

Strata property owners laud court's decision on flat rate

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PETALING JAYA: About six million Malaysians who live in strata properties will "benefit" from a Court of Appeal ruling that all owners in mixed development strata properties pay maintenance rates based on a fixed formula.

"It is not only high-rise buildings but also gated and guarded communities that have strata titles," said Strata Owners Association Malaysia (SOAM) pro-tem committee chairman Datuk Theng Book.

The court decision, he added, was good and fair to everybody.

Explaining the impact of the ruling, he said: "Take a scenario where a mixed development property has a residential block comprising 100,000 share units and a commercial block comprising 100,000 share units.

"The residential block is made up

of 300 apartments or residents, but the commercial block is owned by the developer that can be represented by one or two persons.

"Even if half of the residents' group turned up at an annual general meeting (AGM) called by the Joint Management Body (JMB) committee, they are still in the minority compared to the developer's side which makes up the majority.

"As the majority shareholder, those from the commercial block can vote on decisions that impact everyone in the mixed development property.

"They could decide that the residential owners pay RM5 per share unit (psu) for the maintenance fee, while the commercial owners pay a lower rate of RM1 psu," Theng said.

On Oct 4, the Court of Appeal ruled that JMBs of high-rise buildings were not allowed to charge different rates on owners in mixed

development projects.

It overturned a High Court decision that the JMBs had the right to fix different rates of service or maintenance charges for different parcels in such projects.

With the Court of Appeal's ruling, Theng said a flat maintenance rate for all could be fixed at the AGM to ensure fairness for all parties.

"The decision has a great impact on many people, as about six to seven million of the Malaysian population stay in strata properties," he added.

It would also impact gated and guarded communities that have strata titles "because residents living there share common properties and services such as roads, drainage, sewerage system, security, rubbish collection and parking".

Theng noted that the Housing and Local Government Ministry had a task force looking into amending the Strata Management Act.

"There are many loopholes in the Act that the government needs to amend to better represent the rights of strata owners in Malaysia.

"These include the maintenance rate, tender system and abuse of power by majority unit shareholders," he said.

SOAM pro-tem committee secretary Kelvin Chong said there had been complaints about unfair payment rates and unfair voting rights based on share units.

Prior to the Court of Appeal's decision, he said a common scenario was such that residential unit holders would be subsidising the maintenance charges for commercial unit holders in a mixed development property.

"For example, a JMB for a mixed development property in Kuala Lumpur decided that the retail unit owner should pay RM0.20 psu, but the residential unit owner pays RM2.70 psu.

"Is it fair for both parties to enjoy the same voting rights if the bigger shareholder pays less?" he asked.

Under the First Schedule (Section 8) of the Strata Management Act, he said there was a fixed formula to calculate the allocated share units of parcels.

"The formula includes the weightage factor for the types of parcel such as residential, office, retail or hotel, as well as whether the property has air-conditioning in common areas and lift facilities," Chong added.

He said SOAM represented strata property owners, most of whom were individuals, although it also welcomed developers.

The national body, which has submitted its application to be registered with the Registrar of Societies, covers Johor, Kuala Lumpur, Melaka, Negri Sembilan, Penang, Perak and Selangor.