

15 March 2018

Encik Otteran Gira
Eksekutif Hasil/ Unit Duti Setem Cawangan Kuching
Wisma Hasil
No.1, Jalan Padungan
93100 Kuching, Sarawak

Dear Encik Otteran,

RE: Service Apartment in Sarawak

Further to the courtesy visit to your Director on 13 March 2019, SHEDA would like to clarify on the definition of Service Apartment in Sarawak as follows:-

In Sarawak, it is noted that we have our own Sarawak Land Code, 1958 (Cap.81), which created our State Planning Authority (SPA) in 1997 to regulate the subdivision and development of all land in Sarawak, which is chaired by our YAB Chief Minister. In addition, Sarawak has its own property developer association known as SHEDA (Sarawak Housing And Real Estate Developers' Association) which works closely with the State Government on housing and property matters, including Land and Surveys Department, Ministry of Local Government and Housing Sarawak, Ministry of Urban Development and Natural Resources Sarawak, and other relevant Authorities in Sarawak. Sarawak has its own Housing Development (Control And Licensing) Ordinance, 2013 (CAP.69) ("HDO"), relevant section as follows:-

Under section 3 of the HDO, "housing accommodation" includes any building, tenement or messuage which is **wholly or principally constructed, adapted or intended for human habitation or partly for human habitation** and partly as business premises or such other types of accommodation as may be prescribed by the Minister pursuant to section 4;

"housing developer" means any person, body of persons, company, firm or society (by whatever name described) carrying out the business of a housing development including, where appropriate, a licensed housing developer;

"housing development" means the carrying out of any building operations for **the purpose of erecting in any manner housing accommodation** in, on, over or under any land or the collection of moneys therefor, or the sale of such housing accommodation;

"Housing Development Account" means an account opened and maintained by a licensed housing developer pursuant to section 12 [of the HDO];

"housing development area" means an area where the developer undertakes to construct **housing accommodation or any other buildings, including commercial or industrial buildings** and roads, bridges, drains and other works;

Further, under section 4 of the HDO: Power of Minister to determine housing accommodation: Subject to Part X of the Land Code [Cap. 81 (1958 Ed.)], **the Minister may, by notification in the Gazette, prescribe any type of accommodation to be a housing accommodation.**

Under Section 6.—(1) of the HDO, A proprietor of any alienated land, or person holding the written consent of **such proprietor, who intends to carry out a housing development of more than eight units of housing accommodation shall, before carrying out such development, apply for a licence** in accordance with this Ordinance.

In Sarawak, we have three general type of housing accommodation for stratified high rise/mixed development that is approved by our State Planning Authority currently:-

- i. Flats/Townhouses/Apartments/Condominiums (Residential title-residential usage);
- ii. Service Apartments (Commercial title-residential usage); and
- iii. SOHO (Office Title – mixed office/residential usage)

In the planning approval letter approved by SPA (“the AVTC letter”), the above three terms are commonly used. All three categories are considered housing accommodation under the definition of section 3 of the HDO and therefore developers who carry out the development of any of the three categories is required to be licensed under the HDO and to open a Housing Development Account and is accountable to Ministry of Local Government and Housing Sarawak. Accordingly, we submit that in Sarawak, service apartments and apartments should be treated equally for the stamp duty waiver as they are both for residential usage and purpose. The only difference is that service apartments have commercial title as opposed to apartments with residential title.

Thank you.

Yours sincerely,

for **Sarawak Housing and Real Estate Developers' Association (SHEDA)**



Dr Christopher Ngui
President



Mr Louis Ting Tiew Hee
Chairman, Housing Committee