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newsnetwork

Persatuan Pengurusan Kompleks (PPK) Malaysia

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Untuk Abli Sabaja



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PRESIDENT'S MESSAGE

Dear Members

The shopping industry is always in a constant date of flux, being both exciting and challenging at the same time. Currently on the global scene, we have health concerns on the spread of influenza A (H1N1) which has ultimately affected us in Malaysia and this has, unfortunately, impacted negatively on tourism arrivals over the past few months.

Whilst we feel that it is our social responsibility to be aware and concerned over health issues, sometimes, over reaction sets in and the relevant authorities should handle the situation with care, with due consideration for any undesirable repercussions on the country's tourism industry and the overall economy including our businesses in shopping centres.

Despite this, most shopping centres have reported growth in traffic for the domestic market, largely due to the ongoing Malaysia Mega Sales Carnival 2009. However, there appears to be a drop in retail sales as confidence levels have not been fully restored yet following last year's global financial crisis. This will require synergy and collaboration between the public and private sectors and shopping centres and retailers have worked with the new Tourism Minister to attract shoppers with value-for-money programmes and other exciting events.

On another note, the learning process never ends and we have held several 'awareness and education' talks for members on disparate topics like no smoking, hygiene and even REITs (real estate investment trusts). Soon, we shall be having CASC Conference 2009 in September at one of Asia's vibrant shopping destination, Hong Kong. Do join us to learn from regional experiences, benefit from some networking plus a little shopping on the side..

Remember, when the going gets tough, the tough go shopping !

Warmest regards.



JOYCE YAP

President



HAPPENINGS



MALAYSIA MEGA SALES CARNIVAL (MMSC), July 2009

Running from 4 July to 31 August 2009, the mother-of-all sales of the year is ON NOW ! This year's MMSC is the 10th year running that Malaysian malls go on sale simultaneously so it just means that shopperholics will need to keep abreast of all the exciting promotions, activities, bargains, discounts, contests and other freebies ! Shop now for a wide range of merchandise from haute couture, fashion accessories, jewellery, cosmetics to the latest IT gadgets, curios and even spa treatments and food offerings..



▲ MMSC was launched on 5 July by YABhg Datin Paduka Seri Rosmah Mansor, wife of Prime Minister of Malaysia at Pavilion KL



▲ Wowee, it's carnival time - performers decked up in their glamour outfits !



▲ Elegant fashion on the catwalk during the launch

2 events were organized by Tourism Malaysia and coordinated by PPK Malaysia during this period to enhance and enliven the sales ambience i.e. Best Window Display Contest and MMSC Shopping Centre Awards. These were organized for retailers and malls respectively to encourage shops and malls to be decorated in vibrant displays so as not only to lure and attract shoppers to buy, buy, buy (!) but to enhance the standards of Malaysian malls and retailers to international levels.

The inaugural contest and awards received encouraging participation with our warmest congratulations to the following winners :

MMSC Shopping Centre Awards



▲ Find Your Oasis of Rewards and the **Best Thematic Decoration (CBD category)** at Pavilion Kuala Lumpur



▲ The Double Extravaganza of not 1, but 2 cars for their shoppers' contest won **1 Utama Shopping Centre the Best Promotions and Events (Suburban category)**



▲ Shop in the Streets of the World at **Sunway Pyramid** who won the **Best Thematic Decoration (Suburban category)**



▲ **Mid Valley Megamall's** ingenious Hunt for Monster Bargains garnered them the **Best Promotions and Events (CBD category)**

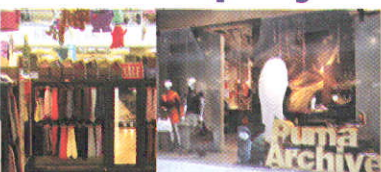


▲ Not to be outdone, **Sungei Wang Plaza** goes on sale, sale and more sale ! You can shop and win a car here ..

Best Window Display Contest (retailers)



▲ **TANGS Pavilion** won the **Best Innovative Display (Department Stores category)** for their unique theme on nature and the environment



▲ In the Specialty Shops category, **PUMA at The Gardens Mall** won the **Best Merchandise Marketing (Gold)** while **My Tie Shop, Mid Valley Megamall** won the **Silver**



▲ **Best Innovative Display (Gold)** was awarded to **Kitschen, Sunway Pyramid** and **Silver** went to **Khazanah, 1 Utama**



▲ The **Gold** award for **Best Sales Promotions** went to **Lence, Sunway Pyramid** for their giant shopping bag and **silver** was given to **Nichii, Pavilion KL**

HAPPENINGS (cont'd)

Study Trip to Shanghai: 13 – 17 May 2009

45 of our members were willingly "shanghai'd" recently, arriving after a bleary-eyed overnight flight and spending an eye-opening (!) and fruitful time visiting 8 Shanghai shopping centres and the well-known Xintiandi shopping precinct. We were amazed by the sheer volume of people at the ever popular shopping street of Nanjing Lu and the classy upmarket ambience of some of the malls whilst others had enviable rental rates and long waiting lists for tenancy! The trend for building profiles appears to be multi-levels, extending even up to 10 levels of shopping and entertainment and any global economic slowdown was certainly not visible, at least not at the places visited.



▲ The journey begins ..



▲ The umbrella makes a good shade ! (L to R): Salamah Ismail, Rahimah Rahim & Zaiton Ibrahim



▲ Along the tourist route: on location at the world famous Shanghai Bund (with obvious signs of development in the background!)



▲ The skyline, the skyline ! ...avid shutter bugs



▲ (L to R): Representative from SCSC with Mr Zhang Guo Zhong (SCSC Director) Richard Chan, Joyce Yap, HC Chan and HW Chow.



▲ Participants enjoying tasty Chinese food, a river cruise and even attempting to make a silk comforter !



▲ Briefing notes from the Shanghai Council of Shopping Centres (SCSC) gave interesting insights into Shanghai's background and the thriving shopping and retail industry



▲ Raffles City, a popular mid-range shopping centre in Nanjing Lu, a characteristic reminder of our local malls, where space is premium and even 'wall space' is creatively rented out. Our delegation had a field day with their cameras !

INSIGHTS of the INDUSTRY

ISSUE 21

NEW STRAITS TIMES FRIDAY, FEBRUARY 6, 2009

PROPERTY ◀ P3

BVAEA should stop interfering, says action group

The ongoing tussle for the right to manage stratified properties has gone right up to the ministerial level with an action group asking the housing minister to intervene.

The Valuers, Appraisers and Estate Agents Joint Action Group (the action group) complained to Minister of Housing and Local Government Datuk Seri Ong Ka Chuan that the Board of Valuers, Appraisers and Estate Agents (the Board) continues to interfere in the affairs of Joint Management Bodies (JMBs) and Management Corporations (MCs) and advises parcel owners to only appoint Board-registered valuers as man-

aging agents.

On Jan 19, an 18-member delegation led by the action group's chairman Datuk Teo Chiang Kok had a one-hour meeting with Ong. Teo claimed the Housing ministry, upon the request of the finance ministry (which the Board comes under), had reportedly advised all Commissioners of Buildings (COBs) to engage the services of Board-registered valuers as advisers to assist them in managing the stratified properties presently under JMBs.

The group claimed the COBs were asking JMBs to engage the services of Board-registered valuers as managing agents for their

respective subject properties.

The group, which submitted a two-page memorandum on these core issues, advised Ong that the issue whether or not a licence from the Board is required to manage stratified properties was now before the courts of law for interpretation and final decision.

According to an e-mailed statement, the action group reported that Ong was aware of the existence of "grey areas" in the laws pertaining to building and facilities management and had asked his legal officers to liaise with the Attorney General to obtain clarifications on these as well as other related matters.

The statement said the minister would check with his officers whether or not any correspondence to that effect had been received from the finance ministry, and whether subsequent follow-up correspondence had been sent by the housing ministry to the COBs.

The statement further claimed Ong agreed with the action group that property management, being a multi-disciplinary function, could not be the exclusive preserve of valuers, and that it be open to all stakeholders, interested parties and professional groups, including but not limited to developers, engineers, architects, shopping complex and highrise building

managers, residents associations, JMBs, MCs and whoever with the expertise, ability and experience to manage and maintain stratified properties.

"The owners have the right to appoint managing agents of their choice on terms and conditions and remuneration mutually acceptable to the contracting parties," the statement quoted Ong.

He assured the delegation that his ministry would do everything within its means to ensure the stakeholders are given equal and fair access to building and facilities management without any interference from third parties.
- Ivy Chang

NEWS NEW STRAITS TIMES FRIDAY, FEBRUARY 20, 2009

PROPERTY ◀ P8

MIEA wants out; Board says what's the point?

By Julia Jamaludin

The Board of Valuers, Appraisers and Estate Agents (BVAEA) president Datuk Abdullah Thalhah Md Thani says the Malaysian Institute of Estate Agents (MIEA) call to have greater representation on BVAEA, or even having a separate board just for estate agents, has to be questioned in its objective.

He explained that the valuers on BVAEA are also estate agents and there are also valuers-cum-estate agents within the MIEA membership. "BVAEA's current structure is fine as most of the matters we deal with pertain to estate agents. This is one of BVAEA's objectives, which is to regulate estate agents," Abdullah Thalhah said in response to MIEA president K.

Soma Sundram's recent call for greater representation by estate agents on BVAEA.

At the launch of the Malaysian Annual Real Estate Convention (Marec) last Saturday, Soma said there are only two estate agents, whose principal business is estate agency, out of the total 17 BVAEA members.

Soma also said that while MIEA agreed with the statement that the valuers on BVAEA are also doing estate agency work, it could not agree that the valuers represent estate agents because their appointments are based on their profession as valuers.

At Marec, MIEA had proposed to have a board of their own in the long term, a separate entity from BVAEA.

MIEA had also called for review of the

reduction of agents' commission from three per cent to 2.75 per cent for the first RM500,000, which was amended in 2000 without explanation.

It also highlighted its concerns about the rising number of illegal estate agents and their negative impact on the professionalism of the business.

Earlier at the opening of Marec, Deputy Finance Minister Datuk Kong Cho Ha said RM77.14 billion worth of properties was transacted in 2007 and it is estimated that estate agents contributed close to 40 per cent of the total transaction.

Kong said the RM30 billion worth of transactions was a significant achievement and contribution to economic growth by estate agents.



We agree the valuers on BVAEA are also estate agents, but their appointments are based on their profession as valuers, says Soma.



BVAEA is already regulating the estate agents and dealing with matters pertaining to them, explains Abdullah Thalhah.

NEW STRAITS TIMES FRIDAY, APRIL 17, 2009

PROPERTY ◀ P13

News

Brickbats, threats and legal suits

This is how some JMB advisors, councillors and COBs are 'rewarded' for thankless jobs

By Ivy Chang

Property management has been, and continues to be, a sore subject for many.

Strata owners have long lobbied to manage their own properties, and since April 2007, have been empowered to do so by statute. But they are finding that it is no walk in the park.

It does not help that the Building and Common Property (Maintenance and Management) Act 2007 contains vague wordings and is at odds with the Strata Titles Act 1985. Parties have tried to exploit the loopholes to their advantage with various interested parties lobbying to be appointed as management committee members.

So when the law is unclear, experts are brought in to interpret the grey areas, usually at the behest of the owners. On many occasions, their presence is not welcomed by the developers and even owners themselves, and they have been threatened with violence and legal action.

The intimidation is not merely directed at council officers. Developers have also harassed residents and councillors with threats of lawsuits," said Liew Wei Beng, president of All Petaling Jaya Resident Association Coalition (APAC) which represents about 15 Residents Associations (RAs).



Strata owners are now realising that managing highrise dwellings is no child's play.

inclusive of some landed residential properties.

Registered last year, APAC has a sub-committee called Condominium, Apartment and Highrise Committee (CAHC), under the chairmanship of Tengku Nazarrudin Zainuddin, who handles condo-related issues. He estimated that 60-odd condos and highrise buildings around Petaling Jaya are under the CAHC umbrella.

Liew, who has been advising RAs and condo owners in the last few years, has had his fair share of threats of law suits and physical harm.

He related an incident in Ara Damansara where the developer, during the first

Joint Management Body (JMB) meeting last year, brought in 30 to 40 "undesirable characters" to harass the residents during the elections. He said their presence caused some residents to feel threatened and they left before the elections could take place.

Liew said he questioned the status of the presiding chairman who was one of the developer's officers appointed to chair the meeting. Under Act 663, the chairman has to have voting rights and if he doesn't have it, he is not allowed to be the chairman. Here, the presiding chairman did not have any voting rights.

In the end, Liew called in

the police and the meeting was adjourned.

On a separate occasion, Liew also had to call in the police because there was trouble over the "joint owners proxy issue". Councillors were warned that if they made a ruling on the issue and things went awry during the JMB meeting, they would have to bear responsibility for the problems that arose during the meeting.

In the end, he said, the developer adjourned the meeting because it did not have sufficient votes. He said another JMB meeting has yet to be held to date.

Once, Liew said, a councillor was even threatened

with bodily harm when he tried to stop a meeting to dissolve the JMB. There was a dispute over the 25 per cent signatures to hold the meeting and when the councillor queried the number and percentage of signatures, he was threatened.

Asked if money was one of the reasons for these ugly incidents, Liew said it may be. He pointed out that for medium-cost apartments and above, the annual maintenance collection per development is easily over RM1 million.

He also said he has been threatened with a number of legal suits, which were just intimidation tactics as nothing came out of them.

However, Majlis Bandaraya Petaling Jaya (MBPJ) councillor K.W. Mak was not so lucky.

He is currently defending a RM50 million defamation suit instituted by the developer/management agent of a neighbourhood mall in Petaling Jaya in respect of a report he wrote to the Commissioner of Buildings (COB) and which was distributed by the mall owners.

Likewise, MBPJ Datuk Bandar Datuk Mohamed Roslan Sakiman has also been sued in his capacity as COB by another developer.

In another case, a COB has also been taken to court with regards to the formation of a JMB in a neighbourhood mall.

PJ residents want proper COB unit

The All Petaling Jaya Residents Association Coalition (APAC) has submitted a memorandum to Selangor state executive councillor for housing Iskandar Abdul Samad demanding that the state government set up a proper Commissioner of Buildings (COB) unit.

APAC claimed that the sole COB is not able to provide the services sorely needed by the more than 100,000 condominium units in PJ.

The memorandum stated that an independent COB should be appointed to provide the services listed in the Building and Common Property (Maintenance and Management) Act 2007. APAC also wants the COB unit to be properly staffed to enable it to function and to include the services of a professional lawyer and certified accountant.

APAC said that although they are rate-payers paying a much higher premium

in assessment rates compared to landed properties, they have not been getting commensurate services such as waste removal, road resurfacing and streetlighting since highrise properties were first built more than 30 years ago.

APAC said the COB is required to ensure all condos form a joint management body and all annual general meetings are held in a just and transparent manner.

COBs should also aid in obtaining information of condo purchasers, maintenance accounts, building plans and other relevant information from the developer or local council to enable the joint management body to carry out its functions.

It is also required to provide assistance to the joint management committee in collecting unpaid maintenance fees from errant unit owners, enforce house rules, and form an enforcement unit to oversee the implementation of the Act.

- Ivy Chang

NEW STRAITS TIMES

Friday, April 24, 2009
http://properties.imedia.com.my

Property

Management plan scuppered?

By Ivy Chang

A High Court decision delivered last week has dealt a major blow to private property practitioners when it ruled that only registered property managers can undertake property management of stratified real estate.

The court dismissed an application for judicial review brought by the former manager of Bukit OUG condominium against the Board of Valuers, Appraisers and Estate Agents Malaysia.

The decade-old Bukit OUG condo in Kuala Lumpur was developed by the now insolvent Sri Keladi Sdn Bhd. MBF Property Services Sdn Bhd was managing the property for the developer until it was bought over by Binanamik Building Services Sdn Bhd. Binanamik was the facility coordinator of the condo for three years from May 2003.

Binanamik's counsel S. Sekhar said it all began when one owner complained to the Board that Binanamik was not licensed with the Board.

"When the Board discovered that Binanamik was not on their list of registered members, it issued a letter to my client directing them to stop property management. The letter stated that what Binanamik is doing is illegal and if they fail to comply, the Board would take criminal action," Sekhar explained.

More, P3

NEW STRAITS TIMES FRIDAY, APRIL 24, 2009

PROPERTY ◀ P3

> Focus

Court rules in favour of licensed managers

Dismissal by High Court sending ripples through the industry

from page 1

Board president Datuk Abdullah Thalith Md Thani said the Board requested Binanamik to stop practising property management but the latter went to High Court for a judicial review saying the Board's instructions were not in accordance with the law.

Binanamik had initially sought the following: (a) A certiorari to quash the Board's letter directing it to cease and desist in all activities and work as a facility coordinator to buildings, apartments and condominiums; (b) a mandamus against the Board to retract their letter; (c) a declaration that Binanamik is not

in violation of section 21 of the Valuers, Appraisers and Estate Agents Act, 1981 (the Act); (d) a declaration that the owners of apartments/buildings are not forbidden by the Act to appoint anyone to act as property managers in any way; and (e) a declaration that Binanamik's appointment by the building's owners to manage the facilities is legal.

However, Binanamik later dropped prayers (b), (c) and (d). On April 15 this year, Judicial Commissioner Hadhariah Syed Ismail held in favour of the Board and dismissed Binanamik's application with costs.

However, she did not give any reasons for the dismissal. Lawyers advised that

the usual mode of practice is that grounds of judgment are provided only if an appeal is lodged.

To date, there is no indication whether Binanamik will appeal the decision although it will have to do so within one month of the decision date.

However, as Binanamik is no longer managing the condominium, an appeal may only be an academic exercise.

The oral decision has property players reeling in shock. First, because nobody was aware that Binanamik had dragged the Board to court and second, because they are still unsure as to what exactly this case bodes for the industry.

Property players have been conferring with their lawyers on the next course of action and there is speculation that other stakeholders are keen to proceed with this matter to see it to its logical conclusion.

Over the last five years, the property industry has been battling with the Board over who has the right to maintain and manage stratified commercial and residential real estate in Malaysia and they have been waiting for a court ruling on this issue.

Last June, Superboom Projects Sdn Bhd (SPSB) and Superboom Projects Sdn Bhd Lake View Mgt Sdn Bhd (SPPLV) sued the Registrar of the Board for defamation in respect of a letter written to some Permai Lake View

Apartment residents.

The letter advised that as SPSB and SPPLV were not registered with the Board, they were "illegal property managers not authorised to undertake property management".

The Board, backed by the Act, has long argued that only "registered" property managers can undertake this discipline while industry players have contended that this move would lead to an unfair monopoly of the industry by members of the Board.

The latter said that under the Strata Titles Act, 1985 and the Building and Common Property (Maintenance and Management) Act, 2007, anybody appointed by a

stratified project's Joint Management Body or Management Committee can undertake administration, maintenance and management matters.

Lawyer K. Shanmuga said the High Court decision effectively ruled that the Board's decision is correct.

He advised that although the decision will not directly affect non-parties to the suit, it may be a binding precedent in a similar case.

Ivy Chang feels that property managers should back Binanamik and appeal as the grounds of judgement is sorely needed. Otherwise, the industry may be stuck with this decision.

> Viewpoint

Clearing doubts about management



By Mani Usilappan

Property management is a registered profession. Like all professionals in this country who offer services for a fee, property managers are also registered and regulated, have to follow codes of ethics, adhere to laws, rules, regulations and guidelines issued by the controlling Lembaga Penilai, Pentaksir and Ejen Hartanah Malaysia (LPPEH), fulfill the best practice standards and at all times act within the boundaries of professionalism, integrity and absolute fiduciary responsibilities to their clients.

There is a sovereign law in this country that requires all property managers to be registered. This law is the Valuers, Appraisers and Estate Agents Act 1981 (Act 242), referred to as the Act. Property management is a professional education acquired through three to four years of rigorous and robust academic education and training. It is acquired after three to five years of tertiary education in Malaysia, or in the United Kingdom, followed with two years of supervised training and after being tested for professional competency. There are four universities currently producing an average of 240 property management graduates a year. Some of these universities have been producing such graduates since 1978. There are numerous

registered property management firms, a Directory of Professional Property Managers is now available from the Association of Valuers & Property Consultants in Private Practice Malaysia (PEPS), who are following the law and fulfilling the requirements of the law in managing properties within the confines of the law. It is against this background that one must look at the recent High Court decision of Binanamik Building Services Sdn Bhd (BBSB) vs LPPEH. In this case, the learned Judicial Commissioner, sitting as a High Court judge, dismissed the application by BBSB for a judicial review of the decision of the Board who required BBSB to cease and desist their property management services, with costs. The arguments put forward on behalf of the Board

were that it was a statutory requirement for property managers to be registered, and the valid reasons for registration were that public policy and public money were at stake in property management. There was also the issue of accountability. Non-registered persons are not accountable. The Act restricts property management to only those registered so that property managers are answerable to the Board that is set up under provisions of the Act. Registered persons must have a clients' account. Although there is an appeal to a Court of higher jurisdiction, the law as expressed in the Act is clear, only those who are registered with the LPPEH can and will be licensed to carry out property management. Of course, and obviously, there is provision for all those who want to manage their own buildings to do so. This is because it is their own building and they do not owe a fiduciary duty to anyone else. Obviously, those who are not registered and do not possess a licence issued by the LPPEH, and who are doing property management, will be infringing the law. The LPPEH will have no choice but to enforce the provisions of the law against those who knowingly breach it. This was what was done in this case. There appears to be some stirring of unwarranted righteousness in the reporting of this case by the journalist in appealing to non-parties to get involved in the appeal against the High Court decision. This is legal mischievousness. BBSB was clearly not registered with the LPPEH. Therefore, it could not practise property management. The statutory provisions and the sovereign laws of the country are clear. Any attempt to do otherwise, whether by insinuation or instigation, will be tantamount to abetting to break the law. One specific issue raised was there was an unfair monopoly on property management. This is surprising. All regulated professionals have a monopoly, be they lawyers, doctors, dentists, engineers, survey-

ors or valuers. Therefore, if property management is a regulated profession, then there is a monopoly only for those who are educated, trained, tested and registered to carry out property management. There is nothing wrong in this. Another issue mentioned was that the Building and Common Property (Maintenance and Management) Act, 2007, (Act 663) allows any person to be appointed as a managing agent. There is a specific provision when a managing agent can be appointed. This is under Section 25 (1) (b) of Act 663 which says "the Commissioner is satisfied after due inquiry has been carried out by him or a person appointed by him, that the maintenance and management of a building is not carried out satisfactorily by the developer or the Body, as the case may be, the Commissioner may appoint, by a written notification, one or more persons to act as managing agent to maintain and manage the building for a period to be specified by the Commissioner". This implies that the appointment must precede unsatisfactory property maintenance and management and the Commissioner is dissatisfied with the level of services. Therefore, it also implies that the Commissioner must find someone, not simply anyone, but someone who can do the job of maintenance and management better than others. Since there is a sovereign law that regulates the property management function, the Commissioner will be duty bound to appoint a qualified and competent person legally entitled to carry out property management. This is also true when he exercises the second ambit of Section 25 (1)(a) where he is required to appoint a managing agent when a Joint Management Committee cannot be formed. Being a public officer he has no choice but to follow the sovereign law of the country in force at the time of his decision. It may be worth reporting here, that the manag-

ing agent so appointed, must be an Independent person. Section 26 of Act 663 is explicit: **Independence of managing agent** 26. (1) A person shall not be appointed as a managing agent if the person has a professional or pecuniary interest in any building or land intended for subdivision into parcels. (2) A person is regarded as having a professional or pecuniary interest in any building or land if: (a) he has been responsible for the design or construction of the building; (b) he or any of his nominees, officers or employees has any material interest in the building or land or any part of the building or land; (c) he is a partner or is in the employment of a person who has any material interest in the building or land or any part of the building or land; or (d) he or his family holds any interest in the building or land or part of the building or land whether directly, as a trustee or otherwise. The above provisions on independence have not been highlighted by all those who are involved in the design and construction of the building. In fact, in many a forum, the very same people who champion for the right to manage properties say they do so because they are intimately acquainted with the design and construction of that building they want to manage, a fact that is specifically prohibited by the Act 663. There is also mischievous misinformation on their part. Not all is lost for all those who are desirous of becoming property managers. If they do not want to go through a tertiary education in a recognised university, they can take up the final examinations of the Institution of Surveyors Malaysia (ISM), which, if they passed, will enable them to practise property management.

> Scoop!

Battle for right to manage rages on

Appeal filed against ruling favouring registered managers

By Ivy Chang

The Board of Valuers, Appraisers and Estate Agents Malaysia may have recently won the battle for the exclusive right to maintain and manage stratified commercial and residential real estate in Malaysia but the war is far from over. And if industry players have their way, not by a long shot. Mid-week, Binanamik Building Services Sdn Bhd's lawyers Messrs Sekhar & Suaran filed an appeal against the High Court ruling that only registered property managers can undertake management of stratified real estate. On April 15, the court dismissed an application for judicial review brought by the former facility coordinator of Bukit OUG condominium against the Board. Binanamik had sought a certiorari to quash the Board's letter of July 3, 2006 directing it to cease and desist in all activities and work as a facility coordinator to buildings, apartments and condominiums and a declaration that Binanamik's appointment by the building's owners to manage the facilities is legal. Judicial Commissioner Hadharah Syed Ismail, sitting in the Appellate and Special Powers Division of the High Court, held in favour of the Board and dismissed Binanamik's application with costs. However, she did not give any reasons for the dismissal. The decision has caused quite a



If the High Court decision stands, private property management practitioners will have to kiss a very profitable industry goodbye.

stir within the industry with puzzled and curious property industry players calling up NST Property wanting more information about the case and the decision, especially on whether Binanamik will appeal, with certain quarters stating they were even prepared to 'bankroll' Binanamik in its appeal. Binanamik's counsel S. Sekhar said an appeal has already been lodged with the Court of Appeal. Asked if other interested stakeholders are "supporting" the appeal, he said they are welcome to come in as interveners. News of the appeal will definitely come as a relief to private property practitioners who will be closely monitoring the appeal as the outcome may impact the property industry. If this decision stands, private property management prac-

tioners will have to kiss a very profitable industry goodbye. A financial daily recently reported that, according to the Ministry of Housing and Local Government's September statistics, there are an estimated 9,449 strata property development projects nationwide and that fees for the whole property management market nationwide are in the region of RM300 million to RM400 million annually. One case that may be affected by the recent decision is the Iph case of Superboom Projects Sdn Bhd and Superboom Projects Sdn Bhd Lake View Mgt Sdn Bhd suing the Registrar of the Board for defamation in respect of a letter written to some Permai Lake View Apartment residents. The Board was represented in both cases by Messrs S. Murthi & Associates.

Datuk Mani Usilappan is chairman of the Property Management Sub-Committee in the Association of Valuers & Property Consultants in Private Practice Malaysia (PEPS).

LettersToEditor

Owners' right to decide

By Teo Chiang Kok

Responding to the NewPork written by... (N17 Property, June 14, 2009)...

1. Views of the experts... 2. Liberalising the economy... 3. Property management should be building owners' choice...

in the international arena, it must be done locally to benefit the economy... The government has been liberalising the economy since 2008...

maintain and manage their properties and to decide on who to manage their properties... There is no reference or requirement that these managing agents must necessarily be registered with the Board of Valuers, Appraisers and Estate Agents (BVAEA)...

to manage their buildings to do so. This is because it is their own building and they do not owe a fiduciary duty to anyone else... The relevant and operating clause in the VAEA Act Part V Section 21(3) states (a) "... the registered owners shall not include a shareholder in the company owning such land, building and interest therein unless such land, building and interest is wholly owned by the company and such person is the sole shareholder thereof..."

It is building owners who take the commercial risk of investing billions in their properties. Logically, it is the building owners' interests to ensure value creation and sustained enhancement of property values... Building owners' choice should not be restricted by the need to comply with the VAEA Act, as such requirement for compliance may end up creating a "back door" system of property management where a valuer or registered person manages ends up being the legal front while the actual work is still carried out by other unregulated persons...



Building owners' choice shouldn't be restricted, says Teo with the billions of singai worth of income from commercial properties... In practice, valuers are always collected and backed in the name of the property owners and expenses disbursed are approved and signed for by property owners and the so-called fiduciary responsibilities of the property manager do not arise.

Let free market forces prevail

Refer to an article by Datuk Masi Ullappon ("Clearing doubts about management", N17 Property, June 19, 2009)...

the grounds of judgment are still available by the parties concerned. It would be tantamount to subverting the law for anybody for that matter to pre-empt the outcome of the case to justify their own position... However, he should also realise the legal rigidity pertaining to the issue in the event that the court decides against him...

2007 (BCPMM Act) which regulate the operations, administration and the management of Management Corporation (MC) and Joint Management Bodies (JMB) to assist agents, and to regulate the operations of the MC and JMB... Specific attention should also be given to Section 22(2) of the BCPMM Act which gives MCs and JMBs the independence and authority to appoint agents, and to regulate the operations of the MC and JMB...

Hence, the need for all parties to exercise patience, caution and restraint until the courts provide their interpretation of the law... It may also be pertinent to note here that the government recently liberalised J27 subscribers in the services industry to allow them to market their services effectively, which would eventually translate into more competitive services at lower costs for service consumers...

It is also worth noting that the Ministry of Housing and Local Government has to do about this... The urgency at this time is for clear rules for the management of MCs and JMBs, authority concerning management and the authority of governing bodies like the Strata Titles Board, the Commissioner of Buildings (COB) and the Suruhanjaya Perumahan dan Kerajaan Tempatan (KPT) needs to be urgently addressed...

What is important is whether the "law" is fair and operational and that ultimately it is good for the property manager... Any "law" that is not beneficial to the people of Malaysia cannot be the law of Malaysia and must make way for a better law that serves the people of Malaysia, not sectional interest groups...

LetterToEditor

More doubts about management

Datuk Masi Ullappon has written a persuasive case on behalf of PEPS (N17 Property, June 16, 2009) and, indirectly, for Lembaga Pemilik, Pentarik and Ego Haraukand Malaysia (PEPM)...

How the problem began... This problem began in a most confusing and fragmentary way... How the problem began... This problem began in a most confusing and fragmentary way... How the problem began... This problem began in a most confusing and fragmentary way...

How can the rules and regulations in an Act that concerns values be applied to others, heretofore their rights to practice in the property management field that is not the valuers' own domain in the first place... Why did the PEPS not choose to file its misdeeds for prosecution in 1981... Why did the PEPS not choose to file its misdeeds for prosecution in 1981...

Further qualification to manage is unrealistic... Does the requirement of a professional or precursory education, in the design, construction or ownership of a building, make the property manager a professional or precursory education, in the design, construction or ownership of a building, make the property manager a professional or precursory education...

Conclusion... In my opinion, property management practice can't be restricted to members of the valuation and real estate profession... The "law" needs to be amended. This is the reason why...

The writer is associated with the developer that developed and fully managed Finesse Lake view apartment in Ipoh, a project that he set up and managed the best built and best managed high-end apartment in the country...

PPK MALAYSIA Established in 1984. Logo and text for PPK MALAYSIA.

Focus Experienced, knowledgeable managers preferred

Good management makes for successful shopping centres, notes expert

By Ivy Chang

Registered valuers lack the necessary experience and knowledge to manage retail developments, which is why retail development owners prefer not to engage them to manage their shopping centres, said shopping centre consultancy RCMC Sdn Bhd director Richard Chan... "There are about 770 registered valuers but only 70 of them practise property management. Of these, a mere five undertake retail management," he said.

and Highrise Complex Management (PPK). According to the 30-year retail industry veteran, every retail centre in the country has about 30 per cent of the same tenants and the top six criteria that make centres stand out are management, accessibility, concept, trade mix, anchor tenant and location... There are an estimated 260 shopping centres with a minimum size of 150,000sq ft. He said: "Although valuers are pushing for the right to manage properties, retail property owners are not comfortable with them overseeing shopping centres."

eight subjects ... they don't cover what is required of retail property management, which are Marketing and Leasing, Advertising and Promotions, Operations, Mechanical & Electrical, Housekeeping and Security... Because of this lack, what some valuers do is subcontract the various components they are unfamiliar with to non-valuer companies, he added... The PPK website lists the different components of retail centre management as building maintenance/housekeeping; security management; carpark management; space leasing and sales; promotions and marketing; financial, accounting and administration; and public relations... Chan said PPK, noting the need for skilled retail industry professionals, has been conducting the Shopping and Highrise Complex Management certification course twice yearly since 2002, which is endorsed by the Malaysia Retailers Association, Malaysian Retailer-Chains Association,

Chan's claim is supported by a handbook published by the Board of Valuers, Appraisers and Estate Agents in 2008 which listed 60 property management companies in the country... "The first question potential retail tenants always ask is, 'Who's managing the retail centre?'. Management is top priority ... it's what makes a shopping centre successful," said Chan, who is also an advisor to the Malaysian Association for Shopping

Investors or owners want to be given the right to decide who to appoint, be it a registered valuer or an experienced property manager... Chan added that "our valuers don't even have specific courses to train them in retail management"... "In their How to be a Valuer course, property management is just one of

the urgency at this time is for clear rules for the management of MCs and JMBs, authority concerning management and the authority of governing bodies like the Strata Titles Board, the Commissioner of Buildings (COB) and the Suruhanjaya Perumahan dan Kerajaan Tempatan (KPT) needs to be urgently addressed... Having regulations regarding licensing of property managers at this time is unjustified, he says, when the whole industry is in disarray... The law must be passed only after industry players' input are truly taken into consideration... Peter Chan, Ipoh, Selangor



Real Estate and Housing Developers' Association, and International Real Estate Federation... "Malaysia is the first in Asia to create such a course which has been adopted by China, Hong Kong and Indonesia."

Chan said course participants who obtained the Certified Complex Manager certification will have an edge over non-certified job-seekers... "Valuers have yet to attend the course but many estate agents have, in order

to attain their Continuous Professional Development hours," he noted... He is hopeful property management will be among the services to be liberalised by the government, adding an open market will bode well for the retail industry.

Management is top priority ... it's what makes a shopping centre successful, says Chan (inset).

HAPPENINGS (cont'd)

Study Trip to Shanghai: 13 – 17 May 2009 (cont'd)

Overall, participants had a good time, getting an informative overview of Shanghai malls but there were some who 'complained' there was not sufficient time for a private walkabout in the mall and for some side shopping (!) From our feedback, there were some who wanted a better range of malls (this was limited due to time constraints), some even wanted a longer trip – well, we shall look into these and more for our next trip.

We share some of the highlights here with you ...



▲ Next stop was Westgate Mall, a staid, older shopping centre with wrought iron decor in the lobby and Isetan as their anchor

▲ Easily the cleanest mall in Shanghai, Plaza 66 is the party place for big names and designer retailers where we were taken for a comprehensive mall walkabout

▲ Our pretty gals, raring to go shopping (L to R): Carina Chow, Alicia Yuen, Wong Siaw Li, Linda Yong, Anna Wong and Wong Paik Tho



▲ Our home-grown Parkson in Shanghai along Huaihai Lu performs well amongst other shopping centres and offers multi-brands within the store

▲ The intense briefing and sprawling mega spaces at suburban Bailian Xijiao Shopping Centre meant that participants had a lot of walking (and shopping?!) to do ..

▲ Grand Gateway lives up to its name, with neat, well laid out business outlets and is a peoples' mall, catering to local clientele



▲ The ever teeming hustle and bustle of people at Super Brand Mall in Pudong meant shoppers just need lots of stamina, energy and endurance !

▲ CITIC Square is full of big name retailers but a bit more affordable.

▲ Our gracious and generous host, Mr Aloysius Lee, Managing Director-Commercial of Shui On Land Ltd (in white jacket) briefing members on Xintiandi's concept

HAPPENINGS (cont'd)

Security and Safety Training, 9 – 10 June 2009

PPK Malaysia conducted its annual training for the 4th year running since commencing in 2006 and it still attracts good participation from security and safety personnel. Learning from the 'gurus' with more than 20 years of experience has certainly benefitted the participants who number more than 40 pax, including those coming from East Malaysia, Johor etc. Syabas to our loyal and hardworking speakers, keep up the good work !



▲ The gurus and participants as ONE



▲ The security gurus in action



▲ Learning is an eternal process

Our AGM with a difference !

Shopping industry people always try to do things differently, well... we had our AGM on 28 March 2009 in a cinema ! Yes, the 24th AGM was convened cinema-style and since it was not election year, we took time off, after all the business was said and done, to enjoy a movie entitled *Confessions of a Shopaholic* (but of course, what else?!). It was a splendid opportunity for members to refresh ties with one another and relax with our movie-shopaholic ! It will soon be time for the next elections in March 2010 so put on your thinking caps and start planning for the committee



▲ Nothing like networking over a cuppa !



▲ Joyce Yap, President informing members that once again, PPK had a very busy year attending to more than 300 meetings and events.

▲ Paying close attention...

SEMINARS, CONFERENCES & EVENTS

Certification Course in Shopping and Highrise Complex Management

Time really flies ! It's time for the next session at One World Hotel :

- Marketing and Leasing 3 – 4 August 2009
- Administration, Finance and Human Resource 5 August 2009
- Operations and Maintenance 6 -7 August 2009

For more details on the above, do call our Secretariat at 03-77276202 or access our website: ppkm.org.my

The last session in April 2009 saw Marketing and Leasing participants for Parts 1 & 2 at Sunway Hotel & Spa from 30-31 March 2009, bringing in members from East Malaysia for a new hands-on learning experience.



▲ Eager beavers in class



▲ Listening to the voice of experience



▲ Happy faces, Part 2 courses are done !



▲ Marketing & Leasing Part 1 participants



▲ Actually, it should be like this ... Many heads mean many ideas ...?!



HONG KONG PARTNERING FOR CASC CONFERENCE 2009 3-5 SEPT RIDING OUT ADVERSITY
Harbour Grand

Hong Kong will be the host and organizer for CASC Conference 2009 (Council of Asian Shopping Centres) and especially during today's challenging times, we all need to collaborate with partners to survive and thrive. Learn from the experts in Hong Kong and join the conference to gain new experiences and lessons from industry practitioners.

Details from our website: ppkm.org.my

CURRENT ISSUES

NO SMOKING Dialogue with the Ministry of Health

Health Ministry officials briefed members on No Smoking regulations in shopping centres which is applicable to all 'covered' areas, regardless of whether they were air-conditioned or otherwise. Anderson Chong, Committee Member (in white shirt, facing the camera) headed the group of PPK members including several from Johor, during the dialogue on 24 April 2009, presented by Dr Zariah Zain, Ministry of Health (in brown, back to camera) at Putrajaya.



A H1N1 Awareness Talk

Amidst the brouhaha of the current international flu scare, members met to gain new awareness on hygiene and cleanliness as the crucial tools towards disease control. Our thanks to ISS Facility Services who hosted the talk on 2 July with our personnel being enlightened on simple but important methods like hand hygiene and sterilization protocol.

Membership List-Year 2009

Corporate Members

1-Borneo Hypermall
1-Utama (Bandar Utama City Centre)
1-Utama (Aeon Co)
Aim Point Plaza
Alor Star Mall
Alam Sentral Plaza
Amcorp Mall
Ampang Park
Avenue K
Asia City
Bangsar Shopping Complex
Batu Pahat Mall
BB Plaza
Bentong Vega Mall
Berjaya Times Square, Kuala Lumpur
Brem Mall
Campbell Complex
Cap Square
Central Square Sungai Petani
Cheras Leisure Mall
Cineleisure Damansara
City Mall
Dataran Pahlawan Melaka Megamall
Dayabumi Complex
Digital Mall
Duty Free Zone
East Coast Mall
Endah Parade
First World Plaza
Giant Hypermarket Bandar Kinrara
Giant Hypermarket Batu Caves
Giant Hypermarket Bayan Baru
Giant Hypermarket Kelombong
Giant Hypermarket Klang
Giant Hypermarket Kota Damansara
Giant Hypermarket Kuala Terengganu
Giant Hypermarket Kuantan
Giant Hypermarket Melaka
Giant Hypermarket Muar
Giant Hypermarket Plentong
Giant Hypermarket Prima Prai
Giant Hypermarket Putra Heights
Giant Hypermarket Senawang
Giant Hypermarket Seri Manjung
Giant Hypermarket Shah Alam
Giant Hypermarket Sungai Petani
Giant Hypermarket Taiping
Giant Hypermarket Tampoi
Giant Hypermarket Tawau
Giant Hypermarket Ulu Klang
Giant Mall Kelana Jaya
Giant Superstore Bandar Puteri
Giant Superstore Nilai
Giant Superstore Prima Saujana (Kajang)
Giant Superstore Sandakan
Giant Superstore Sunway City
Great Eastern Mall
Green Heights Mall
Gurney Paragon
Harbour Town, Lahad Datu
Hock Lee Centre
IOI Mall Bandar Putra Kulai
IOI Mall Puchong
IOI Mart
Iskandar Investment
Island Plaza
Ipoh Parade
Jetty Point Duty Free Complex
Johor Bahru City Square
KB Mall
Klang Parade
Kluang Mall
Kompleks Bukit Jambul

Kompleks Metro Point
Kompleks Mutiara
Kompleks Tun Abdul Razak (KOMTAR)
Kota Raya Complex
Kuantan Parade
Langkawi Fair Shopping Fair
Lot 10
Mahkota Parade
Maju Junction Mall
Merdeka Mall
Menara IMC
Menara Landmark
Menara Mutiara Bangsar
Menara Mutiara Majestic
Mid Point Shopping Centre
Mid Valley Megamall
Midlands Park
Mines Shopping Fair
New World Park
Oceanic Mall
Pandan Kapital
Paragon Point Shopping Complex
Pavilion Kuala Lumpur
Pearl Point Shopping Mall
Pelangi Leisure Mall
Penang Time Square
Perling Mall
Permana Kompleks Mutiara Armada, Lumut
Pertama Complex
Plaza Angsana
Plaza Gurney
Plaza Low Yat
Plaza Metro Kajang
Plaza Pelangi
Plaza Tasek
Pudu Plaza
Queensbay Mall
RCMC Sdn Bhd
S & M Shopping Arcade
SACC Mall
Semua House
Seremban Parade
Shaw Centre Point Klang
Shaw Parade
Skudai Parade
South City Plaza
Starhill Gallery
Star Parade
Subang Parade
Sungei Wang Plaza
Sunway Carnival Mall
Sunway Pyramid
Suria KLCC
Suria Sabah Shopping Mall
Sutera Mall
Terminal One Shopping Mall
The Atria Shopping Centre
The Curve
The Gardens
The Mall
The Spring
The Summit Batu Pahat
The Summit Bukit Mertajam Plaza
The Summit Subang USJ
The Waterfront
The Weld
The Zon
Tun Jugah
USJ Nineteen
Wangsa Walk
Wetex Parade

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Agnes Tan Mee Yoke
Aileen Goh Seok Khim
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