a copy of the registered property manager's report to the Controller.

(3) Upon receiving the report under subparagraph (2)(b), the Controller shall determine the sum payable as he thinks just and reasonable, and any sum so determined by the Controller shall be deemed to be the sum payable as the Charges or contribution to the sinking fund.

(H) MISCELLANEOUS PROVISIONS

Section 37 Service of documents

- (1) The management corporation shall at the main entrance to the lot—
 - (a) cause to be continuously displayed a notice showing the name of the management corporation and the address for service of documents as shown in the book of the strata register; and
 - (b) cause to be continuously available a receptacle suitable for purposes of postal delivery with the name of the management corporation clearly shown thereon, where the address for service of documents shown in the book of the strata register is the postal address of a building erected within the lot.
- (2) Where the address for service of documents is altered the management corporation shall forthwith notify the Registrar and the Director of the alteration, and the Registrar shall make the appropriate endorsement in the book of the strata register.
- (3) A document may be served on the management corporation by sending it by pre-paid registered post addressed to the management corporation at the address shown on the book of the strata register.
- (4) [Section 208 of the Land Code] relating to the methods of service shall apply to this section.
- (5) For the purposes of this section the word “documents” shall include summons, notice, order and other legal process.

Section 38 Inter floor leakage

Meaning of inter-floor leakage

- (1) For the purpose of this Part, “inter-floor leakage” means any evidence of dampness, moisture or water penetration—
 - (a) on the ceiling that forms part of the interior of a parcel, common property or limited common property, as the case may be; or
 - (b) on any furnishing material, including plaster, panel or gypsum board attached, glued, laid or applied to the ceiling that forms part of the interior of a parcel, common property or limited common property, as the case may be.
- (2) For the purpose of Part XV of these Regulations, a parcel includes an accessory parcel which is used or intended to be used in conjunction with a parcel. Notice that a parcel is affected by inter-floor leakage.
- (3) A purchaser, parcel owner or proprietor, whose parcel is affected by an inter-floor leakage may give notice to—
 - (a) the developer, during the developer’s management period under Part IV of the Ordinance or during the preliminary management period under Part V of the Ordinance;
 - (b) the joint management body;
 - (c) the management corporation; or

- (d) the subsidiary management corporation; as the case may be. (2) In a case where a managing agent has been appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance, a copy of the notice given to the managing agent shall be deemed to be a notice given to the developer, the joint management body, the management corporation or the subsidiary management corporation, as the case may be, and a copy of the notice shall be extended to the Controller.

Section 39 Inspection of affected parcel

Any developer, joint management body, management corporation or subsidiary management corporation, or any managing agent appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance, as the case may be, shall as soon as practically possible, or within seven days from the date of receipt of the notice given, carry out an inspection of the affected parcel, any other parcel and the common property or limited common property, to determine—

- (a) the cause of the inter-floor leakage; and
- (b) the party responsible to rectify any defect that has caused the interfloor leakage.

Section 40 Matters to be considered in determining cause of leakage

In determining the cause and the party responsible to rectify any defect, the following matters shall be taken into consideration—

- (a) the presumption that the defect is within the parcel above the affected parcel, common property or limited common property;
- (b) any defect in any water meter, water pipe, drainage pipe, sewerage pipe, gas meter, gas pipe and duct that serves more than one parcel is a defect of the common property or limited common property;
- (c) any defect in any water meter, water pipe, drainage pipe, sewerage pipe, gas meter, gas pipe and duct that serves only one parcel is a defect of that parcel, even though the water meter, water pipe, drainage pipe, sewerage pipe, gas meter, gas pipe and duct may be situated on or embedded in common property or limited common property or void space above the ceiling or wall or floor, as the case may be; and
- (d) any defect of any parcel, common property or limited common property during the defect liability period of the parcel or the common property or the limited common property, as the case may be, which is due to defective workmanship or materials or that the parcel, common property or limited common property was not constructed in accordance with the plans and description approved by the appropriate authority, shall be the responsibility of the developer. Certificate of inspection

Within five days from the date of completion of inspection of the affected parcel, any other parcel or the common property or limited common property or within such extended time as the Controller may grant, the developer, joint management body, management corporation or subsidiary management corporation or any managing agent appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance, as the case may be, shall issue a certificate of inspection in Form 28 to state the cause of the inter-floor leakage and the party responsible to rectify it.

Section 41 Inter-floor leakage caused by defective workmanship, etc. within the defect liability period

- (1) Where the inter-floor leakage occurs within the defect liability period of the parcel and it is due to defective workmanship or materials or that the parcel was not constructed in accordance with the plans and description approved by the appropriate authority, the purchaser, parcel owner or proprietor may make a claim against the developer pursuant to the sale and purchase agreement made with the developer.
- (2) Where the inter-floor leakage occurs within the defect liability period of the common property or of the limited common property, as the case may be, and it is due to defective workmanship or materials or that the common property or limited common property was not constructed in accordance with the plans and description approved by the appropriate authority, the purchaser, parcel owner or proprietor may make a claim against the Common Property Defects Account. Inter-floor leakage caused by or attributable to a parcel
- (3) Where the inter-floor leakage is caused by or is attributable to a parcel or any part thereof, the purchaser, parcel owner or proprietor of that parcel shall, without prejudice to his right to seek indemnity from any other party, shall take all necessary steps and measures to rectify the inter-floor leakage within seven days.
- (4) If he fails to do all the necessary steps mentioned herein, the developer, joint management body, management corporation or subsidiary management corporation or any managing agent appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance, as the case may be, shall immediately take all the necessary steps and measures to rectify the inter-floor leakage and shall charge and recover all cost and expense from the party responsible to rectify the inter-floor leakage. Inter-floor leakage caused by or attributable to common property or limited common property.
- (5) Where the inter-floor leakage is caused by or is attributable to common property or limited common property and occurs after the defect liability period of the common property or limited common property, the developer, joint management body, management corporation, subsidiary management corporation or managing agent appointed by the Controller under subsection 27(1) or 30(3) of the Ordinance, as the case may be, without prejudice to his right to seek indemnity from any other party, shall take all necessary steps to rectify the inter-floor leakage within seven days.

Section 42 Access

- (1) The person or body carrying out the inspection of the affected parcel or any other parcel, common property or limited common property or in carrying out the works to rectify the inter-floor leakage, shall have access to the affected parcel, any other parcel, common property or limited common property on seven days' written notice.
- (2) Any purchaser, parcel owner, proprietor or occupier of the affected parcel or any other parcel who fails to give access to the affected parcel or any other parcel to the person or body carrying out the inspection pursuant to subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand.
- (3) The requirement of notice in subregulation (1) shall not be applicable in any case of emergency, and forcible entry may be effected.
- (4) In this regulation, "emergency" includes any matter or circumstance that materially increases the likelihood of flood or danger to life or property that would result from inter-floor leakage.

Section 43 Reference to Controller

- (1) Any person who is not satisfied with any decision made against him under any of the regulations in this Part may refer to the Controller and the Controller shall determine the cause of the inter-floor leakage and the party responsible to rectify it.

(2) The Controller may appoint a registered architect, registered engineer, registered quantity surveyor or a registered building surveyor to assist him in such determination and the cost of such appointment shall be borne by the party responsible to rectify the inter-floor leakage.

(3) All parties shall comply with any decision made by the Controller.

Section 44 Damage to Party Wall

Section 45 Meaning of party wall

For the purpose of this Part, “a party wall” shall mean a wall that is located between separate parcels or located between a parcel and the common property or the limited common property, as the case may be.

Section 46 Meaning of damage to a party wall

For the purposes of this part, “damage to a party wall” shall mean any evidence of dampness, moisture, water penetration or other damage—

- (a) on the wall that forms part of the interior of a parcel, common property or limited common property, as the case may be; or
- (b) on any furnishing material, including plaster, panel or gypsum board attached, glued, laid or applied to the wall that forms part of the interior of a parcel, common property or limited common property, as the case may be.

FORM 1

Section _____ (**Recovery of sums by attachment of movable property**)
WARRANT OF ATTACHMENT

To
of

Whereas is the proprietor of *parcel
No. in the building No/of provisional block
No. on
(Description of land)

.....
registered in the name of the management corporation by the name
of.....

And whereas by a written notice under subsection (1) of Section **Recovery of sums due** of the Strata Titles Ordinance, 2014 served on him on the day of 20..... the said..... was requested to pay to the management corporation by the day of 20..... the sum of, the particulars of which are given below:

And whereas by a written notice under subsection (2) of Section **Recovery of sums due** of the Strata Titles Ordinance, 2014 served on him on the day of 20..... the said was asked to pay to the management corporation by the day of 20..... the said sum/the sum of being the balance outstanding from the said sum:

And whereas further the said sum/the sum of still remains unpaid:

This is to authorize you under subsection (1) of **Recovery of sums by attachment of movable property** of the Strata Titles Ordinance, 2014 to attach any movable property belonging to the said; sufficient to realize the sum due as aforesaid and by way of costs, which may be found in the said building or elsewhere in the State, and to hold the property or deal with it subject to and in accordance with the provisions of the said section **Recovery of sums by attachment of movable property**.

This warrant must be returned to me on or before the day of 20..... with an endorsement certifying the date when and the manner in which it was executed or the reason for not executing it.

Dated this day of 20.....

.....
Land Administrator
L.S.
District

PARTICULARS OF SUM DUE

FORM 2

Section _____ (Recovery of sums by attachment of movable property)
NOTICE AND INVENTORY

To
of

Take notice that I have this day attached the property specified in the inventory below for the sum of, details of which are given below, which is owed to the management corporation by the name of by the proprietor of *parcel No. in building No. /of provisional block No on
(Description of land) registered in the name of the said management corporation.

Take notice further that unless the amount due is paid within fourteen days from the date of this notice, the property will be sold.

Dated this day of 20.....

.....

INVENTORY

Number of Articles

Description of Property

PARTICULARS OF SUM DUE

FORM 3

Section _____ (**Recovery of sums by attachment of immovable property**)
WARRANT OF ATTACHMENT

To
of

Whereas is the proprietor of *parcel
No. in the building No/of provisional block
No. on
(Description of land)

.....
registered in the name of the management corporation by the name
of.....

And whereas by a written notice under subsection (1) of Section **Recovery of sums due** of the Strata Titles Ordinance, 2014 served on him on the day of 20..... the said.....
was requested to pay to the management corporation by the day
of 20..... the sum of, the particulars of
which are given below:

And whereas by a written notice under subsection (2) of Section **Recovery of sums due** of the Strata Titles Ordinance, 2014 served on him on the day of 20..... the said
was asked to pay to the management corporation by the day of
20..... the said sum/the sum of being the balance outstanding from the said sum:

And whereas further the said sum/the sum of still remains unpaid:

This is to authorize you under subsection (1) of **Recovery of sums by attachment of movable property and/or the parcel itself** of the Strata Titles Ordinance, 2014 to attach the parcel belonging to the said, sufficient to realize the sum due as aforesaid and by way of costs, which may be found in the said building or elsewhere in the State, and to hold the property or deal with it subject to and in accordance with the provisions of the said section **Recovery of sums by attachment of movable property and/or the parcel itself**.

This warrant must be returned to me on or before the day of 20..... with an endorsement certifying the date when and the manner in which it was executed or the reason for not executing it.

Dated this day of 20.....

.....
Land Administrator

L.S.

District

PARTICULARS OF SUM DUE

FORM 4

Section (Recovery of sums by attachment of immovable property)(3)
NOTICE AND INVENTORY

To
of

Take notice that I have this day attached the property specified below for the sum of, details of which are given below, which is owed to the management corporation by the name of by the proprietor of *parcel No. in building No. /of provisional block No on

(Description of land) registered in the name of the said management corporation.

Take notice further that unless the amount due is paid within fourteen days from the date of this notice, the property will be sold.

Dated this day of 20.....

.....

PARCEL

Description of Property

PARTICULARS OF SUM DUE

SHEDA's Proposed Improvement in Processing Issuance of Strata Title

Appendix A

Stage	Process	Approving Authority	Purpose/ Rational			Current Procedure	Proposed Improvement to current procedure	Remarks
1	Application for Type A Survey	L&S	When	Upon physical completion of all the buildings	To ensure that the completed building(s) is/are constructed wholly within the lot.	The appointed Licensed Surveyor apply, survey and certify Type A survey	Upon completion of the external wall/ structure with external wall plastering in accordance with the approved building plan .	Divisional Supt should be empowered to approve the application for Type A survey.
			Why					
			How					
2	Application/ Issuance of Block Title	L&S	When	After issuance of Road Certificate by Council	Block title is parent title to all the subsidiary titles	Similar to individual landed property titles, such as residential or commercial lots	To expedite the issuance of title in the similar way as any landed residential title.	Divisional office could be entrusted to approve the following:- - Depositing of survey plan - Terms & Conditions - Valuation of premium and Land rent (standardized by market value zoning) (similar practice to the valuation of stamp duty payable to any land transaction in the earlier days)
			Why					
			How	Applicant forward Road Certificate to Divisional L&S				
3	Application for Subdivision of Building	SPA	When	Upon issuance of block title by L&S and O.P. by Council, Developer submit application to Divisional L&S	As required under section 5 of the Strata Titles Ordinance, 1995	1. After processing, Divisional L&S will forward to HQ, HQ then recommend to SPA for approval; 2. SPA convey decision to Divisional Supt who shall convey the decision to the applicant	To amend Strata Titles Ordinance so that this process is not required: 1. In cases where SPA has already granted approval in the provisional approval for the completed building, there is no need to refer to SPA for approval again. 2. For old cases, SPA to grant a blanket delegation to Divisional Supt to endorse approval. 3. SPA to delegate his statutory authority to Divisional Supt in granting approval for the application for subdivision of building.	1. This approval of subdivision of building should be granted at the stage when planning approval is granted by SPA. 2. The current practice to submit the application of subdivision building to SPA for approval is redundant. 3. The endorsement/approval of the following can be granted by superintendant of L&S:- - Application Form LS126 & 126A - O.P - Extract of title - Approved B.P. CTC by Architect - Softcopy of B.P. - Name of Management Corporation - Letter of Appointment - Index Plan - Storey Plan - Share Value calculation - Consent of Chargee (if any)
			Why					
			How	Documents to be submitted: - Application Form LS126 & 126A - O.P - Extract of title - Approved B.P. CTC by Architect - Softcopy of B.P. - Name of Management Corporation - Letter of Appointment - Index Plan - Storey Plan - Share Value calculation - Consent of Chargee (if any)				

SHEDA's Proposed Improvement in Processing Issuance of Strata Title

Appendix A

Stage	Process	Approving Authority	Purpose/Rational	Current Procedure	Proposed Improvement to current procedure	Remarks
4	Application for Type B Survey	L&S	When	1. Licensed Surveyor to enter building to survey individual units vertically & horizontally and calculate areas. 2. Any as-built dimension do not differ (+/-) more than 0.1 meter shall be used for the calculation area if otherwise the as-built dimension should be build. 3. Licensed Surveyor then submit Certified Plan, area computation sheets and revised L&S 126A (share unit) if the final parcel area differ from the storey plan.(This process is not required if the area is the same as building plan)	1. With the delegation of the statutory authorities from SPA to Divisional Supt, the checking, processing and approval of strata title surveys for both type A and type B surveys can be performed by the respective officers at the Divisional L&S without any reference to HQ or Ministry. This will expedite the process of issuance of strata titles for subdivision of buildings. 2. Thus, Type B survey can be carried out concurrently with Type A survey upon completion of all the internal wall plastering & confirmation that the completed buildings have been constructed wholly within the lot boundaries (Type A) and in accordance to the approved building plans (Type B).	1. Type B survey should be carried out immediately upon physical completion of the building before the issuance of OP. 2. Divisional Supt should be empowered to approve the application for Type B survey.
			Why	To measure the dimension of the parcel boundary so to ascertain the actual dimension on site.		
			How			
5	Registration of Subsidiary Titles	L&S	When	Upon approval of Type B Survey Job	Issue of Strata Title within 6 months upon issuance of OP.	The objective of getting the subsidiary titles issued within 6 months upon issuance of OP can be achieved if the above delegation of power to the divisional supt is implemented.
			Why	To maintain public record of the proprietorship of strata properties		
			How			
6	Incorporation of Joint Management Body (JMB)	N/A	When	N/A	Proposed JMB to be formed between Developer and parcel owners within three (3) months from issuance of OP.	This is to ensure that the parcel owner shall have the opportunity to participate in the management of the JMB so that they can take over the MC without the participation of the developer.
			Why			
			How			
7	Incorporation of Management Corporation (MC)	N/A	When	MC will be established automatically upon issuance of subsidiary titles.	Proposed MC to be formed by way of converting JMB to MC within six (6) months from issuance of subsidiary titles.	
			Why			
			How			

SHEDA's Proposed Improvement in Processing Issuance of Strata Title

Appendix A

Stage	Process	Approving Authority	Purpose/ Rational	Current Procedure	Proposed Improvement to current procedure	Remarks
8	Phased Development	SPA	When		<ol style="list-style-type: none"> To allows multiple MC if they do not share common facilities. To allows subsidiary MC if they share common facilities. 	
			Why			
			How			
			<ol style="list-style-type: none"> No subsidiary title can be issued to the completed building if they are remaining blocks of buildings incomplete. The share unit to the completed building cannot be computed without knowing the share unit of the remaining blocks. 			
			<ol style="list-style-type: none"> All building plan of the remaining blocks must be approved. The developer has to deposit the reasonable sum acceptable to the L&S department as security deposit. The developer has to undertake to complete the building within a period that 			

Note: Currently there is no Strata Title Ordinances for Horizontal strata development (eg. gated and guarded landed). The above proposal can be applicable with the necessary amendments to accommodate the horizontal strata development.

Date: 5 May 2017