

HOUSING **THE NATION**

Policies, Issues and Prospects

HOUSING THE NATION

Policies, Issues and Prospects

Cagamas 

25
Years of
Housing the Nation

Published in 2013 by

Cagamas Holdings 

CAGAMAS HOLDINGS BERHAD
Levels 31 & 32, The Gardens North Tower
Mid Valley City, Lingkaran Syed Putra
59200 Kuala Lumpur, Malaysia

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Perpustakaan Negara Malaysia Cataloguing-in-Publication Data

HOUSING THE NATION: Policies, Issues and Prospects

Includes index

ISBN 978-983-99318-3-9

1. Housing – Malaysia. 2. Housing development – Malaysia.

3. Housing – Finance – Malaysia.

4. Housing policy – Malaysia.

363.509595

PROJECT MANAGEMENT

Institute of Strategic and International Studies (ISIS) Malaysia

PRINTER

Akitiara Corporation Sdn Bhd

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This publication, *Housing the Nation: Policies, Issues and Prospects*, is indispensable from the perspective of the many developments that have taken place since Cagamas published its first book on housing, *Housing the Nation: A Definitive Study*, in 1997. In times of financial crisis or as a result of economic and property cycles, national housing policies must change to reflect new realities and concerns. This was the case during the Asian Financial Crisis and, as such, the impact of that crisis, which played an instrumental role in shaping policies pertaining to housing provision in Malaysia at the time, has given way to new challenges and priorities.

Today, debate is shaped by concerns about housing affordability, particularly for the middle- and lower-middle-income group, and this has impacted legislation, planning policy, economic development, as well as community cohesion within the greater framework of equitable access and social justice. There is also a much greater emphasis on the interdependent nature of housing vis-à-vis other important factors contributing to the social and economic progress of Malaysia, such as urbanisation, transportation, environmental sustainability, new building processes and systems, and much more.

In line with the country's aspirations towards high-income status by 2020, both government and commercial approaches to housing provision have evolved significantly in recent years. The nature of this evolution, as well as other key topics, is examined in this book by the foremost experts in their fields. The authors bring a wealth of experience and learning to a critically important aspect of Malaysian national development, and their opinions and arguments will be of interest to both the specialist and general readers.

This second publication serves as a fitting commemoration of the 25th anniversary of the founding of Cagamas Berhad (Cagamas) as the National Mortgage Corporation of Malaysia. Established in December 1986 with an initial paid-up capital of RM50 million contributed by the banking institutions and Bank Negara Malaysia, Cagamas' mission is to promote the

broader spread of homeownership and the growth of the secondary mortgage market in Malaysia. Since then, its realisation of these objectives has been significant. Over the past 25 years, Cagamas has refinanced over RM100 billion of housing loans or more than 1.7 million houses in the secondary market. Funding such refinancing came from the issuance of Cagamas debt securities. Since incorporation in 1986 to end-September 2013, Cagamas has cumulatively issued RM268.6 billion of conventional and Islamic debt securities. As at December 2012, the shareholders' funds of Cagamas have grown to RM2.2 billion.

Since Cagamas began its operations, it has achieved various prominent milestones. The maiden issue of Residential Mortgage-Backed Securities (RMBS) in 2004 was Malaysia's first RMBS transaction. In 2005, Cagamas MBS Berhad issued the world's first rated Sukuk Musharakah Residential Mortgage-Backed Securities (IRMBS). Transactions such as these showcase Cagamas' capabilities as a leading securitisation house. In 2008, Cagamas introduced the mortgage guarantee business. The Government's mandate to Cagamas to support the Skim Rumah Pertamaku in 2011 is a testament to Cagamas' expertise in the mortgage guarantee business.

Cagamas has also played a pivotal role in Islamic finance by introducing new and innovative Islamic products in the financial market. Cagamas' Islamic issuances have received notable global recognition and awards. To name a few, this included the Islamic finance Deal of the Year in 2005 for its RM2.05 billion Sukuk Musharakah Residential Mortgage-Backed Securities, the Islamic Deal of the Year in 2011 for its RM1 billion Sukuk Al-Amanah Li Al-Istithmar (Sukuk ALIm) and the Most Innovative Deal for its RM500 million multi-tenure Sukuk Wakalah Bil Istithmar in 2013. As at end-December 2012, Cagamas remained in pole position as the largest issuer of sukuk in the PDS segment in Malaysia with an aggregate issuance of RM28 billion (since 1994), accounting for 17% of outstanding AAA-rated sukuk. All of these issuances demonstrate the success of Cagamas' efforts to promote Malaysia as a global Islamic finance hub.

This book is motivated by Cagamas' intention to document the rapid changes that have taken place in the housing industry and the accompanying challenges that have surfaced. Cagamas' 25th anniversary celebration comes at a perfect time. As a comprehensive publication on housing, this book is one of Cagamas' contributions to housing the nation, in addition to our core mandate in housing finance.

I would like to take this opportunity to thank you for your interest and I hope this book will help to provide the housing and finance industry, academics and the general public a comprehensive overview of and insight into present issues, problems and challenges, the future direction, and the way forward for housing the population in Malaysia.

Ooi Sang Kuang

Chairman

Cagamas Holdings Berhad

Acknowledgements

Cagamas' 10th anniversary publication entitled *Housing the Nation: A Definitive Study*, was the first book to compile the writings on the many aspects of housing in Malaysia in a single, comprehensive volume. Since then, the country's rapid economic growth has sparked tremendous improvements to the housing sector. This 25th anniversary publication *Housing the Nation: Policies, Issues and Prospects* is a timely follow-up that documents the new realities of the housing sector and concerns about housing policies.

A publication of this scope would not have been possible without the assistance, advice and contributions of many people. Cagamas would like to express its sincere gratitude to this book's distinguished panel of authors. Their views, shaped by years of scholarship and experience in their respective fields, are integral to any discussion of housing in Malaysia.

Cagamas wishes to acknowledge the continuous support and guidance of the Board of Directors of the Cagamas group of companies, whose trust catalysed the process of bringing this book to the public arena. In addition, the Management and Staff of Cagamas provided their unceasing support, especially in the form of their comments on the draft chapters of the book during the arduous editorial process.

The late Dato' Dr Mahani Zainal Abidin, the former Chief Executive of the Institute of Strategic and International Studies (ISIS) Malaysia, initiated a study and a roundtable discussion on housing in July 2012, which formed as the basis for the scope of this book. Her contributions and that of the ISIS team have been critical in ensuring the completion of this project.

To the above and to the many others who have, in various ways, provided their generous assistance towards the publication of this book, Cagamas owes a debt of gratitude.

Homeownership has been a goal of Malaysian policymakers for more than 50 years. The reasons are not difficult to fathom. Shelter is, first and foremost, a basic human need. Without it, citizens cannot feel secure against the elements or each other, and will be unable to lead happy, productive and fulfilling lives. Housing, however, goes beyond the physical dimension. Ownership of the roof over one's head, in particular, has vast economic, social and political spinoffs. Houses are investment assets that grow in value over time and are therefore a means of saving and wealth accumulation. Housing development programmes can be used to stimulate economic activity. Living in high-end residences conveys privilege and social status. Housing places people in close-knit communities, either involuntarily in poverty-stricken and crime-ridden neighbourhoods, or voluntarily in luxury lifestyle ones. As a long-term asset, homeownership helps to create stakes in the peace, stability and prosperity of a nation.

Governments therefore have deeply vested interests in getting housing policies right. The issue of inclusive and equitable economic growth is now on many policy agendas, and access to quality housing ranks high among the key priorities. Malaysia is a country that has successfully made the transition to the status of an upper-middle-income country and is now seeking to become a high-income nation. Meeting the demands of aspiring homeowners, especially first-time buyers, will be expected and used as evidence that the country has successfully made the transition.

The road ahead, however, is challenging, as it is for many countries. The population is growing and more people are migrating from outlying areas, where land is plentiful, to urban centres, where land is scarce. As a result, urban land prices are soaring, driving housing prices upwards. Rising construction material and labour costs have further put housing out of the reach of housebuyers, whose incomes have lagged in comparison. This has led to additional difficulties in securing housing finance. For some, the dream of owning a home has become a nightmare. On the positive side, faster government approval, less red tape,

fairer laws for housebuyers, higher productivity due to technology and new materials, and better urban and transport planning are all improving the supply and quality of housing.

This book documents the ongoing Malaysian housing story, 15 years after the publication of the first edition, *Housing the Nation: A Definitive Study*, which commemorated Cagamas Berhad's 10th anniversary. With over 25 writers, it was the single, most comprehensive body of scholarship on housing ever assembled. This second edition, entitled *Housing the Nation: Policies, Issues and Prospects*, marks Cagamas' Silver Jubilee. It brings together 34 authors from the Government, private sector, academia and civil society who seek to capture the developments to the present and to think ahead to the future. The chapters reflect their personal interests and perspectives on common matters of concern.

The four objectives of this book are represented by its four parts. Part I highlights Cagamas' role in promoting homeownership, the secondary mortgage market and Islamic finance in Malaysia. These contribute to a greater understanding of the functions of this organisation and its impressive contributions to each of these three areas. Part II begins with an overview chapter on how well housing needs have been met and aspirations fulfilled, and is followed by cross-cutting chapters on housing policies and institutions, housing finance and housing law and administration. Successful housing policy requires the cooperation and integration of interests of multiple stakeholders. These chapters are therefore examined from different perspectives, that of government officials, private developers, housebuyers, finance executives and scholars. The insights shared, both similar and dissimilar, are interesting and extremely important for those seeking to understand Malaysian housing policy and law.

Part III is devoted to more focused subject matter relating to housing. Land is fundamental to housing, and the laws surrounding it, in all their complexity, are discussed. This is followed by a chapter devoted to the current issue of the markets for luxury and affordable housing and another on the problems of and prospects for public housing. Government efforts to promote affordable housing via the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) will be of special interest, while six states have been selected as case studies for public housing. One of the most intensely debated topics in housing is then considered, that of the Build-Then-Sell (BTS) system versus the current Sell-Then-Build (STB). This is a subject that is covered in a number of other chapters but is more fully developed here. Rounding up this part are contributions on the need to create vibrant and thriving communities, namely, the trend towards guarded and gated communities as a means of preventing crime as well as a look at the issue of community development.

Part IV considers the prospects for housing, starting with the importance of transport networks connecting housing areas to workplaces, schools and commercial centres. This is followed by contributions on three aspects of housing construction: the Industrialised Building System (IBS), labour and environmental sustainability. Each of these has an impact on the speed, cost and quality of housing, apart from having wider external effects. Completing the book are considerations of private mortgage insurance, public-private partnerships in housing and the possibility of adopting shared housing ownership models.

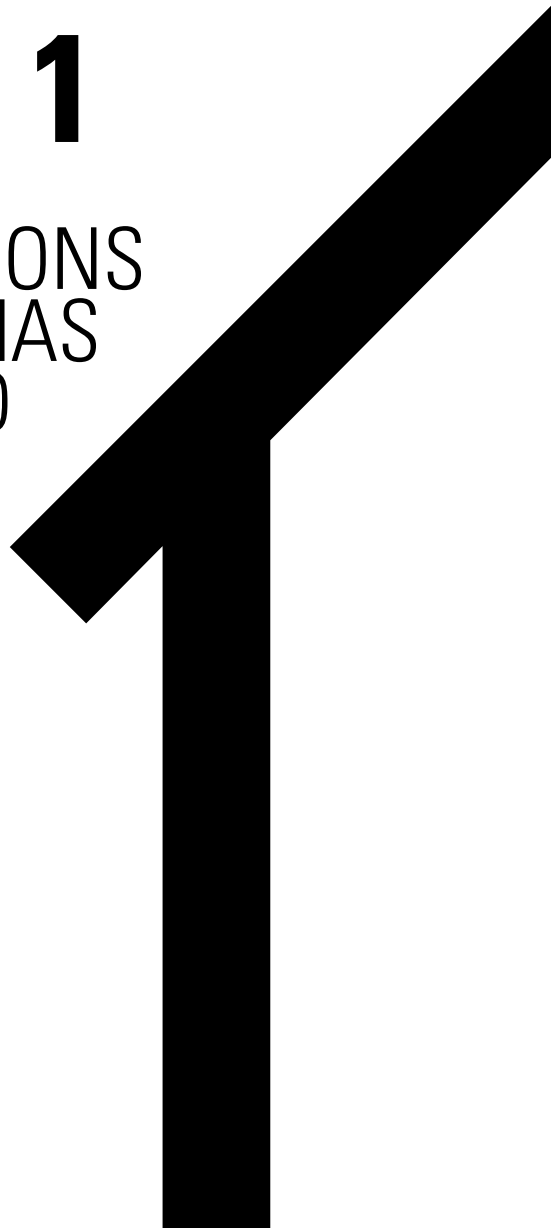
Many other facets could have been included or given more explicit treatment in this book. For example, town and regional planning has been touched on in several chapters

of this book but could have been examined in greater detail. Inner city redevelopment and transit-oriented development (integration of housing into transport hubs) for more livable habitats also offer possible insights and solutions and merit more extensive treatment. Within the space limitations, however, this second edition of *Housing the Nation* contains a wealth of information and, more importantly, context, about the state of housing in Malaysia. It is hoped that this publication will continue the legacy of the first edition by providing more informed and rigorous discussion, leading to better policy formulation and a healthier development of housing in the country.

The Ministry of Housing and Local Government was renamed the Ministry of Urban Wellbeing, Housing and Local Government in May 2013. Both are used in this book, depending on the context.

The metric system applies generally herein. However, exceptions are made where Imperial measurements are more helpful.

PART 1
THE
CONTRIBUTIONS
OF CAGAMAS
BERHAD



INTRODUCTION

Malaysia has enjoyed several decades of growth and prosperity since the 1980s and has successfully withstood the negative impact of a series of economic crises that began with the collapse in world commodity prices (1983–1984), followed by the Asian Financial Crisis (1997–1998) and then the Global Financial Crisis of 2007–2009. In an environment of political, economic and financial stability, Malaysia has made great strides in promoting homeownership for its citizens. The Government has played a strategic role in directing the private-sector housing industry to build adequate and affordable homes for the rapidly expanding middle class, leaving the public sector to concentrate on providing low-cost housing as an integral component of the Government's social infrastructure programme.

On the financial front, Bank Negara Malaysia (BNM) recognises that the prerequisites of a successful homeownership programme are housing finance availability and accessibility. In consultation with the Government in the mid-1980s, BNM considered the need for a secondary mortgage market to be part of the financial infrastructure. Essentially, the secondary mortgage market would enable financial institutions to sell their housing loans to obtain liquidity for generating more housing loans. Cagamas Berhad (henceforward "Cagamas") was duly incorporated in December 1986 as Malaysia's National Mortgage Corporation to develop the secondary mortgage market. It commenced operations in October 1987 at a time when financial institutions were experiencing tight liquidity and housebuyers were facing escalating mortgage rates.

Cagamas offered financial institutions in need of liquidity or funding an avenue to obtain an alternative source of financing and at lower cost. Cagamas made an initial purchase of RM110 million worth of housing loans from three commercial banks, which was translated into a maiden issue of Cagamas fixed-rate bonds amounting to RM100 million. Over the ensuing 25 years, Cagamas cumulatively purchased housing loans and Islamic home financing

(hereafter referred to as housing loans/financing) in the secondary market equivalent to RM104 billion for the financing of 1.7 million houses. To fund its purchases of housing loans/financing from the financial institutions, Cagamas issued bonds/sukuk of varying tenures to match the underlying pools of housing loans/financing. These Cagamas bonds/sukuk served as a catalyst for the development of the private debt securities (PDS) market in Malaysia. From its modest beginnings in 1987, Cagamas evolved over the next quarter-century to become the single largest issuer of AAA-rated PDS in Malaysia, accounting for 22% of all outstanding AAA private debt securities at the end of December 2012. At the same time, Cagamas progressively broadened its product base by purchasing other types of loans, including industrial property loans, hire-purchase and leasing debts and personal loans/financing, but did not lose sight of its primary role of supporting affordable homeownership for Malaysians.

This chapter will examine how Cagamas succeeded in promoting homeownership by channelling funds at lower cost to financial institutions for sustaining housing loan growth at reasonable mortgage rates. The discussion will also cover how Cagamas' operations have contributed to greater financial stability by providing liquidity to financial institutions in times of financial uncertainty and by enhancing the management of credit risk in their housing loan portfolios. As Cagamas enters its next phase of growth, the issues and challenges faced by secondary mortgage markets in an increasingly complex and interconnected financial system will also be addressed. To what extent housing finance based on Islamic principles will grow will also determine the future direction of Cagamas' activities.

The four main sections in this chapter are summarised as follows:

- **Overview of homeownership in Malaysia.** This section will provide a macro-review of the financial aspects of homeownership in Malaysia, covering sources of home financing, trends in house prices and the impact of rising house prices on affordability and access to finance.
- **The role of Cagamas in promoting homeownership.** This section will review how the various initiatives undertaken by Cagamas have helped financial institutions expand their long-term mortgage portfolios by providing them with the liquidity to overcome the maturity mismatch in their balance sheets and to hedge their interest-rate risk. The section will also assess whether the liquidity operations of Cagamas have supported affordable homeownership by making low-cost funds available. By continuously purchasing mortgage loans and providing liquidity, Cagamas was a catalyst for the growth of the PDS market. Its track record of achieving AAA ratings for its PDS issuances means that it can raise funds at low cost in the capital market and pass on these funds to financial institutions for primary home financing.
- **Issues and challenges.** This section will examine the peaks and troughs experienced by Cagamas in the demand for its liquidity facilities and the extent its business operations have been affected by macroeconomic and regulatory factors. The question arises as to whether Cagamas' business model is sustainable when banks today are highly capitalised and flush with liquidity and thus might no longer find it necessary to seek funding from Cagamas for their housing loans. Do these changes in the operating environment call for a reform of home financing in

general? In particular, how can Cagamas refine its role in making homeownership affordable and accessible?

- **Strategic direction for Cagamas.** This section will identify key areas for the future development of Cagamas that support BNM's Financial Sector Blueprint and the Capital Market Master Plan 2 of the Securities Commission of Malaysia.

OVERVIEW OF HOMEOWNERSHIP IN MALAYSIA

In this analysis, "homeownership" will be broadly measured by the amount of housing loans extended by financial institutions for the purchase of homes.¹ In Malaysia's primary mortgage market, over 85% of private-sector residential housing finance is provided by banking institutions while another 13% consists of public-sector housing loans extended to civil service employees by the Treasury Housing Loan Division of the Ministry of Finance. The balance of around 2% of private-sector housing loans is originated by Malaysian Building Society Berhad (MBSB) and other development financial institutions including Bank Kerjasama Rakyat Malaysia Berhad, Borneo Housing Mortgage Finance Berhad, Bank Simpanan Nasional and the Sabah Credit Corporation.

I. Housing loans of the banking system

Housing loans in the Malaysian banking system have been on a rising trend over the past 15 years. As at end-2012, the outstanding housing loans in the banking system amounted to RM292.7 billion or 31% of GDP, well ahead of emerging Asian market economies such as China, Thailand and India but behind Singapore, which has a well-established public housing programme (see Figure 1).

Among the financial institutions, commercial banks are the dominant originator of conventional housing loans, accounting for nearly 84% of total housing loans as at end-2012. Islamic home financing has rapidly gained popularity over the past decade, reaching RM47.7 billion as at end-2012 or a share of 16.3% of total housing loans (see Figure 2).

Figure 1: Size of mortgage markets in Asia (2012)

Country	GDP (US\$ billion)	Outstanding mortgages as % of GDP
China	8,227	20
India	1,824	9
Indonesia	878	2
Thailand	365	17
Malaysia	303	31
Singapore	276	44

Source: International Monetary Fund, World Economic Outlook Database.

Figure 2: Originators of housing loans/financing in Malaysia's banking system

Year	Commercial banks As % of total housing loans	Finance companies As % of total housing loans	Islamic banks* As % of total housing loans	Total housing loans As % of total bank loans	Total housing loans As % of GDP
1996	71.1	28.9	-	10.8	14.1
1997	75.6	29.4	-	10.7	16.0
1998	74.5	25.5	-	12.3	17.9
1999	83.2	16.8	-	10.2	13.4
2000	84.8	15.2	-	11.6	13.6
2001	85.8	14.2	-	13.7	16.8
2002	87.3	12.7	-	15.3	18.1
2003	86.3	13.7	-	16.8	19.1
2004	94.6	5.4	-	18.8	20.3
2005	99.4	0.6	-	20.1	21.5
2006	93.9	-	6.1	23.3	24.1
2007	93.9	-	6.1	23.3	23.4
2008	90.2	-	9.8	24.4	23.8
2009	89.1	-	10.9	25.4	29.3
2010	87.3	-	12.7	25.8	29.7
2011	85.9	-	14.1	25.8	30.3
2012	83.7	-	16.3	26.4	31.1

* Prior to 2006, conventional housing loans and Islamic home financing were consolidated for reporting purposes.

Source: Bank Negara Malaysia, *Monthly Statistical Bulletin*, January 2013 and other issues.

II. Private-sector house prices

Between 2000 and 2012, house prices in the private sector in Malaysia increased on average by 5.6% annually. House prices in Malaysia have accelerated upwards since 2010 to reach an annual growth of 11.8% in 2012, reflecting mainly the double-digit percentage rise in the prices of link-houses and high-rise apartments in 2011 and 2012 (see Figure 3).

The persistent rise in the prices of link-houses and apartments, a category of homes most sought after by the middle-income group, is affecting the affordability of private-sector housing. At the time of writing, the Ministry of Urban Wellbeing, Housing and Local Government has acknowledged the gravity of this issue by indicating that the reduction and control of house prices may feature prominently in the 2014 Budget.

Figure 3: Malaysian house price index by house type

Index 2000 =100	All-House Index	All houses (Wt.100)	Linked (Wt.72.7)	High-rise (Wt. 10.9)	Detached (Wt. 5.7)	Semi- detached (Wt. 10.9)
		(Annual change in %)				
1999	94.3					
2000	100.0	6.0	6.7	1.9	5.3	6.3
2001	101.1	1.1	0.0	2.8	4.6	2.6
2002	103.6	2.5	4.7	-5.9	0.8	- 0.6
2003	107.7	4.0	2.9	15.1	1.3	4.0
2004	112.9	4.8	3.7	1.5	8.7	9.1
2005	115.6	2.4	2.1	1.0	4.1	3.5
2006	117.8	1.9	1.6	1.2	6.1	1.3
2007	124.0	5.3	3.9	2.9	7.2	7.2
2008	129.8	4.7	4.9	2.4	6.3	4.1
2009	131.8	1.5	2.0	1.4	-2.3	2.1
2010	140.7	6.7	6.5	6.2	7.4	7.6
2011	154.6	9.9	10.6	11.1	5.2	9.0
2012	172.8	11.8	11.1	21.4	11.8	9.2

Source: Ministry of Finance, Valuation and Property Services Department, *Property Market Report 2012*.

III. Affordability of homes

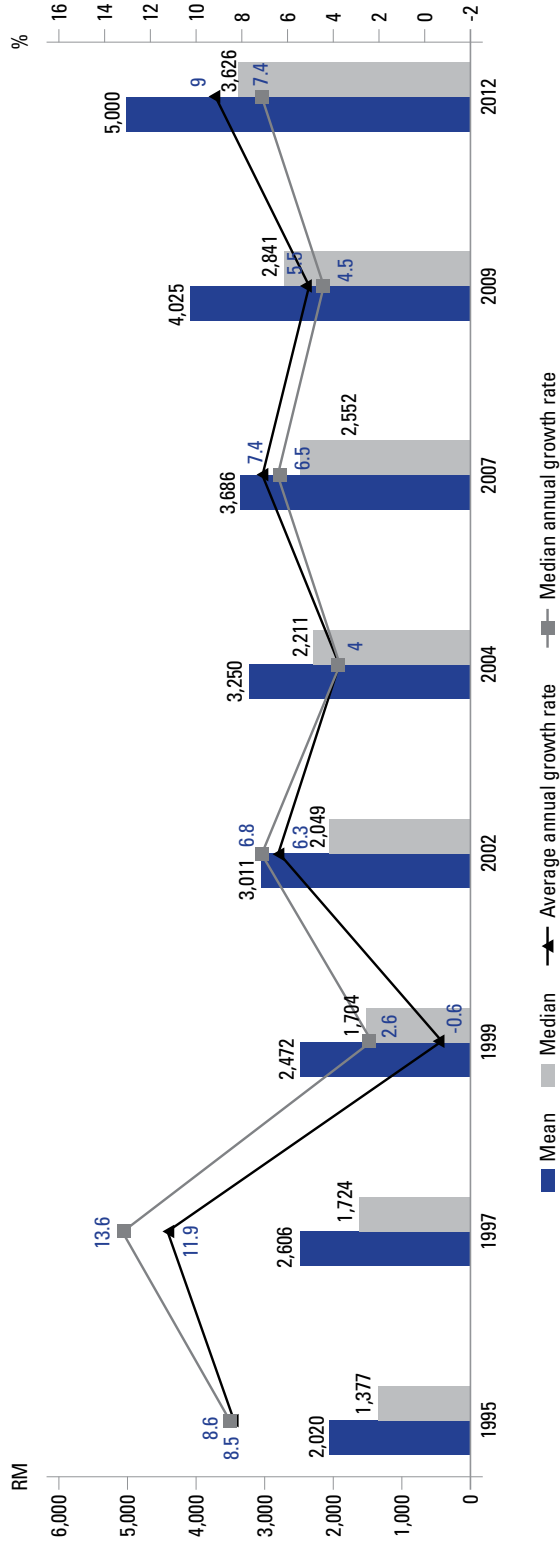
The measure of affordability used here is the median multiple that is derived from dividing the median house price by the median gross annual household income. For a house to be affordable, the rule of thumb is that the median house price should not exceed three times the median gross annual household income (see Figure 4).

The median monthly household income for Malaysia as a whole was RM3,626 in 2012 or a median gross annual household income of RM43,512. However, the median monthly household income differs from state to state, ranging from under RM2,500 in Kelantan to RM5,353 in Selangor. In the Federal Territories, the median monthly household income was highest in Putrajaya at RM6,486, followed by RM5,847 in Kuala Lumpur. This also implies that on average, urban household incomes are about 86% higher than rural incomes.

As seen in Figure 5, in 2012 the median all-house price was RM239,397, thus implying a multiple of 5.5 when calculated against the median gross annual income of RM43,512, which is almost double the affordability benchmark of three.

Using Kuala Lumpur as a proxy for urban centres, the median gross annual household income of RM64,236 in Kuala Lumpur applied against an affordability multiple of three implies that house prices should be around RM200,000 to be affordable to the lower-middle-income

Figure 4: Mean and median monthly household incomes in Malaysia (1995–2012)



Source: Department of Statistics Malaysia, Household Income and Basic Amenities Survey Report, 2009, 2012.

Figure 5: Deriving the affordability of homes (selected years)

Year	Median monthly household income (RM)	Median gross annual household income (RM)	Median all-house price (RM)	Median multiple (affordability)
2002	2,049	24,588	144,830	5.9
2004	2,211	26,532	156,549	5.9
2007	2,552	30,624	172,464	5.6
2009	2,841	34,092	184,571	5.4
2010	3,045	36,540	195,653	5.4
2011	3,264	39,168	215,893	5.5
2012	3,626	43,512	239,397	5.5

Source: Department of Statistics Malaysia, *Household Income and Basic Amenities Survey Report*, 2009, 2012.

group. In reality, current house prices have exceeded this range, with indicative average link-house prices of RM730,000 in Kuala Lumpur (C H Williams Talhar & Wong 2013). We are therefore looking at median affordability multiples of over 10, which must be deemed to be beyond the affordability of the target group. It is only in Seremban, the closest major town (at a distance of 70km) to Kuala Lumpur, that we see average prices of RM250,000 for link-units. The inevitable trend is for housebuyers to purchase units on the outskirts of cities, necessitating the improvement of public transport systems for the lower- and middle-income groups to commute to work.

IV. Access to financing

Access to home financing by the lower-middle-income group is another major constraint on homeownership. Housing is the largest component of expenditure of every household and, in Malaysia, eligibility for housing loans from financial institutions is evaluated against the borrower's debt-to-income ratio. The general rule is that monthly mortgage repayments should not exceed 30% of gross monthly income. In assessing a borrower's repayment capability, the banking institution also takes into account other financial obligations. The margin of financing will depend on the value of the property, the norm being 90%.

On 5 July 2013, as part of a set of measures aimed at curbing increasing household debt that has been spiralling at an average annual rate of 12% over the past five years, BNM imposed a maximum tenure of 35 years for the financing of residential and non-residential property purchases. This step was taken in the long-term interest of consumers who were accumulating debts beyond prudent debt service ratios, induced by the availability of home financing that offered tenures of up to 45 years and personal financing of up to 25 years. However, households that have the financial capacity to take on borrowings would continue to have access to financing.

The key message from the foregoing analysis of housing trends is that Malaysia, like most countries, will have to address issues of affordability and accessibility in building

sustainable housing. The current state of private housing has to do with the supply of low- and medium-cost houses, the availability of land and the role of developers, which will be discussed in other chapters of this book. In this chapter, the focus is on how Cagamas has contributed to a sustainable home financing system in Malaysia and what challenges exist in the changing financial environment.

THE ROLE OF CAGAMAS IN PROMOTING HOMEOWNERSHIP

For the past three decades until today, the main source of home financing is the bank. Apart from a sharp decline of 20.8% in housing loans in 1999 in the wake of the Asian Financial Crisis and another slowdown in growth to 8.8% in 2007 upon the outbreak of the Global Financial Crisis, bank lending for housing grew at an average annual rate of 19.3% between 2000 and 2006 and thereafter at 14.3% from 2008 to 2012 (see Figure 6).

The past dependence on banks for the financing of housing inevitably subjected banking institutions to a maturity mismatch in their balance sheets as loans for housing and commercial properties were long-term (generally with maturities of 15 to 20 years) while funding from bank deposits tended to be short-term with maturities of 12 to 15 months. These were the prevailing home financing issues that led to the establishment of Cagamas in 1986 to provide banks with liquidity for home financing.

The 1980s were marked by a deep global recession, high debt, inflation and structural adjustments in both developed and developing countries. Malaysia was not spared the impact of the world recession and the first half of the 1980s was a challenging period for the country. As a trade-oriented economy still highly dependent on agricultural exports, Malaysia suffered the impact of the global recession of 1981–1982 and another severe recession in 1985 that was induced by the collapse of world commodity prices. In the course of these economic setbacks, the Government was prompted to restructure the Malaysian economy by embarking on a programme to promote rapid industrialisation and to make way for the private sector to serve as the engine of growth, supported by several institutional reforms. As bank liquidity began to tighten in the early 1980s, one of the institutional reforms was to rebuild the balance sheets of banking institutions by addressing the maturity mismatch in their assets and liabilities profiles. With the establishment of Cagamas in December 1986, financial institutions were encouraged to securitise their housing loans to release liquidity from their long-term assets and thus modify the maturity profile of their balance sheets. At the same time, the issuance of Cagamas debt securities was envisioned as paving the way for the development of the PDS market.

I. Cagamas' four phases of development

When a Technical Committee convened by BNM in February 1986 was considering the establishment of a secondary mortgage market, Malaysian banking institutions were experiencing a liquidity crunch as a result of the 1985 recession and were willing to provide ready access to housing loans at favourable rates only if they could secure low-cost funds and reduce the maturity mismatch in their portfolios of assets and liabilities. At that time, however, there was no incentive for banks to sell quality housing loans on an outright basis.

Figure 6: Growth of housing loans (annual growth in %) (1997–2012)

Year	Commercial banks	Finance companies	Islamic banks*	Total housing loans	Total loans in the banking system
1997	30.2	14.9	-	25.8	26.5
1998	13.9	8.8	-	12.6	-1.8
1999	-11.5	-47.8	-	-20.8	-4.5
2000	22.5	9.0	-	20.3	5.4
2001	23.8	14.4	-	22.4	3.9
2002	19.1	4.6	-	17.1	4.6
2003	13.9	24.6	-	15.3	4.8
2004	32.5	-52.7	-	20.8	8.5
2005	22.5	-87.5	-	16.6	8.6
2006	23.6	-100	-	23.0	6.3
2007	8.7	-	9.8	8.8	8.6
2008	13.1	-	88.5	17.8	12.8
2009	11.2	-	24.9	12.6	7.8
2010	12.0	-	33.2	14.3	12.7
2011	11.8	-	26.2	13.6	13.6
2012	10.2	-	30.6	13.1	10.4

* Prior to 2006, both conventional housing loans and Islamic home financing were consolidated for reporting purposes.

Source: Bank Negara Malaysia, *Monthly Statistical Bulletin*, January 2013 and other issues.

Hence, Cagamas began operations in October 1987 by offering to purchase housing loans with recourse for a specific period. This meant that banking institutions had the option to repurchase loans sold to Cagamas if, at the end of the review period, they did not agree to the new interest rates offered by Cagamas. While the Purchase With Recourse (PWR) scheme was not considered to be true securitisation, this liquidity model suited local conditions at the time and, in any case, in the 1980s there was a lack of banking information and statistics on credit risk, default rates and prepayment rates for housing loans, which constitute prerequisites for selling loans outright without recourse in the asset-backed securities market.

Cagamas in effect went through four distinct phases of development over 25 years.

The first phase, encompassing the initial years from 1987 to 1991, was not without difficulty. The newness of its operations and its limited product line – buying at a fixed rate for five years with recourse – were the main reasons for the slow progress in the operations of Cagamas. Purchases for periods of three and seven years were made available in 1989–1990. At the end of December 1991, outstanding loans with Cagamas amounted to only RM3.1 billion.

From 1992–1997, which can be regarded as the take-off and growth phase, the operations of Cagamas picked up through active marketing and the introduction of new products. During this period, the range of products with recourse was extended to include Islamic home financing and industrial property loans. In addition, products were enhanced with floating and convertible-rate features. At the end of December 1997, outstanding loans with Cagamas were RM22 billion or 31% of total market loans of the banking system.

The third phase, the diversification phase from 1998 to 2003, was when Cagamas introduced hire-purchase and leasing debt, Islamic hire-purchase and credit card receivables. At the end of December 2003, Cagamas had outstanding loans of RM27.3 billion, with hire-purchase and leasing debts accounting for 43.4% of its portfolio, compared to 56.6% for housing loans. In 1999, Cagamas also introduced the Purchase Without Recourse (PWOR) scheme to financial institutions, but there was no urgency for banking institutions to securitise their housing loans then as there was excess liquidity in the banking system and banks were highly capitalised with risk-weighted capital adequacy ratios averaging 12.5% in 1999. Furthermore, housing loans were deemed to be high-quality assets with low default rates and negligible foreclosure losses.

Finally, the period 2004–2012 can be referred to as the securitisation phase during which Cagamas first embarked on purchasing housing loans without recourse and, at the same time, contributed to the development of the asset-backed securities (ABS) market in Malaysia. Without losing its focus on supporting homeownership in the country, Cagamas went on to offer mortgage-guarantee products and to participate in the Government's My First Home Scheme (Skim Rumah Pertamaku or SRP). The major developments during this period included the following:

- The breakthrough for securitisation in April 2004 when the Government mandated Cagamas to undertake the securitisation of the Government's staff housing loans (GSHL). Cagamas incorporated a wholly-owned subsidiary, Cagamas MBS Berhad (CMBS), as a special purpose vehicle for the primary purpose of purchasing GSHL and to issue residential mortgage-backed securities (RMBS). The first issuance of RM1.555 billion nominal-value RMBS took place in October 2004 with tenures of three, five, seven and 10 years. Spreads ranging from 18 to 45 basis points over Malaysian Government Securities (MGS) reflected its AAA rating.
- The securitisation of RM2.844 billion of the Government's staff Islamic home financing in October 2005. The issuance of RM2.05 billion nominal-value Islamic Residential Mortgage-Backed Sukuk Musharakah (IRMBS) was the first of its kind in the world and attracted RM13.5 billion in book size, primarily from domestic institutions, as well as some foreign interest from Hong Kong and Singapore. By the end of December 2007, a total of RM10.2 billion worth of both conventional and Islamic RMBS had been issued.
- Cagamas' contribution to positioning Malaysia as an international centre for Islamic finance. At the end of December 2012, Cagamas was the largest issuer of sukuk in the Malaysian capital market, with an aggregate issuance of RM28 billion which accounted for 17% of outstanding AAA-rated sukuk.
- The formation in 2006 of a subsidiary, Cagamas SME Berhad, to securitise small and

medium enterprise (SME) loans, which represented another first of its kind in the ASEAN region as a model for SME funding. The first issuance of credit-linked notes relating to a synthetic securitisation of SME loans, amounting to RM600 million, was launched in May 2007, creating linkages for SMEs to the capital market. Besides improving the access of SMEs to funding, this created a tool for banking institutions to better manage their risk exposure to the SME sector.

- Cagamas' renewed efforts in 2006 and 2007 to enhance the PWOR scheme, particularly in terms of product pricing, to make it attractive for banking institutions. When the subprime mortgage crisis in the US derailed global financial markets in 2008, Cagamas continued to support the domestic ABS market by purchasing housing loans on an outright basis from financial institutions, and warehousing these loans for future securitisation.
- The establishment of Cagamas HKMC Berhad (CHKMC) in 2007 as a joint-venture company of Cagamas Holdings Berhad² and the Hong Kong Mortgage Corporation (HKMC) to provide mortgage guarantees to housing loan/finance originators. The Mortgage Guarantee Programme (MGP) offers a first-loss protection on banking institutions' mortgage portfolios, which serves to reduce the credit risk of their housing loans/financing portfolios. Effective December 2012, Cagamas Holdings Berhad had acquired the entire 50% HKMC equity stake in the joint venture, making CHKMC a fully-owned subsidiary of Cagamas that was renamed Cagamas MGP Berhad.
- The formation of Cagamas SRP Berhad in 2011 as another subsidiary to support the Government's SRP scheme, which was aimed at helping young working adults (not exceeding the age of 35) own their first homes falling within the price range of RM100,000 to RM400,000. Under the scheme, eligible housebuyers were offered 100% financing by financial institutions with a repayment period of up to 35 years. Cagamas SRP undertook to guarantee the financial institutions for the portion of financing above the 90% level. From January 2013, specific eligibility criteria of the SRP were changed or abolished. Of significance was the raising of the gross monthly income limit for eligible buyers from RM3,000 to RM5,000.
- The emergence of Cagamas as the leading issuer in the Islamic capital market with total sukuk issuances of RM34.4 billion by the end of December 2012. Its outstanding sukuk of RM14.4 billion as at 31 December 2012 accounted for nearly 54% of total outstanding Cagamas bonds of RM26.7 billion.

II. Cagamas today

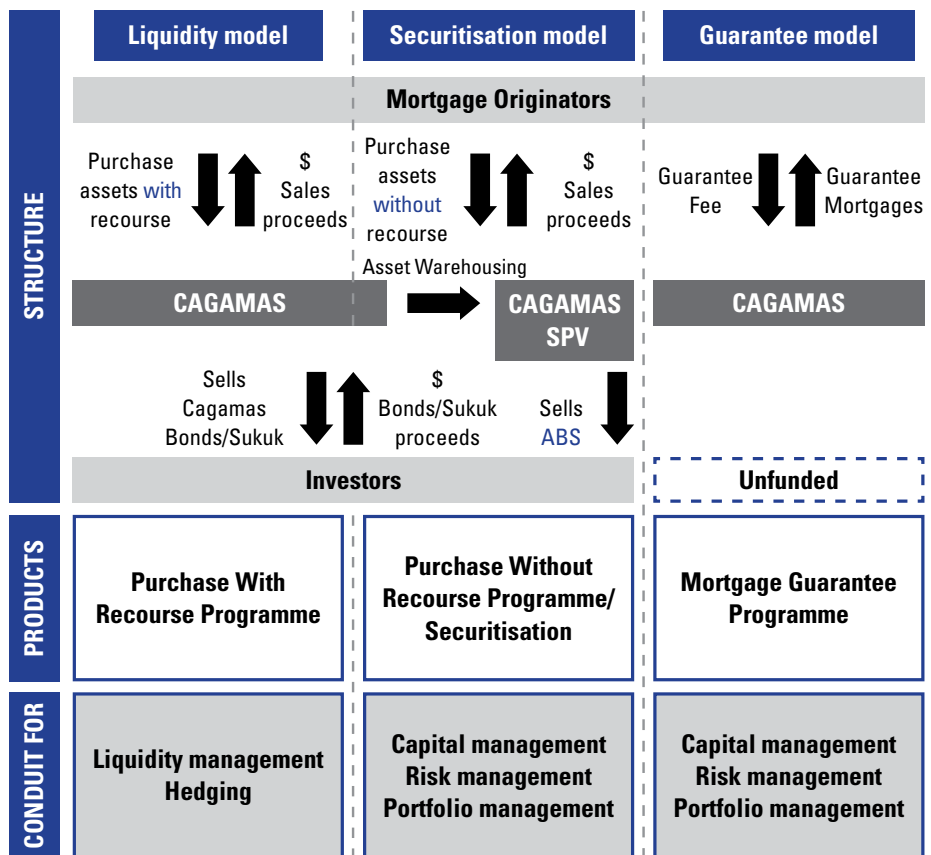
After steady development over 25 years, Cagamas is now a full-fledged mortgage corporation, complete with a liquidity model, a securitisation model and a guarantee model to promote homeownership (see Figure 7).

- Under the liquidity model, the PWR scheme addresses the maturity mismatch problem by effectively freeing liquidity so that financial institutions can grant more housing loans at affordable costs. It also provides financial institutions with a

channel to hedge their interest-rate risk and to reduce negative carry via asset swapping. In times of tight liquidity, financial institutions can easily sell their housing loans to Cagamas within a short turnaround time of about 10 business days.

- Under the securitisation model, in addition to funding, the PWOR scheme enables housing-loan originators to transfer credit and interest/profit rate-risk in their entirety to provide full capital relief and to improve returns on assets and risk-weighted capital. The PWOR scheme has a much faster turnaround time of three weeks compared to the three months required for other types of ABS issuance, and it offers flexible transaction sizes.
- Under the guarantee model, the MGP helps housing loan originators transfer out some of their credit risk, free up capital for more financing and manage their portfolio concentration risk. By reducing credit risk on their housing loan/financing portfolios, banking institutions can improve their capital adequacy ratios. The MGP has the flexibility to adjust its structure to suit the specific requirements of the mortgage financier, such as adapting the mortgage guarantee for the SRP scheme.

Figure 7: The three business models of Cagamas

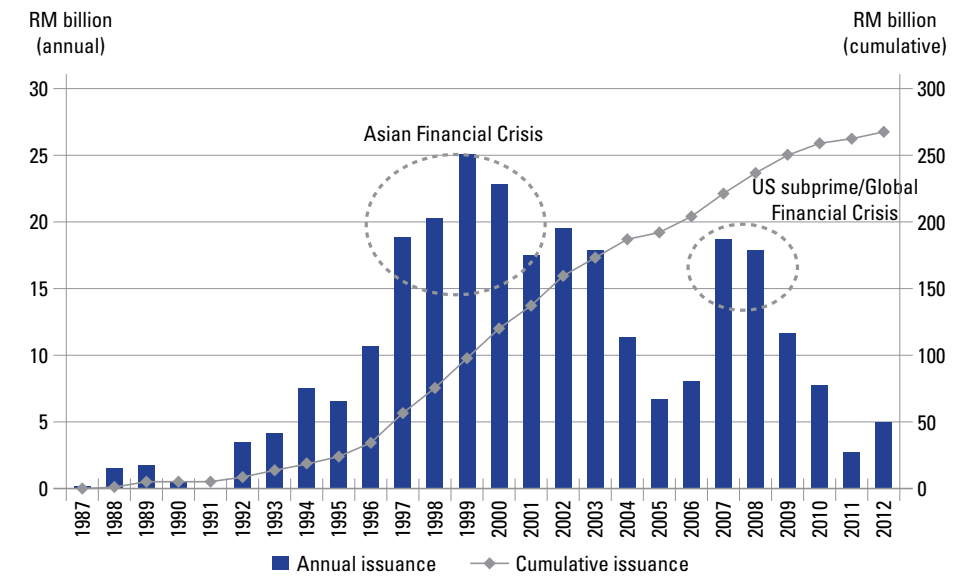


Source: Cagamas Berhad.

The overall impact of Cagamas as an important source of funding for the mortgage market may be summarised as follows:

- It has enhanced the liquidity of the financial system by providing housing finance through its conventional PWR scheme. As of December 2012, it has provided liquidity totalling RM265.6 billion to the financial sector, and has been especially active in times of crisis (see Figure 8).
- It has improved affordability by providing banking institutions with funds at reasonable cost through its ability to generate high investor demand for its AAA-rated issuances of Cagamas bonds. The responsiveness of financial institutions in extending the tenure of housing loans up to 25 years, or even 35-40 years,³ has also made homeownership more affordable.
- Cagamas has contributed to greater financial stability by removing the maturity mismatch inherent in the financial system by enabling originators of housing finance to better match the maturity structure of their housing loans/financing to the source of funds. It also provides financial institutions with a channel to hedge their interest rate risk and to reduce negative carry via asset swapping.
- Cagamas has also fulfilled its additional role of spurring the development of both the PDS market and the sukuk market in Malaysia through regular and large issuances of bonds and sukuk with multiple tenures to form a benchmark yield curve. Today, Cagamas is the largest and leading issuer of private debt instruments in the country, accounting for 8% of total outstanding private debt securities and 22% of all outstanding AAA debt securities as at end-December 2012.

Figure 8: Cagamas as a provider of liquidity to the primary housing market



Source: Cagamas Berhad.

- In support of maintaining Malaysia's position as the largest sukuk market in the world, Cagamas has also been active in innovating the securitisation of home financing along Islamic principles, by being a pioneer in launching Malaysia's first ever IRMBS of RM2.05 billion in 2005. The purchases of Islamic assets raised the share of Cagamas' Islamic banking assets to 51.2% of the company's total assets as at end-2012.

ISSUES AND CHALLENGES

As a company, Cagamas has consistently achieved stellar performance since its inception. Beginning with only RM52.3 million of shareholders' funds in 1986, Cagamas Berhad's shareholders' funds stood at RM2.2 billion as at end-2012. At the group level, the Cagamas Group, comprising six subsidiaries, now has shareholders' funds of RM4.3 billion at the end of 2012 and net tangible assets per share of RM28.35. By maintaining strong capital levels, the Cagamas Group has a high risk-weighted capital ratio (RWCR) of 36.4% as at the end of December 2012. Its success is attributed to a combination of factors which include a solid financial standing and shareholding as well as strong regulatory support through a series of incentives and regulatory exemptions for mortgage originators, for institutional investors and for Cagamas.

However, in terms of business operations, growth has been subject to the vagaries of the economy over the years. Amid the challenges of adverse economic conditions, it has been incumbent upon Cagamas to evolve its business model in order to continue providing financial institutions with the facilities to provide more housing loans/financing. The main challenge that persists to this day concerns the changing environment for its core business. With stable interest rates and excess liquidity conditions in the banking system, banking institutions are generally disinclined to sell their housing loans and debts to Cagamas. With stable interest rates, the need to hedge conventional housing loans against interest-rate risk through the PWR scheme is no longer an incentive, except in times of financial uncertainty when banking institutions turn to Cagamas as a source of liquidity. In the case of Islamic home financing, there is a shortage of hedging instruments, and financial institutions look to Cagamas to hedge their profit-rate risk because Islamic home financing is predominantly on fixed-rate terms. To this extent, the PWR scheme has remained relevant because Cagamas provides liquidity and/or hedging instruments to different segments of the home financing market. At the same time, having witnessed the risks that accompanied overleveraged financial systems in countries in the Organisation for Economic Co-operation and Development (OECD), emerging economies like Malaysia are beginning to preempt these costly lessons by introducing prudential standards that can curb loans growth.

As shown in Figure 9, housing loans purchased by Cagamas between 1987 and 2003 were mainly through the PWR scheme. In 2004, Cagamas made its breakthrough in securitising RM1.9 billion worth of housing loans with the issuance of its first RMBS of RM1.555 billion. To date, Cagamas has issued RM10.2 billion worth of conventional and Islamic RMBS that provided the capital market with RMBS as a new securities class.

Figure 9: Cagamas' purchases of housing loans in the secondary market

Year	Purchase in RM million			Total
	PWR	PWOR	Securitisation	
1987	409	-	-	409
1988	1,081	-	-	1,081
1989	1,331	-	-	1,331
1990	929	-	-	929
1991	354	-	-	354
1992	2,791	-	-	2,791
1993	2,043	-	-	2,043
1994	5,324	-	-	5,324
1995	4,305	-	-	4,305
1996	6,064	-	-	6,064
1997	7,772	-	-	7,772
1998	4,758	-	-	4,758
1999	4,880	-	-	4,880
2000	7,740	-	-	7,740
2001	3,349	-	-	3,349
2002	4,085	-	-	4,085
2003	7,036	-	-	7,036
2004	2,339	-	1,936	4,275
2005	881	-	5,743	6,624
2006	1,314	-	-	1,314
2007	9,044	3,065	5,554	17,663
2008	4,881	5,894	-	10,775
2009	3,206	6,193	-	9,399
2010	1,046	133	-	1,179
2011	348	175	-	523
2012	1,007	147	-	1,154
Total	88,317	15,607	13,233	117,157

Source: Cagamas Berhad.

Without question, Cagamas has the funding tools and the business models to finance homeownership. However, in an increasingly competitive environment, it has to remain efficient to be able to bring down transaction costs. As the only secondary mortgage corporation in the country commanding a AAA-rating for its bond issuances, it is now able to raise funds at lowest yields that rank second only to Government securities. In time to come, the advantage that Cagamas currently enjoys will be eroded when increasing competition for funds in the PDS and ABS markets raises its cost of borrowing. The regulatory environment could also move towards a more level playing field that might result in new

rules and standards for mortgage lending and new risk management requirements for mortgage-backed securities, among others. Technological developments that bring about new channels for the delivery of financial services in capital markets will also increase competition among market players. Cagamas will have to keep ahead of the competition by seeking market niches for its products.

STRATEGIC DIRECTION FOR CAGAMAS

The Asian Financial Crisis in the closing years of the 1990s and then the Global Financial Crisis 10 years later have changed the entire landscape in global banking and finance. Developed economies are still preoccupied with designing more robust financial models that will correct their banks' pre-crisis excesses (overleveraging and shadow banking). At the time of writing, the US Federal Reserve is considering a tapering of its monetary stimulus programme, and the return of capital flows to the US is already hurting emerging financial markets through plunging stock market indices, rising borrowing costs, weakening currencies and depleting foreign exchange reserves. Against this volatile financial environment, it is imperative for emerging economies to be resolute in shaping their domestic financial systems to spearhead economic growth, prosperity and more equitable distribution of wealth in the coming decades up to 2050. In a comparative study of financial systems in advanced and developing economies, the US-based National Bureau of Economic Research (NBER) observed that high-income economies had more financial depth, wider financial access, and higher financial efficiency, but not necessarily better financial stability than lower-income economies. In comparison, financial institutions in East Asia and the Pacific scored low on depth and access but relatively high on efficiency and stability. The overall conclusion was that financial systems in emerging markets have room for improvement in terms of more efficient savings mobilisation and resource allocation, improved price discovery, risk management and stronger corporate governance in credit discipline (Cihák *et al.* 2013). How then should Cagamas integrate itself into a financial system that is increasingly called upon to support real sector growth, of which housing is an important component?

Speaking at the 25th anniversary dinner of Cagamas, the Chairman recognised that the company had reached the stage where it should reflect on its original role and mandate and chart a new future direction that was in line with BNM's Financial Sector Blueprint 2011–2020 and the Capital Market Master Plan 2 of the Securities Commission (launched in April 2011). The Financial Sector Blueprint is focused on enhancing the competitiveness and dynamism of the financial sector, promoting inclusive access to financial services, establishing a range of financial institutions, products and markets to stimulate new domestic sources of growth and accelerating the spread of Malaysia's regional and international networks. The Capital Market Master Plan 2 seeks to create a more robust and vibrant bond market through seven growth strategies, of which the one of particular relevance to Cagamas is the strategy to expand the range of fixed-income products in the domestic bond market. Both the Blueprint and the Master Plan present Cagamas with immense opportunities to strengthen its position as an integral part of housing finance in the Malaysian financial system.

I. Supporting Government housing initiatives

In 2011, 40% of its population of 29 million were below the age of 35. Over the next 20 years, this segment of the population will join the ranks of a growing middle-income group aspiring to homeownership. To give an idea of the current size of demand for housing, Malaysia's Household Income and Basic Amenities Survey Report of 2012 indicates that nearly 42% of households fall within the middle-income range of RM3,000-RM6,999 or a mean monthly income of around RM4,600. Another 38% belong to the low-income group, with a monthly income of less than RM3,000. This may be translated into about 3 million middle-income households that have to be housed by the private sector and another 2.5 million households to be covered by public social housing programmes. For those in the middle-income group who do not already own a house, the continuing rise in house prices is having serious repercussions on affordability.

Since 2011, the Government has taken steps to address the problem of affordability among the middle-income working population through two programmes: the SRP scheme introduced in 2011, followed by the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) in 2012. Somewhat similar to the guarantee component of the UK's Help to Buy programme,⁴ the SRP scheme seeks to assist first-time housebuyers up to the age of 35 years to obtain 100% financing from financial institutions, with Cagamas SRP providing the lenders with a guarantee on the first 10% of the loan. PR1MA is an initiative of the Government, under which a company was established by the PR1MA Act 2012 to build affordable homes in urban centres in the price range of RM100,000 to RM400,000 for sale by balloting to middle-income households with joint monthly incomes of RM2,500 to RM7,500. Both programmes represent a laudable effort by the Government to support urbanisation and to improve the quality of life for at least a small segment of the lower-middle and middle-income populations. Cagamas can continue to support the financing of more Government housing initiatives of this nature by raising low-cost funds.

However, there remains a very large segment of the population who do not have the means to own a house or who for various reasons, arising partly from job mobility, prefer to rent housing. Unlike in most developed economies where rental housing has become an important component of national housing programmes, this policy has not caught on in emerging economies. Malaysia can become a forerunner in developing large-scale rental housing to complement homeownership as an integral part of its National Housing Policy to provide a balanced and socially-inclusive approach towards providing affordable and decent housing and living conditions for all Malaysians. Admittedly, the development of a successful and affordable rental housing market depends critically on the commitment of the Government to creating an enabling environment that favours the rental sector by way of laws, regulations and taxation. Financial market regulators will also have to ensure that financial institutions and the capital market have the capacity to raise significant financial resources from institutional investors and financiers without exposing their financial systems to undue risks.⁵ Cagamas should position itself to widen its client base and to have the flexibility to respond to the home financing needs of different categories of housing and different income groups, including targeting the rental housing sector as a niche market.

From the social security aspect, it is also important to ensure that those who already own homes, especially the elderly, are not forced into selling their homes for financial

reasons. The availability of a reverse mortgage programme can help a segment of senior citizens to withdraw some of the equity from their homes in the form of a stream of cash to supplement their retirement income. Based on the 2010 Population and Housing Census of Malaysia, out of a total population of 28.3 million, 5.1% or 1.4 million people were in the age group 65 years and over. By 2030, the ratio is expected to almost double to 10% and thereafter to an estimated 17% in 2050. The market potential for reverse mortgage products will grow. The HKMC successfully introduced a reverse mortgage loan scheme in 2011 that enabled banks to insure their reverse mortgage schemes with the HKMC. As Malaysia prepares for an aging population, Cagamas could consider introducing a reverse mortgage programme to support national pension reform initiatives that are seeking to ensure the long-term adequacy of income for retirees, especially those in the private sector.

II. New business models

1. Covered bonds

Having established the infrastructure to support both the PWR and PWOR schemes, Cagamas should consider linking both to create an additional funding mechanism, such as mortgage-covered bonds, to keep ahead of rising global interest in covered bonds after the subprime crisis in the US.⁶ Covered bonds combine the scale advantage of capital-market funding with on-balance-sheet support by the lender and can be customised to suit investor risk appetite when the domestic housing market moves into new areas, such as rental housing.

2. Conforming loans

Even though this is an untested area, Cagamas can be a “second lender of last resort” since it can purchase mortgages during periods of tight liquidity to help banks that are under liquidity pressure. To do this, Cagamas will have to undertake an exercise jointly with individual financial institutions to maintain a pre-approved portfolio of conforming loans, namely a stock of housing loans that fulfils a standard set of eligibility criteria that can be speedily sold to Cagamas to meet liquidity requirements. Regulatory support and explicit guidelines will be needed to enable financial institutions and Cagamas to enter into such an arrangement.

By innovating towards covered bonds, conforming loans and other new funding products, Cagamas can help financial institutions achieve their capital adequacy and liquidity requirements under Basel III.

III. Regional cross-border expansion

Given its expertise and track record of achievements, it is time for Cagamas to expand its regional outreach. It could begin by offering consultancy to other countries in the region to replicate the Cagamas model not only in home mortgages but also in SMEs and other growing sectors of the real economy, such as infrastructure. By sharing its expertise to establish a chain of equivalents in the region, Cagamas will be supporting the ASEAN

Economic Community (AEC) 2015 and its capital market integration programme.

To move a step further, Cagamas should look into the feasibility of joint ventures with emerging countries in the ASEAN region, such as Indonesia, the Philippines and Thailand, which have a strong interest in developing their secondary mortgage markets, to establish a “Regional Cagamas” that will synchronise liquidity in the region. With the liberalisation of capital flows under AEC 2015, it will become possible for a Regional Cagamas to pool Indonesian, Philippine, Thai and Malaysian housing loans and securitise these into a new “CagaASEAN” bond that is regionally tradeable. The alternative configurations can be immense, subject to legislative and regulatory reforms. It is timely for ASEAN to create a new asset class to deepen its regional financial markets. It cannot be overdependent on the foreign capital inflows that had been drawn to Asian countries in the aftermath of the recent Global Financial Crisis, but which are now retreating because of prospects of higher yields in the major economies. The prognosis has changed because of the slowdown in China and resultant lower growth forecasts for the rest of Asia. More than ever, the future growth and prosperity of Asia lies in strengthening regional financial cooperation.

Twenty-five years ago, Cagamas had no competition in securitising mortgage assets. Today the game has changed and Cagamas will have to challenge itself in order to keep ahead of intensifying competition. Technology will facilitate the change process but ultimately, it is talent, a culture of risk management and good corporate governance that will ensure the sustained growth and success of Cagamas. On this aspect, Cagamas has built a strong professional team to support the Board in expanding the role of Cagamas to respond to the needs of other real sectors of the economy beyond housing.

CONCLUSION

The founders of Cagamas had great foresight when they established the company in 1986 as an intermediary for creating liquidity in housing finance. At that time, the Cagamas model of purchasing housing loans with recourse and pooling these loans to raise funds in the capital market was considered unique. The PWR scheme was suitable to the Malaysian environment then as banks were in need of longer-term funds to better match the maturity profile of their housing loans but it was not considered to be securitisation. Nonetheless, the PWR scheme has remained the preferred option of banks despite the availability of a PWOR programme since 1999. After the US subprime mortgage crisis, which spiralled because mortgage-backed securities were being repackaged into financial derivatives and redistributed in the shadow banking sector, there is now renewed interest in the more stable European-type of covered bonds that are backed by purchases of mortgages with recourse. By having both the PWR and the PWOR products in its portfolio, Cagamas can look forward with optimism that it has the capacity and flexibility to play a distinctive role as a liquidity provider or as an ABS vehicle to fund homeownership. More importantly, Cagamas should leverage on its 25 years of experience and expertise to replicate its success regionally in the spirit of ASEAN economic cooperation and financial market integration.

Endnotes

¹While this measure of homeownership does not include houses bought on a cash basis, it can be assumed that the number of such cases as a percentage of total number of houses purchased is negligible.

²Cagamas Holdings Berhad comprises Cagamas Berhad (the main operating entity), Cagamas MBS Berhad, Cagamas SME Berhad, BNM Sukuk Berhad, Cagamas SRP Berhad and Cagamas MGP Berhad.

³On 5 July 2013, BNM capped the maximum tenure of housing loans to 35 years.

⁴The Help to Buy scheme is a mortgage product announced in the UK 2013 Budget aimed at enabling housebuyers with low levels of self-saved deposits to access lower mortgage rates. The Help to Buy scheme offers two facilities: 1) an Equity Loan where the Government lends buyers up to 20% of the value of a newly-built house priced below £600,000, interest-free for five years. An existing Funding for Lending scheme launched by the Bank of England in July 2012 allows banks and building societies to borrow from the central bank at cheaper-than-market rates for up to four years. 2) a Mortgage Guarantee by the Government to lenders who offer mortgages to people with smaller-sized deposits of 5% to 20%. This mortgage scheme is to be launched in January 2014.

⁵For more details, see Ira Gary Peppercorn and Claude Taffin, *Rental Housing: Lessons from International Experience and Policies for Emerging Markets* (Washington D.C.: The World Bank, 2013).

⁶For details on covered bonds, see Jay Surti, *Can Covered Bonds Resuscitate Residential Mortgage Finance in the United States?* (Washington, D.C.: International Monetary Fund, December 2010).

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INTRODUCTION

Through the years, Cagamas Berhad (Cagamas) has diversified its business model and expanded from being a national mortgage corporation supporting affordable housing for Malaysians to being an integral liquidity provider and securitisation leader in the Malaysian financial system.

This chapter begins with a brief description of Cagamas' business activities, followed by its role in the development of the corporate debt securities market. Other topics covered include the various types of debt securities and issuance programmes undertaken by Cagamas; the structure of its products and instruments; government support and the regulatory framework; pricing efficiency and market liquidity; the investors who invest in Cagamas' debt securities; and risk management activities.¹

CAGAMAS' BUSINESS ACTIVITIES

Cagamas is an intermediary that engages in two main business activities to provide liquidity to the financial system:

- Purchasing eligible housing loans and debts from primary lenders
- Issuing corporate debt securities.

From the time it commenced operations in October 1987 until end-2012, Cagamas cumulatively issued RM265 billion worth of corporate debt securities to purchase housing loans and financing, industrial property loans, and hire purchase and leasing debts from financial institutions and selected corporations. To kick-start the Malaysian debt capital market in 1987, Cagamas bonds and sukuk (Islamic bonds) carried a favourable regulatory risk weight treatment of 10% and were classified as Class-1 eligible debt securities by Bank Negara Malaysia (BNM), qualifying as reserve assets for statutory liquidity requirements. As

such, the yield curve of Cagamas debt securities was close to that of Government securities. This created strong demand for Cagamas bonds and sukuk from financial institutions to promote market liquidity and foster growth of the market.

Cagamas' role as a liquidity provider is carried out through financial intermediation between the capital market and the banking system. The company issues corporate debt securities to source funding from the capital market and channels these funds to the banking system by purchasing loan receivables from primary lenders on "with recourse" and "without recourse" bases. Additionally, Cagamas plays a key developmental role in the corporate debt securities market. Its innovative products such as asset-backed securities (ABS) and credit-linked notes involving the synthetic securitisation of small-sized and medium-sized enterprises (SMEs) loans have been instrumental in increasing the depth and breadth of the market.

Following the establishment of the ABS Guidelines by the Securities Commission (SC) in 2001, Cagamas demonstrated its commitment to market development by promoting the conversion of eligible loans and receivables into tradable securities through the securitisation process when it issued Malaysia's first conventional Residential Mortgage-Backed Securities (RMBS) in 2004. Notably, Cagamas also issued the world's first rated Islamic RMBS in 2005. The company further reinforced its position as the leader in corporate debt securities innovation with the issuance of credit-linked notes to support the country's first synthetic securitisation of SME loans in 2007. These issuances further spurred demand for mortgage-backed securities (MBS) and ABS and contributed to the diversification and deepening of the corporate debt securities market.

Following the success of Cagamas' bonds and sukuk in deepening market liquidity, and given the financial system's deep confidence in and wide acceptance of Cagamas papers, BNM in 2004 revised the status of Cagamas unsecured debt securities from Class-1 (which is almost like Malaysian Government Securities or MGS) to Class-2 with a 20% risk weightage, similar to other AAA corporate debt securities. The objective was to enhance market efficiency and improve risk-based pricing in recognition of a maturing debt capital market.

CAGAMAS' ROLE IN THE DEVELOPMENT OF THE CORPORATE DEBT SECURITIES MARKET

Prior to 1987, the issuance of corporate debt securities as a funding mechanism was not as popular as the equity market due to the lack of a relevant framework. After the first Cagamas corporate debt securities issuance in 1987 and guided by the subsequent establishment of the Private Debt Securities (PDS) framework under BNM in 1988, the size of the corporate debt securities market in Malaysia grew rapidly from RM100 million in 1986 to RM326.5 billion in 2012. Cagamas' success in the development of Malaysia's corporate debt securities market has been supported by a favourable operating environment in Malaysia, components of which include a well-developed debt capital market infrastructure, sound macroeconomic conditions and efficient, well-regulated and competitive financial institutions.

Established in 1986, Cagamas has played a decisive and catalytic role in the growth of the corporate debt securities market in Malaysia. Its key objectives are to promote homeownership, and provide liquidity and balance sheet and risk management solutions spearheaded by the development of the corporate debt securities market, in particular unsecured PDS. At the initial stage, Cagamas' role was that of a liquidity provider, converting illiquid housing loans on the books of financial institutions into liquid and tradable debt securities by acquiring and funding them through the issuance of unsecured PDS.

The company purchases loans and debts from primary lenders, mainly financial institutions, via its purchase with recourse (PWR) and purchase without recourse (PWOR) schemes. To ensure a sustainable funding conduit for the issuance of unsecured PDS, Cagamas established a RM60 billion, 40-year Commercial Paper (CP)/Medium Term Notes (MTN) programme, the largest and longest such programme. Funding sources were expanded to include ABS to meet the securitisation of Government staff housing loans, and credit-linked notes involving the synthetic securitisation of SME loans.

The establishment of these debt capital market instruments has had the effect of increasing market liquidity by enlarging the investor base. This has resulted in a dedicated yield curve which has been decisive on the growth and affordability of mortgages, as banks can now extend longer-term mortgages with the knowledge that they can always tap Cagamas funding. Cagamas has been a major issuer of corporate debt securities (from a high of 23% of all corporate bonds in 2004 to 11% at the end of 2012). The decline of Cagamas debt securities as a percentage of outstanding market issuance is evidence of the positive influence the company's developmental role has had on the growth of the debt capital market as a viable source of liquidity. The issuance of corporate bonds in 2012 was the highest ever recorded in the Malaysian market, amounting to RM124 billion (a 77% increase from the previous year).

Cagamas has also been instrumental in the growth of the sukuk market in Malaysia through its first Bai' Bi Thaman Ajil principle issuance in 1994 and various other subsequent Islamic principles. From only RM379 million worth of issuances in 1990, the sukuk market has grown exponentially with over RM95 billion worth of issuances in 2012, representing 79% of total corporate debt securities issued. In 2006 Cagamas sukuk accounted for 16.9% of the total sukuk market. Indeed, Cagamas' ability to participate in a dual market featuring conventional and sukuk issuances, complemented by (up to) 20-year benchmark yield curves, has been pivotal in attracting liquidity from a wide and diverse investor base which includes pension funds, banks, insurance companies, fund managers and corporations.

Cagamas' issuance of corporate debt securities increased from RM100 million in 1987 to a high of RM25.1 billion in 1999, but in tandem with the growth of Malaysia's debt capital market, issuance in 2012 was RM4.9 billion resulting in a cumulative outstanding amount of RM20.7 billion or 6.3% of total outstanding corporate debt securities. By the end of 2012, the total outstanding balance of corporate debt securities was RM327.3 billion, compared to RM598.7 billion in Government securities and RM84.7 billion in quasi-government debt securities. Government debt securities make up the largest share of total debt capital market activity, which in 2012 accounted for 59.2% of total outstanding debt capital market securities. In the corporate debt securities market, AAA/AA credits dominate and account for approximately 76% of outstanding issuance. Cagamas continues to be one of the largest

issuers, accounting for 6.3% of outstanding corporate debt securities and 16.7% of AAA corporate bonds as at end-2012. In 2005, Cagamas recorded its highest outstanding shares of 12.6% and 35% respectively in the total corporate debt securities market and in AAA corporate bonds.

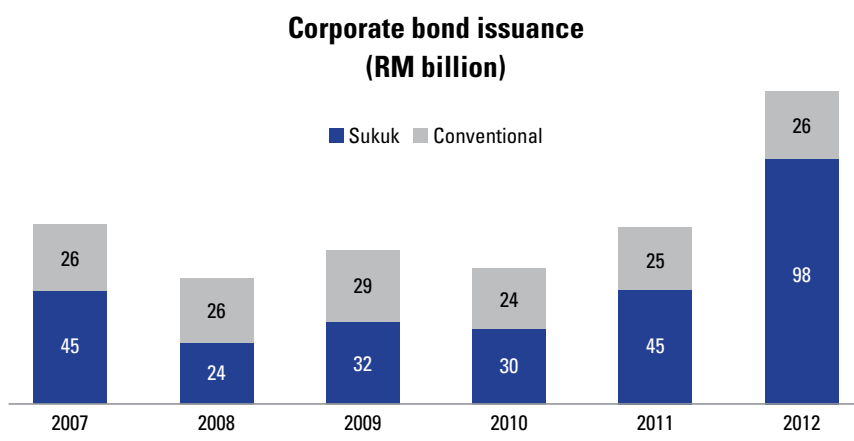
In 1997, Cagamas emerged as the only large, regular issuer of corporate debt securities in a lethargic bond market. Cagamas responded to increased demand for liquidity from primary lenders while most other corporations issued fewer securities because of higher interest rates and economic uncertainties. As can be seen from the data on annual issuances, demand for liquidity surges during periods of crisis. Compared to the 1997 period, Malaysian banks during the 2008 period were much better capitalised. In 2007, during a period of financial uncertainty, sales of housing loans picked up. In 2012, Cagamas remained the second largest issuer of debt securities after the Government of Malaysia. This confirms Cagamas' role as a first line liquidity provider to the banking system.

The year 2012 saw the Malaysian markets setting a record in issuances. Funds raised totalled RM637.4 billion at the end of the year, surpassing the previous year's total issuance of RM518.8 billion. Sustained economic performance and investor confidence in the capital market, amidst the continued expansion of large projects, created a growing appetite for debt fundraising in both conventional securities and sukuk. The large issuances were supported mainly for the financing needs of new infrastructure projects.

The issuance of corporate bonds in 2012, the highest ever recorded, amounted to RM123.8 billion, a 77% increase from the previous year. Of the total corporate bond issuance, 79% (RM98 billion) were sukuk (see Figure 1). In addition to local corporates, 12 foreign issuers from countries such as Korea, the UAE, Singapore, Bahrain and Kazakhstan tapped the local debt market. Collectively, more than RM5 billion worth of corporate bonds were issued by foreign issuers. The increase in total issuance in the corporate bond market was driven by the need for financing in the corporate sector, mainly for capital expansion and refinancing across selected sectors of the economy (especially the infrastructure, banking and utilities sectors). The development of the corporate bond market was also prompted by a conducive domestic interest rate environment and ample domestic liquidity.

Cagamas' funding of the mortgage market peaked at 44% of outstanding mortgages at the time of the Asian Financial Crisis (operating as a private funding buffer in adverse times) and was a testament to its corporate bonds' "flight to quality" status. When market conditions normalised and liquidity increased in the financial system, this percentage fell to 12.6% in 2007 and 5.1% in 2012, as banks had more access to alternative funding sources. Cagamas has successfully diversified its financing products in anticipation of and in response to the changing needs of financial institutions. In addition to conventional housing loans and Islamic financing, it started to purchase conventional hire purchase (HP) and leasing assets in 1998. In 2002, Cagamas expanded its asset catalogue to include Islamic HP and leasing assets. These new products were introduced as a result of a nascent Islamic Interest Rate Swaps (IRS) market and the primary lenders' need to hedge their fixed rate portfolio against interest rate risk.

Figure 1: Corporate bond issuance (sukuk and conventional) in Malaysia



Source: Securities Commission.

Cagamas' financial statements are summarised in Figure 2. Total conventional mortgages and Islamic house financing accounted for 58.8% of Cagamas' total assets in 2012, and about 99% of its liabilities are funded by its debt securities. Such high ratios are commendable among the world's secondary mortgage facilities (Chiquier *et al.* 2004) and they reflect Cagamas' maturity as well as its role in developing Malaysia's debt capital market by introducing new innovative products to cater for a wide investor base.

TYPES OF DEBT SECURITIES

Since its incorporation, Cagamas has funded its purchases of loans and debts through the issuance of notes, bonds and sukuk. At present, Cagamas issues four types of debt securities:

I. Fixed Rate Medium Term Notes (MTNs)

MTNs issued by Cagamas have tenures of more than one year and carry a fixed coupon rate which is determined at the point of issuance. Interest on these MTNs is normally paid half-yearly. The redemption of the MTNs is at nominal value together with the interest due on maturity date.

II. Floating Rate Notes (FRNs)

FRNs issued by Cagamas have an adjustable interest rate pegged to the Kuala Lumpur Interbank Offered Rate (KLIBOR). The interest is paid at three-monthly or six-monthly intervals. They are redeemed at face value together with the interest due upon maturity.

Figure 2: Cagamas' balance sheet (RM million)

	2000	2005	2006	2007	2008	2009	2010	2011	2012
Mortgage loans	18,353	11,443	8,671	9,889	7,963	3,841	3,888	3,157	2,707
Hire purchase and leasing	3,844	9,735	7,217	3,409	1,725	800	437	345	116
Personal loans	-	-	-	-	-	-	-	805	873
Islamic house financing	213	654	610	2,692	2,397	1,841	554	525	1,063
Islamic hire purchase	-	2,028	4,646	4,271	2,811	1,682	2,587	3,218	4,035
Islamic personal financing	-	-	-	-	435	1,047	3,713	3,136	2,979
Mortgage assets	-	-	-	2,550	4,766	7,361	7,075	6,578	6,094
Islamic mortgage assets	-	-	-	-	2,225	4,019	3,993	3,919	3,829
Hire purchase assets	-	-	-	-	-	3	1	-	-
Islamic hire purchase assets	-	-	-	-	-	28	25	21	16
Other assets	282	2,099	1,902	1,914	1,825	1,883	499	984	1,573
Total assets	22,692	25,959	23,046	24,725	24,147	22,505	22,772	22,688	23,285
Debt securities	21,442	24,360	21,429	22,990	21,807	20,405	20,691	20,453	20,925
Deposits and placements of financial institutions	-	-	-	-	465	-	-	-	-
Other liabilities	304	234	184	208	310	307	173	134	135
Total liabilities	21,746	24,594	21,613	23,198	22,582	20,712	20,864	20,587	21,060
Paid-up capital	150	150	150	150	150	150	150	150	150
Reserves	796	1,215	1,283	1,377	1,415	1,643	1,758	1,951	2,075
Shareholders' funds	946	1,365	1,433	1,527	1,565	1,793	1,908	2,101	2,225

Source: Cagamas Berhad, *Cagamas Annual Report*, various years.

III. Commercial Paper (CPs)

CPs are short-term instruments with maturities between one to 12 months issued at either a discount from the face value where the notes are redeemable at their nominal value upon maturity, or as interest-bearing notes where interest is paid on a semiannual basis or such other periodic basis as determined by Cagamas.

IV. Sukuk

- **Islamic Commercial Papers (ICPs).** The short-term Islamic instruments with maturities ranging from one to 12 months and with the profit paid on a semi-annual basis or such other periodic basis as determined by Cagamas.
- **Islamic Medium Term Notes (IMTNs).** IMTNs have tenures of more than one year and carry a profit which is determined at the point of issuance. Profit on these sukuk is paid on half-yearly intervals. The redemption of the IMTNs is at nominal value together with profit due upon maturity.
- **Variable Rate Notes (VRNs).** Cagamas also issues Variable Rate Notes. These sukuk have tenures of more than one year and profit variable pegged to the KLIBOR. The profit is paid at three-monthly or six-monthly intervals. The face value is redeemed together with profit upon maturity.

The issuance of the sukuk will be based on but not limited to the shariah principles of *murabahah*, *ijarah*, *mudarabah*, *musharakah*, *istina'a* and *wakalah bil istithmar*.

In 2010, Cagamas issued a hybrid sukuk consisting of 49% Murabahah and 51% Ijarah components to meet global shariah requirements. The sukuk was issued under a new RM5 billion programme known as Sukuk Al Amanah Li Al-Istithmar (Sukuk ALIm).

V. Issuance programmes

The establishment of the programmes detailed below provide additional funding tools for Cagamas to meet its short-term to long-term funding requirements. They help to diversify Cagamas' existing funding instruments and thus widen the investor base.

- **RM20 billion CP/ICP and RM40 billion MTN/IMTN Programme (CP/MTN Programme).** Cagamas' RM60 billion CP/MTN Programme, established in 2007 and comprising RM40 billion MTN and RM20 billion CPs, is Malaysia's largest and longest corporate debt programme. The programme is also noted for being Asia's (excluding Japan) largest (RM60 billion) and longest (40 years) CP and ICP, as well as MTN and IMTN, programme. The RM20 billion CP/ICP programme has a programme tenure of seven years while the RM40 billion MTN/IMTN programme has a programme tenure of 40 years. The IMTN programme incorporates the shariah principles of *murabahah*, *mudarabah*, *musharakah*, *ijarah*, *istina'a* and *wakalah bil istithmar*. Under the programme, Cagamas undertook the largest-ever transferable and tradable variable-rate Commodity Murabahah note issuance by a corporate in the ringgit market.
- **RM5 billion ICP IMTN programme (sukuk).** The ICP programme has a seven-year tenure and the IMTN programme has a 30-year tenure. The inaugural RM5 billion Sukuk ALIm was issued under this programme in 2010.

Cagamas debt securities, including those issued under the Programmes, are unsecured obligations of Cagamas and rank *pari passu* among themselves. They are issued scripless and are tradable electronically in book-entry form through the Scripless Securities Trading System (SSTS) under the Real Time Electronic Transfer of Funds and Securities (RENTAS)

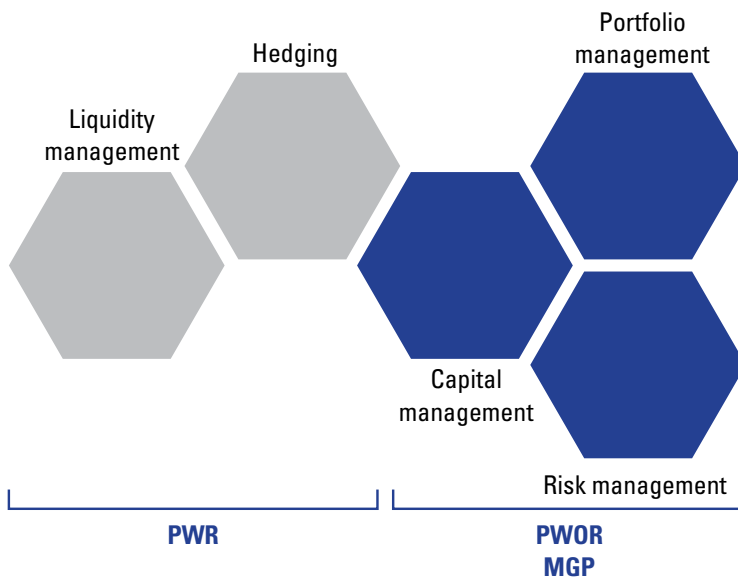
payment system. (BNM implemented the SSTS and the Interbank Funds Transfer System to strengthen the foundations of an efficient paperless system for trading and settlement. Since 1997 the Bond Information and Dissemination System (BIDS) has disseminated accurate data instantly in secondary markets.) The system was replaced by the Bursa Malaysia Electronic Trading Platform (ETP) in 2008. Thus, the market infrastructure for bonds has been well developed.

STRUCTURE OF PRODUCTS AND INSTRUMENTS

Cagamas purchases both conventional loans and Islamic financing, either with recourse to the selling institution (PWR) or without recourse (PWOR). By selling their loans to Cagamas on a recourse basis, the financial institutions are able to obtain the necessary liquidity at a competitive cost to enable them to enhance their lending operations. The competitively-priced funds obtained from Cagamas also enable them to price their loan products competitively and this provides them with an edge in their business operations. Primary lenders that sell their housing loans to Cagamas are also able to hedge their interest-rate risks, particularly if they have granted fixed-rate loans. With the introduction of the PWOR scheme in 1999, the financial institutions have also been able to pass on their credit risks to Cagamas, thereby improving their capital adequacy ratios.

On the other hand, the Mortgage Guarantee Programme (MGP), which was launched in 2008, offers “first loss” protection on a mortgage portfolio while the mortgage assets remain on the selling institution’s books. Figure 3 illustrates Cagamas’ business model.

Figure 3: The Cagamas business model



Source: Cagamas Berhad.

Figure 4: A summary of Cagamas' products from 1987 to date

	Structure	Asset	Bond/Sukuk
1987-1991	<ul style="list-style-type: none"> • Purchase With Recourse (1987) 	<ul style="list-style-type: none"> • Housing loans on fixed-rate basis (1987) 	<ul style="list-style-type: none"> • 5-year fixed rate bonds (1987) • 3-year fixed rate bonds (1989) • 7-year fixed rate bonds (1990)
1992-2005	<ul style="list-style-type: none"> • Residential Mortgage-Backed Securities (RMBS) (2004) 	<ul style="list-style-type: none"> • Housing loans on floating-rate basis (1992) • Staff housing loans from selected corporations (1994) • Industrial property loans (1996) • Hire purchase and leasing debts (1998) • Islamic Hire Purchase Financing (2002) • Credit card receivables (2003) 	<ul style="list-style-type: none"> • Floating rate bond (1992) • Sukuk Mudarabah (1994) • RMBS (2004) • Sukuk Musharakah RMBS (2005)
2006-onwards	<ul style="list-style-type: none"> • Purchase Without Recourse (2007) • Synthetic Securitisation (2007) • Mortgage Guarantee (2008) • Skim Rumah Pertamaku (My First Home Scheme) (2011) 	<ul style="list-style-type: none"> • Small and Medium Enterprise Loans (SME) (via synthetic SME securitisation (2007) • Islamic personal financing (2008) • Rahn financing (2008) • SME Loans (via PWR) (2013) • Infrastructure (2013) 	<ul style="list-style-type: none"> • RM150 million Secured Credit Linked Notes (2007) • RM60 billion CP MTN Programme (2007) • Sukuk Commodity Murabahah (2008) • RM5 billion ICP IMTN (2010) • Sukuk Al Amanah Li Al-Istithmar (2010) • Sukuk Wakalah Bil Istithmar (2012)

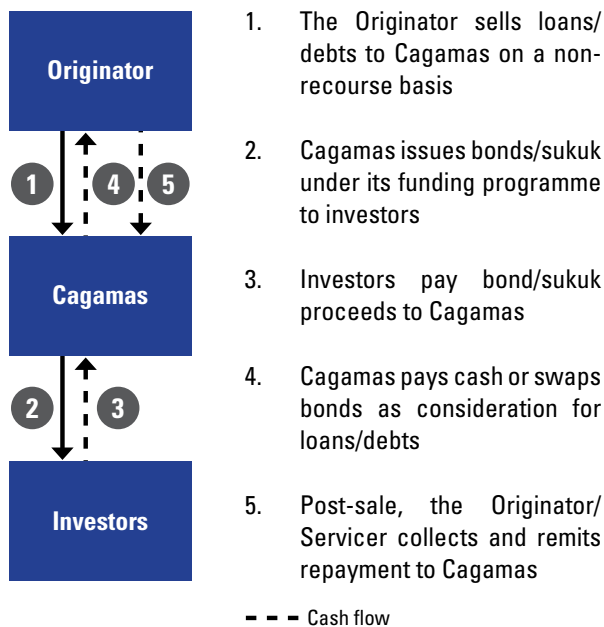
Source: Cagamas Berhad.

From its initial activity of purchasing mortgages, Cagamas has extended its range of products, complementing its role as a provider of competitively-priced liquidity to the financial system by developing various products to suit the changing needs of financial institutions and expanding the range of asset classes for investors. It has also contributed to the development of Malaysia's capital market through the introduction of sophisticated structures. These instruments include (see Figure 4):

- Residential mortgage-backed securities (RMBS)
- Synthetic securitisation – credit-linked notes (CLN)
- Other instruments – conventional commercial paper (CP) and Islamic commercial paper (ICP)
- Conventional medium term notes (MTN) and Islamic medium term notes (IMTN)
- Commodity Murabahah notes and Sukuk ALIm.

The structure of PWOR is detailed in Figure 5.

Figure 5: The structure of Purchase Without Recourse



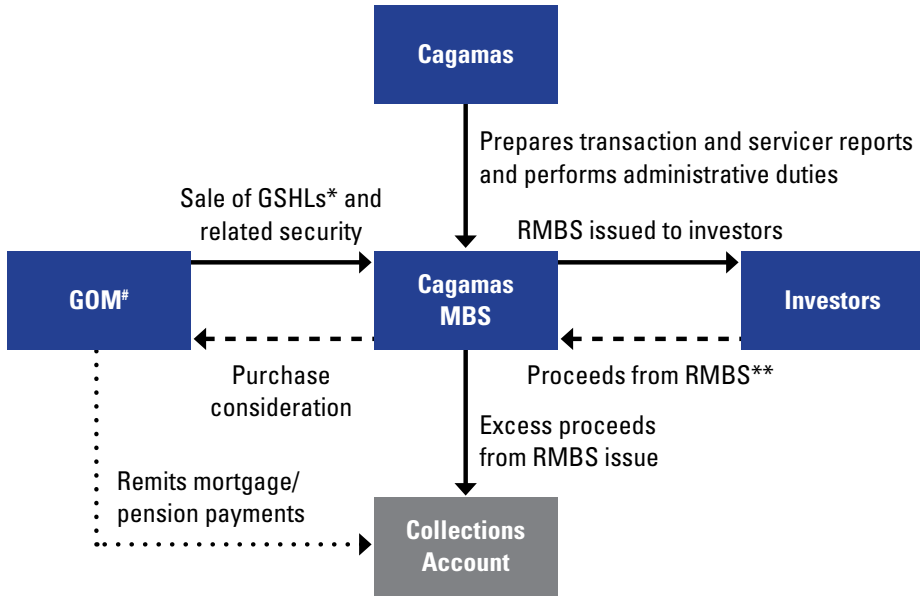
Source: Cagamas Berhad.

In a PWOR transaction, Cagamas appoints a Servicer to service and administer each PWOR portfolio, collect instalments, remit collections to Cagamas and undertake recovery and discharge as per regular mortgage lending procedures and exercise the rights, powers and discretion of Cagamas as the portfolio purchaser on each loan/debt of each portfolio. The Servicer's duties and authority to act as Servicer are limited to the duties and authorities set out in a Master Servicing Agreement and the Cagamas PWOR Guide.

In 2004, Cagamas proposed to the Government of Malaysia to undertake the securitisation of government staff housing loans (GSHLs). Cagamas MBS Berhad (CMBS), a special purpose vehicle, launched the country's first RMBS issuance backed by a RM1.9 billion portfolio of residential mortgages serviced by the pensions of retired public-sector

employees. Cagamas MBS issuances were structured with no cross-collateralisation against the other securities. The transaction structure of Cagamas MBS' securitisation is presented in Figure 6.

Figure 6: Transaction structure of securitisation



*Government Staff Housing Loans
 **Residential mortgage-backed securities
 #Government of Malaysia

- - - Cash flow

Source: Cagamas Berhad.

Since 2004, there have been five RMBS issues of RM10.2 billion, of which two were Islamic RMBS (IRMBS) totalling RM4.2 billion (Figure 7).

Figure 7: Summary of RMBS issued by CMBS

RMBS issued	CMBS 2004-1	CMBS 2005-1-i	CMBS 2005-2	CMBS 2007-1-i	CMBS 2007-2
Issue date	20-Oct-04	8-Aug-05	12-Dec-05	29-May-07	22-Aug-07
Issue amount (RM million)	1,555	2,050	2,060	2,110	2,410

Source: RAM Ratings.

In August 2005, using *musharakah* contracts, Cagamas MBS' Series 2005-1-i Musharakah sukuk of RM2.05 billion represented the first rated global offering of an IRMBS. The issuances have created new benchmarks in the yield curves for similar asset classes and allowed market participants to price other asset classes of bonds with

equivalent tenures. The securitisation of the Government's staff Islamic home financing demonstrates the Government's continuous and innovative efforts to broaden and deepen the domestic Islamic capital market (ICM) with the introduction of a new asset class. The issuance also helps to create a benchmark yield curve for the issuance of similar long-term Islamic asset-backed securities, contributes significantly to the promotion and growth of the ICM and further cements Malaysia's position as a leading global Islamic financial hub. The overwhelming success of this inaugural issuance reflects the demand for a well-structured shariah-compliant instrument from domestic and offshore investors. Cagamas MBS continued its role in developing Malaysia's ABS market when it issued its third RMBS transaction in December 2005, which featured the longest-dated tranche at the time with a 20-year investment period. The entity's fourth and fifth issuances were issued in 2007.

The outstanding success of this landmark deal was recognised by *FinanceAsia* which awarded it "Best Malaysia Deal", "Best Domestic Securitisation Deal" and "Best Islamic Finance Deal", and by *Euromoney* which named it "Islamic Finance Deal of the Year".

Structured products

When Cagamas issued its credit-linked notes (CLN) in October 2007, it laid claim to many firsts in Malaysia. The CLNs were the first synthetic transaction, the first transaction involving the use of credit default swaps, the first involving loans provided to SMEs and the first rated issuance approved under the SC's Guidelines for the Offering of Structured Products.

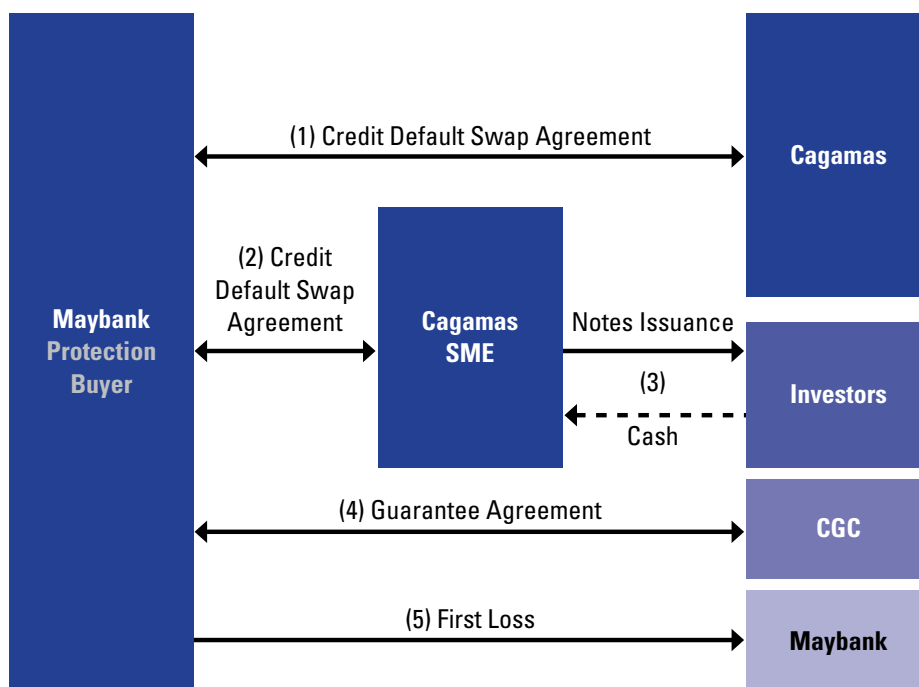
Under the transaction, the originator, Maybank, had partially transferred its credit risk in a portfolio of up to RM600 million worth of term loans to SMEs – known as "the Reference Pool" – to three parties: the guarantor (the Credit Guarantee Corporation Malaysia Berhad, or CGC), the issuer (Cagamas SME) and the senior swap counterparty (Cagamas). Before any claim could be made on these counterparties, the threshold amount of RM30 million (acting as the first-loss piece) retained by the originator would need to be fully exhausted. The bank is allowed to submit claims equivalent to the outstanding principal of the reference credit (or realised loss) upon the occurrence of a payment default or the bankruptcy of the loan obligor (i.e. the "Reference Entity") (see Figure 8).

GOVERNMENT SUPPORT AND REGULATORY FRAMEWORK

Since its creation, Cagamas has benefited from certain regulatory support because of its dual role in promoting the secondary mortgage market and developing markets for private debt securities.

- **Status as a non-bank:** Cagamas products are equivalent to large refinancing lines provided to primary lenders, backed by pools of eligible assets. Cagamas conducts these financial activities with the oversight of BNM. The strong support in terms of Board representation from BNM has played a significant role in Cagamas' growth and success. From the incorporation of Cagamas in 1986 until late 2002, all Governors of BNM have chaired the Board of Cagamas. The first four of Cagamas' Chief Executive Officers were also seconded from BNM. Cagamas has also adopted BNM's policies and guidelines, where applicable, as best practices over

Figure 8: Transaction structure of a credit default swap



Numbers refer to the sequence of transactions

- - - Cash flow

Source: Cagamas Berhad.

the years. This is apparent in Cagamas' operating procedures, lending policy and risk management practices.

- **Central Bank shareholding:** BNM is Cagamas' single largest shareholder. While the rating agencies acknowledge Cagamas' solid capitalisation and robust asset quality, the support from BNM reflects Cagamas' important position in promoting secondary mortgage financing and homeownership, as well as in developing the capital market.
- **More attractive funding:** Financial institutions can deduct the sales proceeds of housing loans and Islamic home financing debts from Cagamas from their total eligible liabilities base when calculating their statutory reserves (currently set at 4% of a bank's liabilities in the form of non-interest-bearing cash) and liquidity reserves (set at 10% to 15% of qualified liabilities). Funding from Cagamas is more attractive to banks than retail deposits for this reason, as well as for its reliability and ready availability.
- **Stamp duty exemption:** An exemption from stamp duty applies to Cagamas' purchase of loans and financing and the trading of its debt securities. The resulting gain is significant for the purchase of loans and debts with recourse and without recourse.

- **Blanket approval when issuing securities:** To issue private debt securities, Cagamas is not required to obtain approval from BNM or the Companies Commission of Malaysia. The SC has approved the CP/MTN programme and does not require approval for each issuance under the programme. This saves Cagamas time and enhances pricing efficiency.
- **Ability to borrow and lend funds in the interbank market:** Although it is not a bank, Cagamas has access to and is authorised to borrow and lend funds in the interbank market. This affords it greater flexibility in managing its assets and liabilities.
- **Favourable treatment of bonds:** Cagamas has been accorded favourable regulatory treatment for its debt securities, including Notes issued under its programmes (see Figure 9). Key regulatory and stamp-duty privileges were granted to Cagamas' purchase transactions and issued unsecured debt securities in order to reflect the low-risk nature of Cagamas activities and to compensate for quota guidelines on low-cost housing loans set for all financial institutions. In 2004, the privileges relating to its bonds were revised, as Cagamas papers were widely accepted in the market. The revised regulatory treatment included the reclassification of future issues of Cagamas unsecured debt securities from Class-1 to Class-2 liquefiable assets and the removal of compulsory bidding for securities by principal dealers. This revision was applicable only to Cagamas debt securities issued with effect from 4 September 2004. The previous treatment accorded to debt securities issued prior to this date remains effective until these securities are redeemed.

The revision of the regulatory treatment for Cagamas unsecured debt securities reflects BNM's recognition of Cagamas' maturity and the confidence in its continued ability to play a pivotal role in the development of the capital market on a more competitive basis, in line with the ongoing liberalisation of the financial and capital markets.

PRICING EFFICIENCY AND MARKET LIQUIDITY

Investors' preference for Cagamas bonds and sukuk are evidenced by its generally lower bond yield as compared with other AAA issuers and pricing, which is closer to a quasi-Government or Government-guaranteed bond of equivalent duration as shown in Figure 10.

The yield spread between Cagamas bonds, Government-guaranteed papers (GG) and MGS has narrowed over the years as compared to other AAA bonds. This is a result of Cagamas bonds being competitively priced by investors, reflecting the market's confidence in the quality and strength of Cagamas debt securities and credit profile. The high subscription rate for Cagamas primary bonds issuances is evidence of their strong value proposition to a diverse investor base, and further underscores Cagamas' position as a high-quality issuer.

The spread of Cagamas floating-rate notes over interbank rates (three-month and six-month KLIBOR) is dynamic. The volatility of the spread can be explained by the lack of benchmarks for floating-rate Government securities. In the earlier days, because Cagamas had to purchase loans at a given price before issuing its bonds, it was exposed to significant pipeline risk should there be an unexpected rise in the interest rates of its securities.

Cagamas has managed this risk by issuing smaller nominal amounts of securities on a more frequent basis. This approach does not, however, totally eliminate pipeline risk, which is further mitigated by the shorter time to market and cost-plus offering presently. In 1998, Cagamas increased its Cagamas rates on purchase of loans and debts from primary lenders to double digits in response to the sharp and rapid increase in interest rates.

Figure 9: Comparison of regulatory treatments for Cagamas debt securities

	Pre-2004	Post-2004
Risk weight under the risk-weighted capital ratio framework	10%	20%
Liquefiable asset status under the liquidity framework	Class-1 liquefiable	Class-2 liquefiable
Yield slippage under the liquidity framework	4%	6%
Single customer credit limit (SCCL) ²	Exempted from SCCL	Subject to SCCL of 25% of total capital funds
Mode of primary issuance	Through principal dealers' network	Not through principal dealers' network
Holdings by insurance companies	Accorded low-risk asset status	Accorded credit facilities status

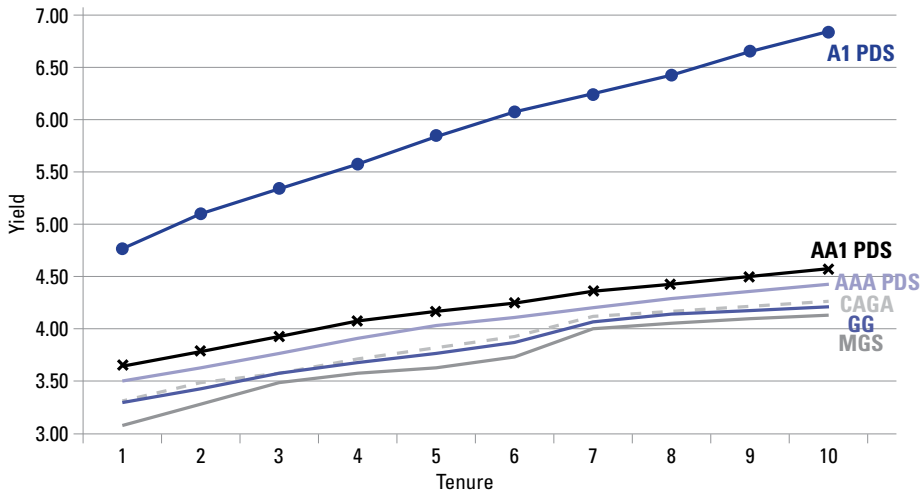
Source: Cagamas Berhad.

The volume of secondary trading of Cagamas' debt securities decreased from RM40.6 billion (2004) to RM18 billion (2008) and subsequently to a low of RM2.8 billion (2011). This was partially a result of the revised treatment in 2004 but largely due to the lower issuances and a preference among investors for holding the papers to maturity. Figure 11 indicates the total debt securities issuances by Cagamas from 2000 to 2012.

INVESTORS

Cagamas securities have been given the highest ratings by the country's two rating agencies. This reflects the high quality of Cagamas papers, which provide investors with a safe and reasonable return on their investments. Pension and provident funds, insurance companies and commercial banks find Cagamas securities an attractive investment. Cagamas securities are issued in multiples of RM1,000 but normally traded in lots of RM5 million.

Figure 10: Cagamas bond yield against MGS, GG, AAA, AA1, and A1 PDS (as at 31 July 2013)



Source: Cagamas Berhad.

The bonds and notes issued by Cagamas in 2012 continued to be assigned the highest ratings of AAA and P1 by RAM Rating Services Berhad and AAA/AAAID and MARC-1/MARC-1ID by Malaysian Rating Corporation Berhad, denoting the highest safety in repayment capability. These ratings underscore Cagamas’ high asset quality and balance-sheet strength, and when reflected in the market, 28% of Cagamas debt securities were held by banking institutions at the end of 2012 with the remaining 72% held mainly by insurance companies (27%), provident and pension funds (9%), and non-resident investors and corporates (16%).

The breakdown of Cagamas’ securities by type of investor suggests that:

- Banking institutions continue to form one of the major holders of Cagamas debt securities, mainly driven by the quality of the papers coupled with the demand to meet liquidity requirements as prescribed by the regulator. In addition, Cagamas’ ability to issue short-term to long-term papers also provides investment opportunities to banking institutions.
- Investment from insurance companies is on the rise, going from 0.2% of Cagamas securities in 1996 to 27% in 2012. This positive development is the result of guidelines set in BNM’s Risk-Based Capital Framework for Insurers, which reduced the level of insurance companies’ low-risk assets for technical reserves from 25% to 20% but widened the classification of eligible low-risk assets to include Cagamas private debt securities.
- The Employees Provident Fund (EPF) remains a significant investor in Cagamas debt securities. The EPF is required to hold 70% of its assets in low-risk government securities but each year receives exemptions from the Ministry of Finance due to the scarcity of such securities. As the EPF’s investment structure is expected to maintain decent returns in the future, it may continue to be interested in higher-yielding Cagamas-backed securities.

Figure 11: Issuance of Cagamas debt securities (RM million) (2000–2012)

Year	Fixed-rate bonds	Floating-rate bonds	Medium term notes	Cagamas notes	Commercial paper	Islamic bonds	Islamic medium term notes	Islamic commercial paper	Total
2000	8,403	-	-	14,182	-	144	-	-	22,729
2001	6,430	-	-	10,970	-	-	-	-	17,400
2002	8,925	-	-	10,015	-	610	-	-	19,550
2003	7,865	-	-	9,740	-	320	-	-	17,925
2004	6,690	-	-	1,025	-	1,600	-	-	9,315
2005	1,640	-	-	-	-	900	-	-	2,540
2006	3,650	-	-	780	-	3,500	-	-	7,930
2007	1,000	-	2,525	2,200	4,615	750	2,440	920	14,450
2008	-	-	2,510	-	11,965	-	2,535	945	17,955
2009	-	-	4,690	-	2,450	-	3,615	580	11,335
2010	-	570	1,075	-	660	-	4,720	620	7,645
2011	-	-	1,160	-	-	-	1,635	-	2,795
2012	-	-	880	-	-	-	2,540	1,500	4,920

Source: Cagamas Berhad.

Thus far, Cagamas' unsecured debt securities have been oversubscribed on issuance. For the period 2004-2012, the average oversubscription factor was about 2.3 times the amount of unsecured debt securities issued.

As noted, oversubscription results from the robust economic performance of the Malaysian economy and the strong demand for AAA private debt securities. However, the seller's market does not benefit investors and dealers. Market participants have indicated that Cagamas can explore "tap issuance" by creating pools of bonds with similar cash-flow patterns within larger traded lines on secondary markets. This proposal could reduce overall rates and help develop dealer-trading.

Cagamas' cost of funds was affected during the Asian Financial Crisis, consistent with the market environment at the time. In April 1998 Cagamas issued a four-year fixed-rate bond at 8.98% – a considerably higher rate than the previous year. In May 1998, Cagamas' three-year issue was priced at 9.67% – an increase of 69 basis points in a month. At such levels, it would eventually have been obliged to offer purchasing rates above 10%. Cagamas responded by introducing a differential pricing policy, which offered a lower Cagamas rate to financial institutions selling housing loans for houses costing RM100,000 and below. In line with the general decline in interest rates, in October 1998 Cagamas issued a three-year bond at 7.58%, two percentage points lower than its issuance in May 1998.

MANAGING RISK

Cagamas' Board of Directors established a Board Risk Committee (BRC) to assist the Board in its oversight role in ensuring the Company had an appropriate risk management system in place to manage the risks associated with the Company's operations and activities. Cagamas also established an Enterprise Risk Management Framework that defines the sources of key business risks and outlines the roles and responsibilities of the Board of Directors, as well as the key internal committees for managing specific areas of risk such as the Management Executive Committee and the Asset Liability Committee. The Company's Risk Management Department, which reports to the BRC, is responsible for analysing, monitoring, controlling and reporting risk exposures independently to the BRC and Board of Directors. The Internal Audit Department and Legal and Compliance Department also have oversight on risk and compliance issues.

I. Credit risk

In the context of Cagamas, credit risk is defined as the potential loss resulting from the failure of a borrower or counterparty to fulfil its financial or contractual obligations. Credit risk arises from the PWR and PWOR business, the mortgage guarantee programme, investments and treasury hedging activities. Cagamas manages its credit risk by conducting credit assessment on counterparties, and by stipulating prudent eligibility criteria and conducting due diligence on loans to be purchased.

Cagamas applies conservative purchasing limits to its participating primary lenders based on total assets, total equity, return on average assets, ownership structure, timeliness of reports, existing ratings and current use of Cagamas funds. An internal system sets out

the maximum credit limit permitted for each category of rating and these are kept within parameters approved by the Board of Directors.

To ensure safety and liquidity of investments, Cagamas' investment portfolio is limited to highly-rated investments, primarily Government or Government-guaranteed bonds. More than 90% of its investment portfolio is in Government and AAA issues. Investment activities are guided by internal credit policies and guidelines approved by the Board of Directors.

Under the PWR scheme, Cagamas can exercise its rights to require the lender to repurchase in the event of default by the lender and/or the borrowers of the underlying mortgages. As most of Cagamas' counterparties comprising banking and prime non-banking institutions are under the purview of BNM, Cagamas' credit risks are reduced as, generally, these institutions are expected to be financially sound and adequately supervised by the regulators such that prompt action will be taken to resolve distressed institutions should the situation arise.

II. Market and liquidity risk

The market risk of Cagamas is limited to only interest rate risk as it is not engaged in any equity, foreign exchange or commodity trading activities. The Company has an Asset Liability Management System which provides tools such as duration gap analysis, interest sensitivity analysis and income simulations under different scenarios to monitor interest rate risk.

Liquidity risk may also arise. To mitigate this, Cagamas has set aside considerable liquidity reserves to meet any unexpected shortfall in cash flow or adverse conditions in the financial market.

Cagamas mitigates its liquidity risk by adhering to a strict match-funding policy whereby all asset purchases are funded by bonds of a matching size and duration and which are self-sufficient in cash flow. This liquidity-management process mitigates cash flow mismatches and liquidity gaps to ensure that Cagamas is able to meet its obligations when they fall due. Typically, the cash flows and tenures of Cagamas' funding facilities are matched against the portfolio of receivables to be purchased. Furthermore, Cagamas enjoys relatively stable access to the domestic capital and money markets as it is the largest issuer of PDS in Malaysia.

III. Operational risk

Operational risk may arise as a result of inadequate or failed internal processes, people and systems, or from external events. Cagamas' front-office, middle-office and back-office units undertake self-assessment of the risk and control environment to identify, assess and manage its operational risk. Cagamas has established comprehensive internal controls, systems and procedures that are subject to regular review by both internal and external audit oversight. Cagamas has also established a Business Continuity Plan to avoid or mitigate business operational risk.

As such, since its inception, Cagamas has minimised most of its risks, including mortgage credit risk, counterparty originator risk, prepayment risk, interest rate risk and business risk. The prudent procedures governing purchases and issues have proven simple and efficient.

Notwithstanding the above, it is relevant to address some of the foregoing concerns that may have an impact on Cagamas' business.

IV. Mortgage risk

Mortgage risk refers to whether a sufficient quality and quantity of underlying mortgages will be available to repay Cagamas and service its securities, particularly if a primary lender becomes insolvent or is unable to adequately service its mortgage portfolio.

This risk is reduced by the principles governing purchases as well as the reporting requirements for primary lenders selling portfolios to Cagamas. Rating agencies can rate Cagamas' private debt securities using two stress tests: an insolvent primary lender and an inadequate mortgage portfolio. The weak probability of a simultaneous occurrence of these two events cannot be taken for granted – an economic crisis could affect both mortgage lenders and borrowers. Despite these concerns, Cagamas' rating has remained very positive (AAA), even at the height of the Asian Financial Crisis. Under the PWR programme, the primary lenders are required to provide periodic reports on loan performances such as arrears, prepayment and redemption. From these reports, Cagamas will identify loans to be replaced by the primary lenders. Should a primary lender default on its repayments to Cagamas, Cagamas can exercise its power of attorney to transfer the loans to Cagamas or to its nominee, failing which Cagamas will have to obtain a court order. The mortgage portfolio will continue to generate the cash flow needed to service Cagamas securities.

Hence, it is pertinent that Cagamas continue with the audit of mortgage loans for the PWR programme although according to Cagamas, portfolio anomalies and exceptions to date have not been significant and do not affect the quality of loans.

For loans purchased on a without recourse basis, insolvent primary lenders may be replaced with stronger servicing institutions. However, with servicer replacement, the cost equation for the transaction is likely to increase for Cagamas. In economic crises where sections of borrowers default, Cagamas may rely on an established legal and administrative framework to foreclose landed properties, although the efficacy of the process may vary in each land district. More importantly, the granularity of the loans purchased is Cagamas' answer to the possibility of concentrated credit risk exposure in such circumstances.

V. Business risk

Cagamas is assured steady demand as long as lenders are not given a cheaper funding alternative. After the Asian Financial Crisis, the weaker banking institutions were merged with more robust ones. Today, with ample market liquidity, banking institutions have strengthened significantly and hold strong capital and financial positions.

After more than two and a half decades of success, Cagamas has found it a challenge to play its original mandated role under a strengthened and resilient financial market. Nevertheless, due to the ability of Cagamas to innovate and provide hedging mechanisms to Islamic banks looking for options to hedge their profit rate risk, Cagamas has been successful in the Islamic finance space. With the impending adoption of Basel III, banking institutions will look to Cagamas to purchase some of their loan portfolios to enable them to be more efficient in their capital management.

Having proactively undertaken a strategic review of its mandate and roles, Cagamas is now looking into new asset classes, new counterparties, widening its investor base and undertaking new initiatives to help improve the bond market. Cagamas is also working beyond the nation's shores to replicate its success abroad and also support the regionalisation of Malaysian financial institutions.

It is to be noted that a significant development obstacle for Cagamas may arise from the excessively narrow investor base in Malaysian capital markets. Coupled with limited issuers, this severely constrains the establishment of benchmarks and liquid trading of securities, including those of Cagamas in secondary markets.

VI. Prepayment and pipeline risk

The principal amount and tenures of the bonds issued are structured to match the principal rundown of loans purchased and to achieve optimal returns by matching both cash flow and duration of bonds. With Cagamas' fixed-rate refinancing conditions, capital payments are predetermined independently of variable-rate mortgage pools but prepayments are also passed through to Cagamas, enlarging the mismatch.

Cagamas' exposure will be more important if its review periods are too long. This will create a serious obstacle to longer-term funding of retail lenders, exposing Cagamas to excessive risk. In times of crisis, as in 1998, the Cagamas spread can be volatile because MGS may not be considered reliable benchmarks in thin bond markets with irregular issuance and weak liquidity in secondary markets, particularly for medium-term and long-term tenures. However, Cagamas is required to purchase its loans at contractual prices before issuing funding securities. Because of this delay, Cagamas bonds turned out to be more expensive in the first half of 1998 when rates became more volatile. Dealers could not always provide reliable early indications or price forecasts before Cagamas set its purchasing price. Although Cagamas today exercises greater flexibility in its approach to pricing, such as committing only on indicative rates, pursuing cost-plus options and/or using interest rate swaps, the situation in a volatile market could change things.

CONCLUSION

Malaysia was the first country in the region, and is probably one of the earliest among the developing economies, to establish a secondary mortgage market. At the time the market was established, the business and financial communities in Malaysia were unfamiliar with the concept of securitisation and the bond market was still underdeveloped, with MGS being the only type of debt securities available.

Cagamas has come a long way in fulfilling its initial mandate to help promote the spread of homeownership among Malaysians through competitive funding. It introduced several financial products and innovations to suit local circumstances. Over the years, Cagamas has contributed to granting loans at longer tenures and making housing loans accessible at reasonable cost within the financial sector. Cagamas has generated strong competition among financial institutions to grant housing loans during the formative years of home financing, which is crucial to the overall success of the Government's housing policy as well as private sector initiatives.

With its innovative products, Cagamas has played a pivotal role in the development of Malaysia's private debt securities market. It has become a leader in this area with the securitisation of residential mortgage-backed securities, structured products as well as Islamic commercial paper and medium term notes. Cagamas has provided highly-rated multi-tenure bonds and sukuk for the investor base, and has played a significant role in developing the Islamic capital market.

Cagamas' role as a financial intermediary can be expanded to serve both the financial sector and government sector in areas of liquidity, capital management and risk management. As a pioneer in Islamic financial product innovation in the secondary mortgage space, it serves as an excellent model for nations with similar requirements. Cagamas on its own is reviewing its strategic course including a role in regional mortgage markets.

Endnotes

¹The publisher records its appreciation of the inputs to this chapter provided by Mr Angus Salim Amran, former Senior Vice President, Treasury & Capital Markets, Cagamas.

²Under the BNM Guidelines on Single Counterparty Exposure Limit (SCEL) issued on 28 February 2013, Article 8.1 states that "banking institutions shall comply at all times with the SCEL whereby total exposure to a single counterparty must not exceed 25% of the banking institution's total capital." It would also appear from these Guidelines that SCCL (BNM/GP5) has been superseded by SCEL.

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INTRODUCTION

Sukuk, commonly known as Islamic bonds, constitute one of the fastest-growing segments in the Islamic financial system. Beginning with a modest US\$30 million issuance in 1990, the market closed at US\$140 billion in new issuances in 2012. This chapter focuses on the role played by the Malaysian national mortgage corporation, Cagamas, in the Islamic securities (i.e. sukuk) market. It begins with an overview of Islamic finance principles and the development of the sukuk market globally and in Malaysia.

The main part of this chapter elaborates on the different types of sukuk issued by Cagamas, which range from the domestically-focused Sukuk Bai' Bi Thaman Ajil (BBA) to the globally-acceptable Sukuk Murabahah, Sukuk Wakalah Bil-Istithmar and Sukuk Al-Amanah Li Al-Istithmar (ALIm). The chapter also covers how Cagamas was one of the pioneers of Malaysian Islamic asset-backed securities.

The final section of this chapter highlights the benefits brought by Cagamas to the Islamic financial market.

ISLAMIC FINANCE PRINCIPLES APPLICABLE TO THE SECURITIES MARKET

The Malaysian Islamic capital market is governed by universal shariah principles as well as specific rules defined by the Shariah Advisory Council of the Securities Commission of Malaysia (SC). Commercial activities in shariah (*muamalat*) are governed by the doctrine of permissibility: the original ruling in contract is permissibility. This means that, in commercial transactions, parties are free to innovate and transact. They must, however, avoid what is clearly prohibited in shariah. The main shariah rules for commercial transactions govern the prohibition of *riba* (interest) and reduction of *gharar* (ambiguity). Other rules relate to structure, business processes and use of proceeds. Let us examine the main shariah principles applicable to the securities market.

1. *Riba* literally means “extra”. A practical definition refers to interest on loan transactions. *Riba* must be eliminated in Islamic finance transactions. Therefore, in Islamic finance, loan transactions are not profit-making tools. Loans are replaced by sale, lease, partnership or agency-based transactions. The prohibition of *riba* affects the securities market in the following ways:

- a. **Primary market:** sukuk will apply sale, lease, agency or partnership-based transactions instead of a loan transaction. For Islamic asset-backed securities (ABS-i), the global shariah standard restricts the sale of shariah-compliant receivables at a discount to back the ABS-i.
- b. **Secondary market:** the global shariah standard does not permit trading of sukuk that represent receivables. The Shariah Advisory Council of the SC, however, does not impose this restriction.

Section V will discuss these issues in further detail.

2. *Gharar* literally means “deception”. A practical definition refers to ambiguity in exchange contracts. Sale and lease transactions are exchange contracts. Shariah rules require clarity on four elements in every exchange contract: quantity, quality, price and time of delivery. It is impossible to eliminate *gharar* in totality. Therefore, *gharar* should be minimised through clarity in the four elements mentioned to avoid disputes between parties. *Gharar* affects the securities market in the following ways:

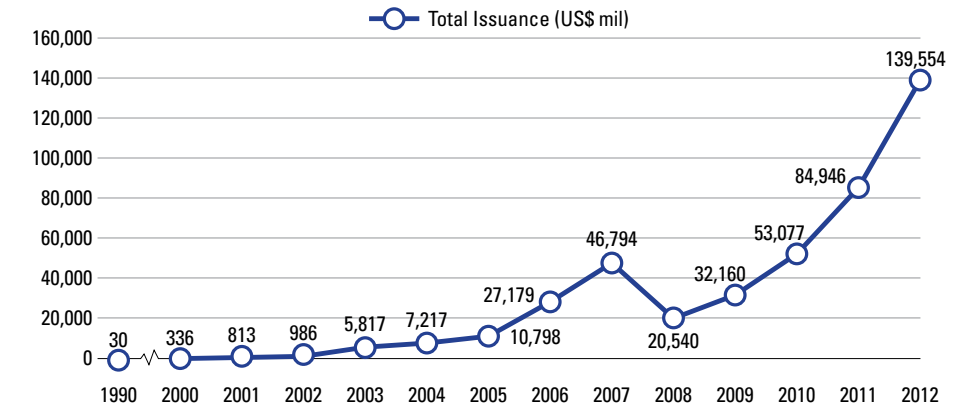
- a. For sukuk that are based on sale and lease transactions, the underlying asset must be clearly identified and the parties must have clarity over the four elements of the transaction.
- b. The disclosure and transparency requirements of global capital market regulators, including the SC, are in line with efforts to minimise *gharar* in order to reduce the risk of disputes between counter-parties.

3. Other shariah rules relevant to the securities market include:

- a. **Beneficial ownership:** as with Common Law, shariah recognises beneficial ownership and constructive possession. Therefore, when there is a sale of an asset to facilitate a sukuk issuance, shariah rules do not require re-registration of title as evidence of ownership.
- b. **Promise versus contract:** the majority of shariah scholars recognise that promises are binding. However, unlike a contract that is binding on both parties (i.e. bilateral), a promise is binding only on the promisor (i.e. unilateral). A number of sukuk use preceding or terminal promises to limit the exposure of investors to credit risks.
- c. **Benchmarking and price:** In shariah, price is based on “offer and acceptance”. Therefore, it is common to find sukuk that use conventional interest-rate benchmarks in setting issuing prices.

SNAPSHOT OF GLOBAL SUKUK MARKET DEVELOPMENT

Figure 1: Global sukuk market development – annual new issuances



Source: Islamic Finance Information Service; Zawya Database.

Thanks in no small part to the innovations pioneered in Malaysia, the global sukuk market has shown dramatic growth since 2000 (see Figure 1). After the 2008 dip, the sukuk market has seen issuers from new markets tapping into the liquidity of Islamic finance when the Global Financial Crisis affected liquidity in the Western markets. For example, General Electric issued US\$500 million in sukuk in November 2009. Goldman Sachs tried to tap into the sukuk market in October 2011 with a US\$2 billion programme but was unsuccessful due to misunderstanding and controversy.

Led by the Kuveyt Turk issuance in 2010 and 2011, the Republic of Turkey came to the market in September 2012 with a US\$1.5 billion global sukuk. Egypt, after the revolution, passed a sukuk law in 2013. Both the Government of Egypt and Egyptian businesses are expected to issue sukuk from 2013.

The economic turmoil in 2008–2009 also brought a few sukuk into default or near-default. Although a painful experience for investors, this served as an important milestone for the sukuk market. The market learnt to exercise better due diligence, came to realise that sukuk was not immune to bad credit decisions, and learnt to test the legal and shariah frameworks for sukuk in a few markets. Consequently, many jurisdictions are now focused on improving their securities regulations including those governing sukuk. These developments have led to a much more mature Islamic securities market.

Malaysia serves as an engine of global growth in two ways. First, Malaysia provides leadership in volume. Second, Malaysia is the market with the most advanced regulatory framework. The Malaysian framework supports the issuance of new forms of securities.

From Figure 2, it is clear that Malaysia is the leader in the global Islamic financial market. It has had a consistent market share of over 70% for the past three years. This is driven by the fact that Malaysia has an active domestic sukuk market. Elsewhere, Saudi Arabia has been trying to establish an active domestic market as well. Bahrain's consistency in issuance is driven by Central Bank and Government of Bahrain issuances. Pakistan and

Indonesia have had increasing corporate issuances. The UAE has been consistently among the top two or three issuers. However, many UAE issuances use offshore special purpose vehicles (SPVs).

Figure 2: Sukuk market share (US\$ million) (2009–2012)

	2009	2010	2011	2012
Malaysia	10,419	33,792	58,846	101,300
Saudi Arabia	3,110	3,004	2,764	10,517
Indonesia	1,698	3,088	3,816	6,425
Pakistan	365	968	1,908	999
Bahrain	1,477	700	2,551	1,284
Qatar	0	2,124	9,278	5,450
UAE	3,331	913	4,085	6,477
Others	947	555	1,160	5,395
Total	21,347	45,144	84,408	137,847

Top issuer

Second

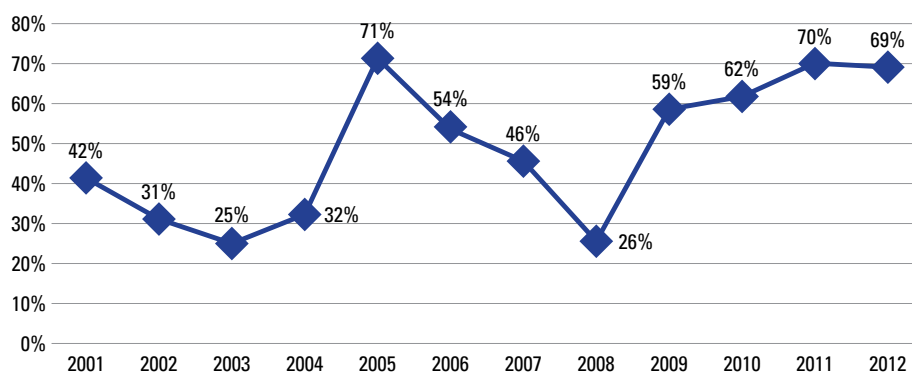
Third

Source: *Zawya Sukuk Quarterly Bulletin*, various issues.

SUKUK MARKET TRENDS IN MALAYSIA

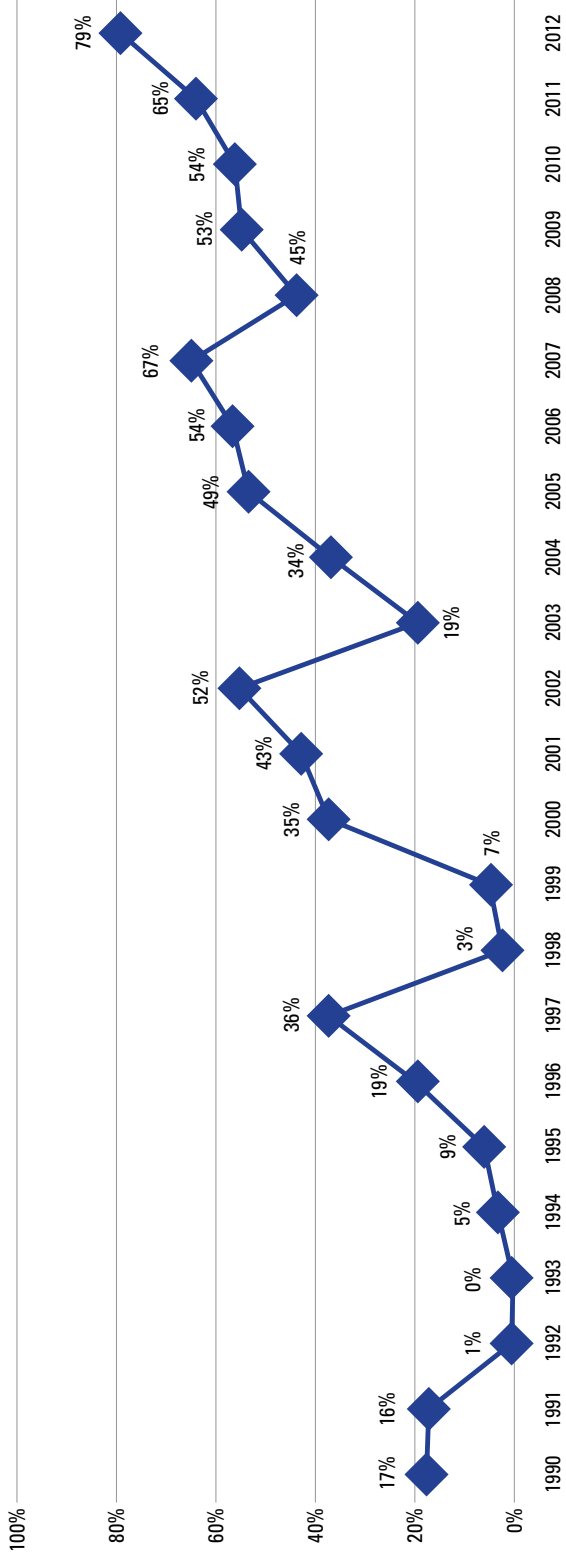
In comparison to bond issuance, sukuk have become the dominant Malaysian capital market instrument. On one hand, the Ministry of Finance and the SC have introduced a number of incentives to drive underwriters, issuers and investors to the sukuk market. On the other, Malaysia's thought leadership in the sukuk market has meant that sukuk are often the logical first choice for any qualifying institution (i.e. with shariah-compliant use of the proceeds) issuing securities. Upon the release of the Islamic Securities Guidelines in 2004, the application and thus the approval for sukuk issuance peaked at 71% in 2005 (see Figure 3). After the dip during the financial crisis, the trend recovered. Since 2010, about two thirds of private debt securities (PDS) approved in Malaysia have been sukuk.

Figure 3: Islamic PDS (or corporate sukuk) approved as % of total PDS approved



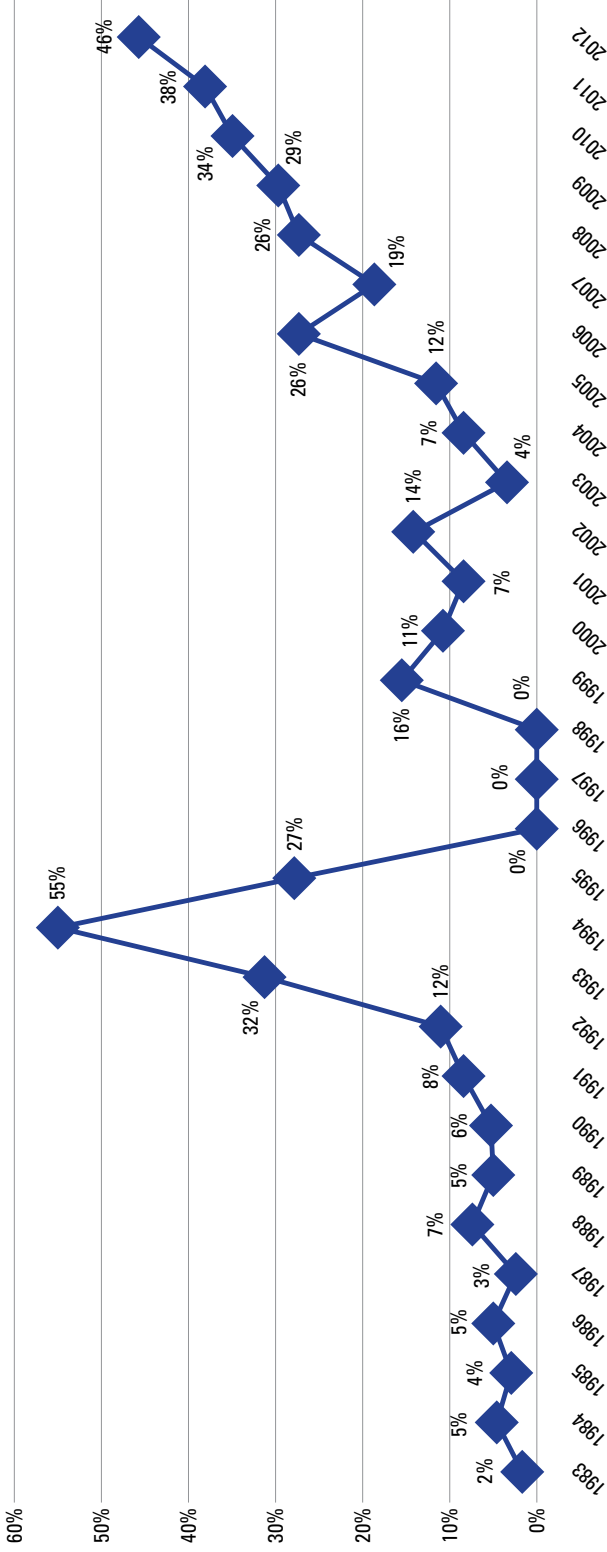
Source: Securities Commission Malaysia.

Figure 4: New corporate sukuk issued compared to total PDS issued (excluding Cagamas)



Source: Bank Negara Malaysia, *Monthly Statistical Bulletin*.

Figure 5: Sovereign MYR new Islamic debt securities issuance compared to total new debt securities issuance (excluding Khazanah)



Source: Bank Negara Malaysia, *Monthly Statistical Bulletin*.

In Malaysia, consistent corporate bond issuance only started after 1987. Consistent sukuk issuance began only after 1996. Figure 4 shows the annual private sector or corporate sukuk issuance in comparison to total PDS issued in Malaysia, excluding Cagamas issuances. New Islamic PDS issuances have been on an increasing trend compared to corporate bonds, peaking at about 80% in 2012.

A similar trend can be seen in public sector sovereign sukuk issuance (see Figure 5). Readers should note that Bank Negara Malaysia (BNM) data show dedicated allocations for Government Investment Issue (GII) and Sukuk Perumahan Kerajaan (Government Housing Sukuk),¹ which have been included here as Islamic debt securities (Figure 5 does not capture global sukuk issuance by the Government of Malaysia). The growth trend in 2012 was influenced by the issuance of the RM4.5 billion Government Housing Sukuk. Figure 5 also does not include the Merdeka Savings Bond as a part of Islamic debt securities although in recent years these have been issued as sukuk.

Figure 6: Outstanding Malaysian ringgit sukuk

Year	Proportion of Sukuk to total bonds outstanding			Total outstanding (conventional and Islamic)
	Govt	BNM	Others	
1997 (Sep–Dec)	0%	0%	100%	2%
1998	0%	0%	100%	6%
1999	0%	0%	100%	11%
2000	4%	4%	21%	15%
2001	4%	13%	27%	18%
2002	4%	16%	36%	23%
2003	5%	28%	38%	24%
2004	6%	33%	41%	25%
2005	7%	41%	46%	29%
2006	11%	43%	50%	32%
2007	13%	29%	56%	36%
2008	17%	21%	56%	36%
2009	22%	28%	57%	39%
2010	24%	30%	57%	39%
2011	29%	30%	60%	42%
2012	34%	40%	65%	47%
2013 (until May)	34%	42%	66%	48%

The table shows the relative contribution of sukuk outstanding from each class of issuer proportionate to all sukuk issuers (Government, BNM and Others) for the given year. The right-most column shows total outstanding sukuk from all classes of issuer for the year as a proportion of total conventional and Islamic bonds issued by the same parties for the same year.

Source: Bond Info Hub.

Beginning from a modest 2% in 1997, outstanding sukuk in comparison to total Malaysian ringgit bonds outstanding have been showing an increasing trend on a yearly basis (see Figure 6). The Malaysian sukuk market is very vibrant. The increasing trend in the outstanding sukuk percentages has been driven by non-Government issuance. In summary, sukuk are a popular choice in Malaysia by all measures: approval by the SC, new issuances and the total sukuk outstanding.

CAGAMAS SUKUK ISSUANCE

“Since commencing operations in 1987 to end-2012, the Group has issued approximately RM265 billion unsecured debt securities including RM11 billion of Residential Mortgage-Backed Securities (RMBS). The Cagamas Group remains the single largest issuer of PDS accounting for 8% of total outstanding corporate debt securities and 22% of all outstanding AAA debt securities in Malaysia” (Cagamas 2012).

Islamic securities issuance began in Malaysia in 1990, and since 2002, Cagamas has been consistently issuing sukuk (see Figure 7). Beginning with a modest 0.4% in 1994, sukuk (including Islamic RMBS) as a percentage of Cagamas' annual securities issuance grew to a staggering 82% in 2012 (refer to the right-hand-side scale in Figure 7). This is strong evidence of Cagamas' support for the sukuk market. Even during the Asian Financial Crisis and the recent Global Financial Crisis, Cagamas was still active in the market. In other words, Cagamas provided an underpinning support to the markets during times of instability.

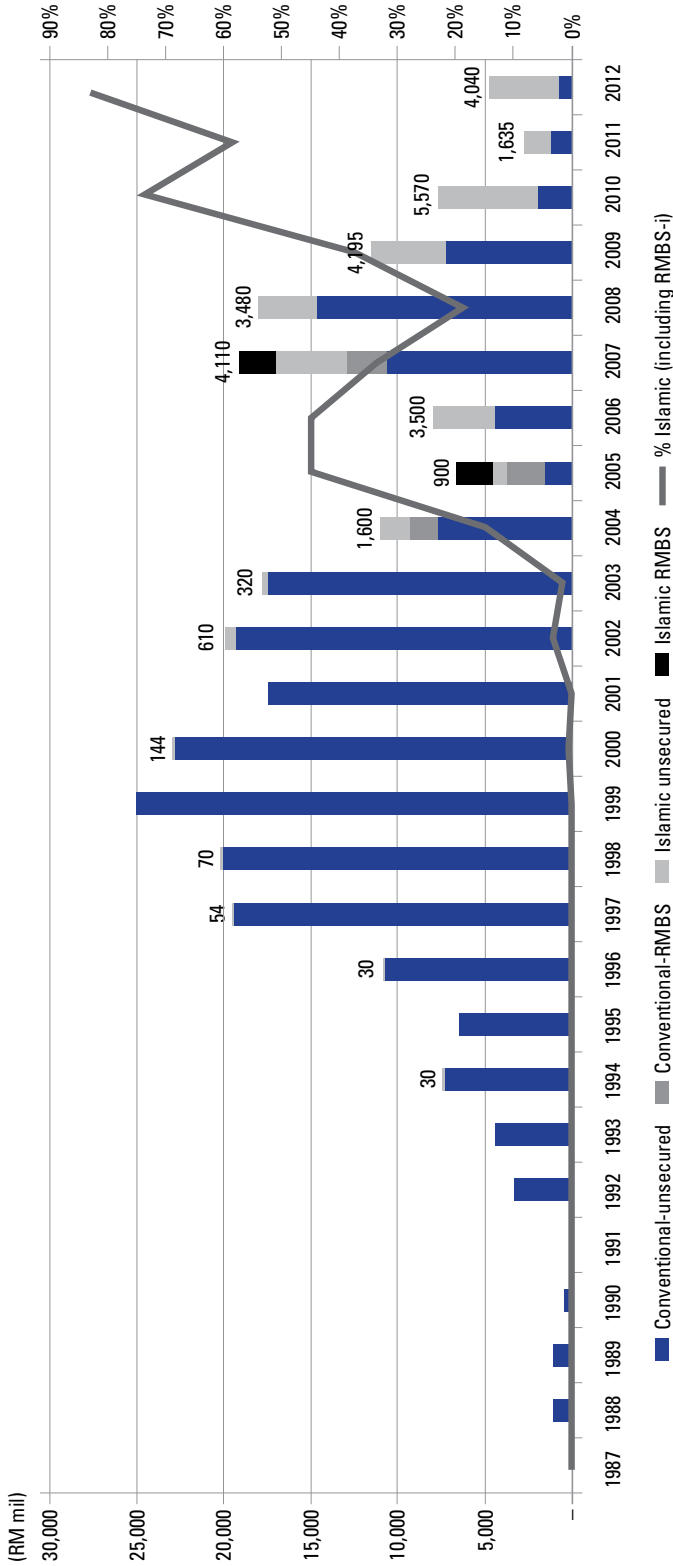
Cagamas has issued Sanadat Mudarabah since 1994. Cagamas also expanded its asset purchases by buying Islamic hire-purchase portfolios in 2002 (see Figure 8). In 2004, Cagamas migrated to BBA sukuk, thereby allowing it to offer a predetermined profit rate to investors. During this period, it also started utilising private placements and book-building exercises as its mode of issuance instead of soliciting tenders from principal dealers. Cagamas' first Islamic RMBS (IRMBS) was issued a year after the conventional issuance of RMBS in 2004.

Prior to the programme issuance, the tenures of Cagamas sukuk (excluding IRMBS) were commonly three, five or seven years. The programme issuances beginning in 2007 allowed Cagamas to stretch the tenure of its Medium Term Notes (MTN) up to 40 years. This was available under both Islamic and conventional programmes. The Islamic MTN and Islamic Commercial Paper (CP) in 2007 witnessed another level of innovation by Cagamas, utilising Commodity Murabahah, which is acceptable to many Islamic banks that apply global shariah standards. In 2010, Cagamas brought another innovation to the market through the issuance of Sukuk Al-Amanah Li Al-Istithmar (ALIm), meeting the shariah standards of one of the most conservative Islamic banks globally, Al-Rajhi. Last but not least, Cagamas issued Sukuk Wakalah Bil Istithmar in 2012, a hybrid sukuk that combined debt and equity components. Let us examine the different types of sukuk issuances by Cagamas in further detail.

I. Sanadat Mudarabah

Figure 9 illustrates the mechanics of Sanadat Mudarabah. Although the illustration shows the purchase of Islamic Hire-Purchase (IHP), the same mechanics are applicable to Islamic Home Financing (IHF) as well.

Figure 7: Cagamas annual securities issuance



The left-hand-side scale shows the total Cagamas securities issued (conventional and Islamic). The numbers above each bar highlight Islamic unsecured sukuk issuance by Cagamas in RM million. For example, in 2000, Cagamas issued RM144 million unsecured sukuk (compared to RM22.6 billion conventional unsecured bonds), and in 2010, Cagamas issued RM5.6 billion unsecured sukuk (compared to RM2 billion conventional unsecured bonds).

Source: Cagamas Berhad.

Figure 8: Cagamas sukuk details since 2002

Date	Sukuk type	Amount (RM mil)	Maturity (years)	Mode of issue	Usage of proceeds
26-Feb-02	Sanadat Mudarabah	50	7	Tender	IHF
23-Apr-02	Sanadat Mudarabah	500	5	Tender	IHP
22-Aug-02	Sanadat Mudarabah	60	5	Tender	IHF
27-Feb-03	Sanadat Mudarabah	50	3	Tender	IHP
27-Mar-03	Sanadat Mudarabah	150	3	Tender	IHP
11-Apr-03	Sanadat Mudarabah	120	5	Tender	IHF
20-Aug-04	Sanadat Cagamas (BBA)	1,000	5	Tender	IHF & IHP
4-Mar-05	BAIS	200	3	PP	IHF & IHP
16-May-05	BAIS	200	3	PP	IHF & IHP
8-Aug-05	IRMBS	2,050	15	Book building	IHF
27-Jan-06	BAIS	500	2	PP	IHP
24-Feb-06	BAIS	1,000	5	PP	IHP
29-May-07	IRMBS	2,110	20	Book building	IHF
25-Jun-07	Conventional & Islamic MTN Programme	40,000 (37,580)	40	Multiple	General Corporate
25-Jun-07	Conventional & Islamic CP Programme	20,000 (25,790)	7	Multiple	General Corporate
19-Aug-10	ICP & IMTN (ALIm)	5,000 (1,100)	7&30	Multiple	General Corporate

BAIS = Bai' Bi Thaman Ajil Islamic Securities
 IRMBS = Islamic Residential Mortgage-Backed Securities
 CP = Commercial Paper
 MTN = Medium Term Note
 IHF = Islamic Home Financing
 IHP = Islamic Hire-Purchase
 PP = Private Placement

Numbers in parentheses denote issuance amounts.

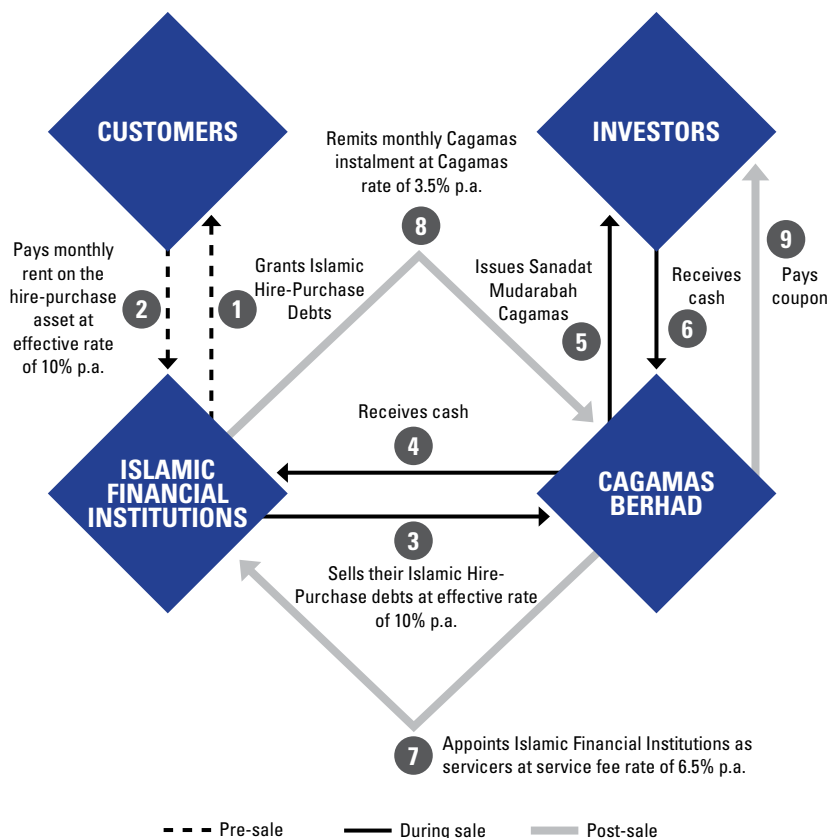
Source: Securities Commission Malaysia.

All unsecured sukuk issued by Cagamas will be used to purchase IHF or IHP from Islamic financial institutions (IFI). For example, let's say an IFI has an IHP portfolio worth RM30 million with an effective profit rate of 10% per annum. The IFI will sell this portfolio to Cagamas (for RM30 million), which will issue Sanadat Mudarabah to fund the purchase. The sukuk proceeds will be used to pay the IFI.

Cagamas will appoint the IFI as the servicing agent to manage the portfolio. The IFI will continue to have custody of the portfolio and administer the accounts. Each month, the IFI will remit an instalment to Cagamas at a fixed rate (3.5% in the example), keeping the difference between this rate and the effective rate of the portfolio (10%) as its fee.

Cagamas will use the monthly instalments to pay the profit to the Mudarabah sukuk-holders, on a semiannual basis. The rate paid to the sukuk-holders is normally lower than the Cagamas rate charged to the IFI, so Cagamas retains some profit for itself. From the shariah perspective, Cagamas is entitled to a share of the profit in the Mudarabah.

Figure 9: Sanadat Mudarabah backed by an Islamic Hire-Purchase portfolio



Source: Cagamas Berhad, *Cagamas Annual Report, 2001*.

Cagamas may purchase the Islamic financing portfolio from the IFI either with recourse or without recourse. Purchase with recourse (PWR) is more common than purchase without recourse (PWOR), which was used by Cagamas only from 2007 onwards. In a PWR purchase,

if there are defaults in the portfolio, the IFI will replace the defective portfolio on a quarterly basis. This means that Cagamas takes the IFI's credit risk instead of the portfolio risk.

At maturity, the IFI has the right to repurchase the portfolio from Cagamas or to continue with the arrangement for another review period (which ranges from three to seven years). Recall that Cagamas receives monthly instalments from the IFI. These instalments consist of the profit and principal portions of the underlying transactions. Cagamas receives profit at a rate of 3.5% and the principal payment from the customer. Cagamas will accumulate the monthly principal portion and use the sum to redeem the sukuk issued upon its maturity.

In a PWOR scheme, if there are defaults in the portfolio, the IFI will not replace this with a new portfolio. This means Cagamas bears the portfolio risk. To manage this risk, Cagamas may put in place overcollateralisation arrangements. For example, Cagamas may pay the IFI RM100 million to buy a portfolio worth RM120 million. The buffer of RM20 million is used to manage the portfolio risk.² As far as the sukuk-holders are concerned, their recourse is to Cagamas and not the portfolio. Therefore, regardless of whether Cagamas enters into a PWR or PWOR arrangement with the IFI, the sukuk issued by Cagamas have the same legal status (i.e. as unsecured sukuk). In other words, Cagamas will issue unsecured sukuk to finance its PWR and PWOR portfolio.

II. Sukuk Bai' Bi Thaman Ajil (BBA)

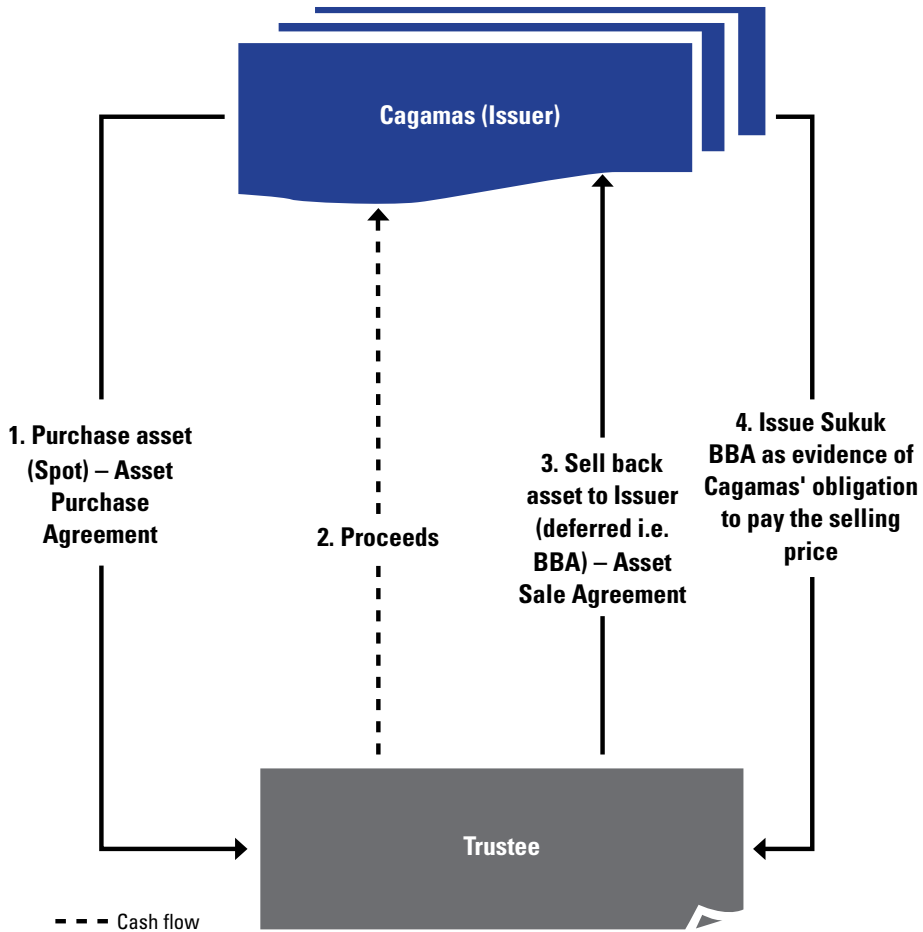
After 10 years of offering Sanadat Mudarabah, Cagamas issued its first BBA sukuk in 2004, known as Sanadat Cagamas, following feedback from market players that they would prefer Cagamas to issue sukuk based on a sale concept rather than that of profit-sharing since profit can be predetermined in sale-based sukuk. The following issuances used the term Bai' Bi Thaman Ajil Islamic Securities (BAIS) because the term *sanadat* refers to a conventional bond in the Middle East market. The simple mechanics of BAIS are shown in Figure 10.

Bai' bi thaman ajil literally means a credit sale. In Malaysia, Sukuk BBA and Sukuk Murabahah (prior to the introduction of Sukuk Commodity Murabahah) utilise the concept of *bai' al-inah* (sale and buy-back). In these sukuk, Cagamas will need to have an underlying asset. However, since Cagamas does not have many fixed assets, it introduced a new asset class as the underlying asset for sale-based sukuk in Malaysia – the Mudarabah Interbank Investment (MII). This means that Cagamas will make a Mudarabah placement with an Islamic bank. This Mudarabah certificate will be sold to the trustee on a spot basis. Cagamas obtains funding from this sale, which it uses to pay for the portfolio purchase. Immediately thereafter, the trustee will sell the MII back to Cagamas on a deferred basis (thus the name BBA). Since the sell-back is on a deferred basis, the sale price will be higher than the purchase price, and thus the investors earn their profit. As evidence of its obligation to pay the selling price, Cagamas will issue the sukuk. MII is a useful innovation for issuers who are not asset-rich. Three months after Cagamas' innovation with MII, Standard Chartered Bank also utilised the same tool for its Sukuk BBA-cum-Musharakah in December 2004.

Similar to Sanadat Mudarabah, the proceeds from the sukuk will be used for the purchase of IHF and IHP from IFIs on a PWR or PWOR basis. The year 2004 was also when Cagamas explored a new mode of issuance: private placement and book building.

The first book-building sales process was used in October 2004 for Cagamas' conventional securities. Since then, other BAIS have used this mode, allowing Cagamas to enjoy market-driven prices through a transparent pricing and allocation process. Investors welcomed this innovation and Cagamas was rewarded with a tight pricing, at only five basis points higher than Malaysian Government Securities (MGS).³

Figure 10: Bai' Bi Thaman Ajil Islamic Securities (BAIS) – simplified



Source: SHAPE® Knowledge Services.

Nonetheless, the global Islamic capital market does not utilise *bai' al-inah*. As an alternative, they use *tawarruq*, in an arrangement known as Commodity Murabahah, as the underlying structure in the primary market. We will examine how Cagamas brought this innovation to the Malaysian market in section IV.

III. Islamic Residential Mortgage-Backed Securities (IRMBS) Sukuk Musharakah

After its conventional RMBS was oversubscribed a staggering 5.6 times in 2004,

Cagamas pursued an Islamic RMBS in 2005. The IRMBS was issued based on the *musharakah* concept, another new approach by Cagamas.

The first issuance of IRMBS was done in August 2005 for RM2.05 billion followed by a RM2.1 billion issuance in May 2007. Rated AAA, the IRMBS attracted strong demand with four to five times oversubscription. The second Sukuk Musharakah had a tranche with a 20-year maturity, which at the time of issuance was the longest maturity for Islamic securities in Malaysia. Figures 11 and 12 show the transaction summaries of both IRMBS.

Figure 11: First Cagamas IRMBS transaction summary

First Cagamas MBS Sukuk Musharakah			
Size	RM2.05 billion		
Book Size	RM13.5 billion (5.4 times oversubscribed)		
Issuance Date	8 August 2005		
Investors	5% foreign, 95% domestic		
	Size (RM mil)	Profit	Spread over MGS (bp)
Three-year Note	250	3.41%	30
Five-year Note	215	3.84%	48
Seven-year Note	260	4.24%	49
10-year Note	515	4.71%	53
12-year Note	410	5.01%	68
15-year Note	400	5.27%	73

Source: Cagamas Berhad.

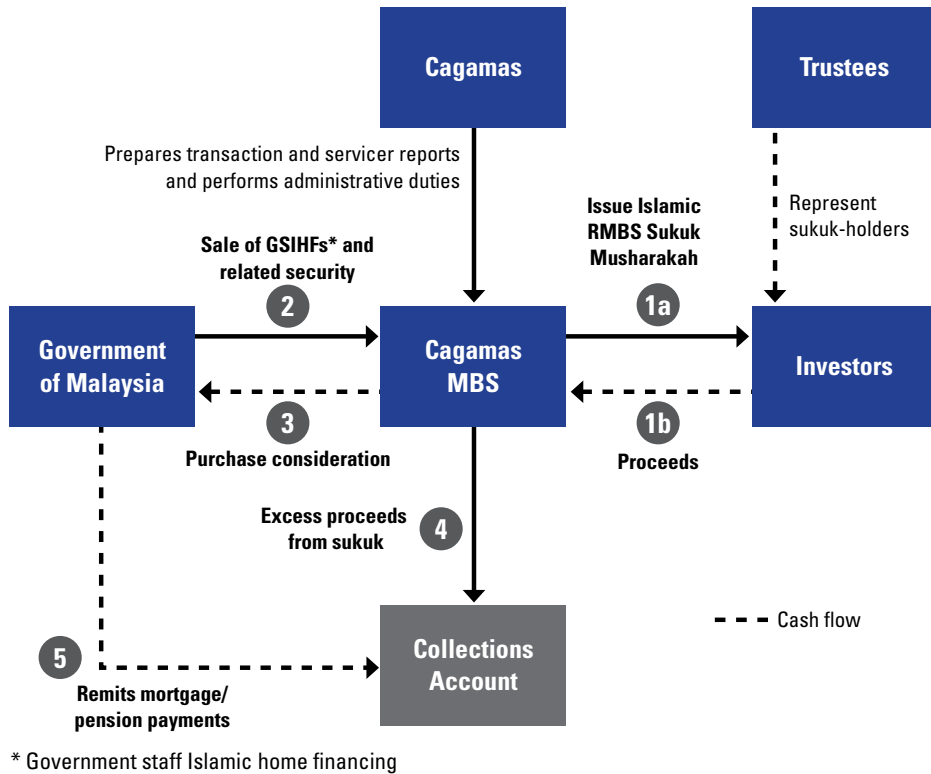
Figure 12: Second Cagamas IRMBS transaction summary

Second Cagamas MBS Sukuk Musharakah			
Size	RM2.11 billion		
Book Size	RM10 billion (four times oversubscribed)		
Issuance Date	29 May 2007		
Investors	20% foreign, 80% domestic		
	Size (RM mil)	Profit	Spread over MGS (bp)
Three-year Note	330	3.63%	43
Five-year Note	255	3.70%	50
Seven-year Note	270	3.78%	56
10-year Note	400	3.90%	66
12-year Note	245	4.02%	76
15-year Note	320	4.17%	87
20-year Note	290	4.34%	98

Source: Cagamas Berhad.

Both IRMBS utilised the same structure (see Figure 13). The asset backing the IRMBS was Islamic home financing provided by the Treasury Housing Loan Division of the Malaysian Government. The financing provided by the Treasury was based on BBA, and the issuer was Cagamas MBS Berhad, an SPV established for the purpose of the securitisation. The Sukuk Musharakah issuance involved partnerships among investors, which is a common model in Malaysia.

Figure 13: Cagamas IRMBS Sukuk Musharakah structure



Source: Cagamas Berhad.

Cagamas MBS used the sukuk proceeds of RM2,050 million to buy an IHF portfolio worth RM2,844 million from the Treasury (Cagamas 2005), acting as the agent for the sukuk-holders. The investors only had recourse to the assets. Since these were asset-backed sukuk, the sale between Cagamas MBS and the Treasury involved legal "true sale" by way of an equitable assignment. Cagamas MBS would appoint the Treasury as the servicing agent to manage the portfolio, and the collection from the portfolio would be remitted into a collection account that would be used to pay the sukuk-holders.

In summary, the IRMBS involved issuing sukuk and buying IHF receivables (based on Islamic home financing) from the Government of Malaysia via the Treasury. Although the deal related to the issue of *bai' al-dayn* (the sale of debt – a contentious issue with regard to shariah compliance), the sukuk were well accepted in Malaysia, Singapore and Hong

Kong. The structure may also be acceptable in other jurisdictions, especially to Middle Eastern investors, should the underlying IHF (i.e. what the SPV buys) be based on *ijarah*, *musharakah mutanaqisah* or a portfolio of mixed IHF structures.

The Cagamas IRMBS did not use any liquidity facility (to smooth the return) nor any purchase undertaking (to provide certainty of capital). Issuance of ABS was backed by detailed due diligence and by stress-testing the underlying asset to ensure both it and the reserves were sufficient to pay sukuk-holders profit and to redeem the capital. The IRMBS was close to the PWOR scheme because the Government of Malaysia would not replace a non-performing asset. Nonetheless, in the unsecured sukuk which were issued to fund the PWOR scheme, the sukuk-holders had recourse to Cagamas and not to the asset. In the IRMBS, the sukuk-holder's sole recourse was to the asset and not Cagamas or the Government. Since the asset was home financing provided to Government servants, and payment would be done via salary deduction, the risk of default was very low compared to similar commercial financing instruments for housing.

The IRMBS represented a new asset class in the sukuk market. As at December 2012, there were only 14 asset-backed sukuk globally. Cagamas' IRMBS was among the pioneer issuances in the market.

IV. Sukuk Murabahah

Since 2007, Cagamas has moved towards issuing Sukuk Murabahah in line with global shariah standards. Recall that in June 2007 Cagamas obtained approval for RM60 billion for its MTN and CP programme. This was available to Cagamas under both Islamic and conventional issuances and was the largest funding programme established not only in Malaysia but also in Asia (Cagamas 2007).

The programme allowed Cagamas to utilise multiple shariah concepts: *murabahah* (cost plus), *ijarah* (lease), *musharakah* (profit- and loss-sharing partnership), *mudarahah* (profit-sharing partnership) and *istina'a* (order sale). One month after the approval, Cagamas entered into a memorandum of participation with Bursa Malaysia's Bursa Suq Al-Sila, enabling Cagamas to use this platform for future Sukuk Murabahah issuances.

In August 2008, Cagamas issued its first Sukuk Murabahah worth RM2 billion under the IMTN programme, representing the largest domestic deal for the year. The sukuk were offered in multiple tranches representing the different tenures of one, two, three, five, seven, 10, 12, 15 and 20 years. During this period, Cagamas also issued RM540 million worth of conventional MTNs of one, two, three, five, seven, 12 and 20 years (Figure 14).

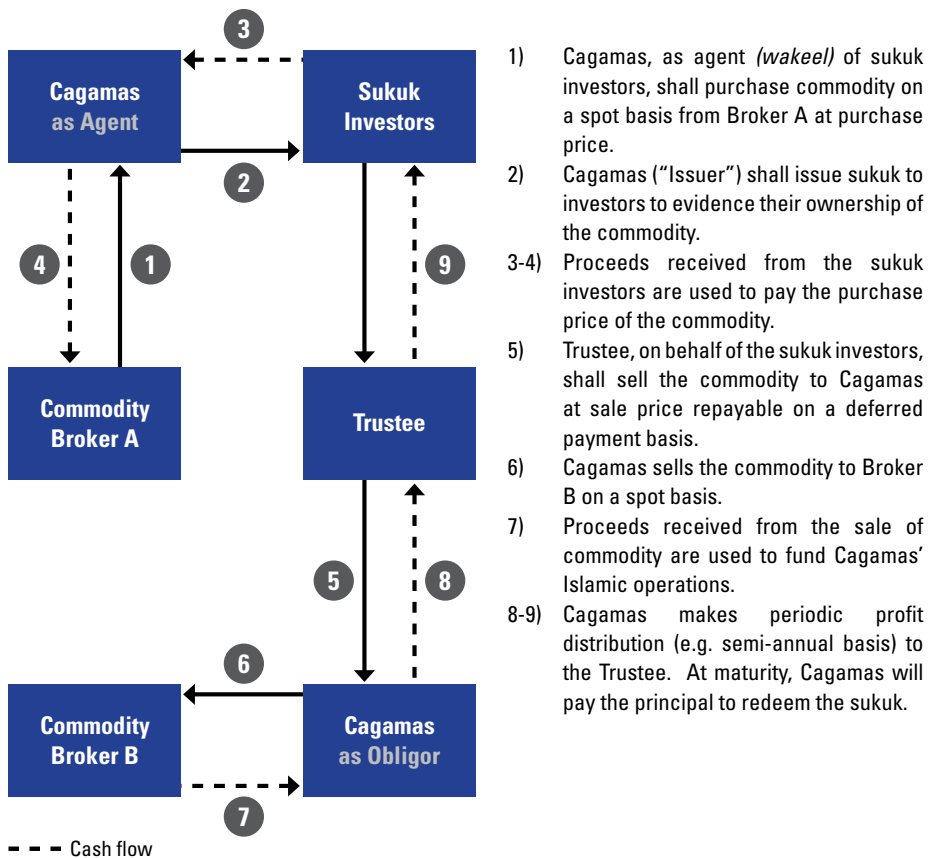
Figure 15 illustrates how Cagamas' Sukuk Murabahah, or Sukuk Commodity Murabahah, works. Cagamas first buys a commodity (crude palm oil) on behalf of investors (sukuk-holders) and issues sukuk as evidence of ownership of the commodity. The proceeds from the sukuk issuance are used to pay the commodity broker. This first commodity purchase is therefore a spot transaction. Then, the trustee (acting on behalf of the sukuk-holders) sells the commodity to Cagamas on a deferred basis (i.e. the *murabahah*) which includes the profit for the sukuk-holders. Now, as the owner of the commodity, Cagamas will sell it to another broker to obtain funding for its operations. Finally, Cagamas will pay the *murabahah* price to the trustee on an instalment basis.

Figure 14: Conventional and Islamic IMTN issued in August 2008

Tenure (Years)	Conventional (RM million)	Islamic (RM million)	Coupon/Yield (%)
1	200	320	4.05
2	25	95	4.25
3	30	105	4.60
5	70	215	5.00
7	60	215	5.30
10	0	155	5.80
12	65	235	6.00
15	0	305	6.35
20	90	370	6.50
	540	2,015	

Source: Cagamas Press Release.

Figure 15: Cagamas' Sukuk Commodity Murabahah



Source: Cagamas Berhad.

The Sukuk Murabahah issuance brought two different innovations to the market. First, it was the first large-scale Sukuk Commodity Murabahah for the Malaysian market using the Commodity Murabahah House (CMH) platform. At the time of Cagamas' issuance, Sukuk Murabahah was not as widely used in the Malaysian market as Sukuk BBA was more common. Thus, Cagamas encouraged the market to move towards primary market structuring that met global shariah standards. Since then, a substantial number of Sukuk Murabahah have been issued in the Malaysian market. Second, the transaction introduced a new underlying asset for the global Commodity Murabahah market: crude palm oil. Prior to this, Commodity Murabahah transactions commonly used non-precious metals purchased on the London Metal Exchange or from international commodities brokers (Cagamas 2010).

In August 2010, Cagamas issued a variable-rate Sukuk Murabahah for RM230 million. The sizeable AAA-rated variable-rate sukuk issuance provided a benchmark in the market and expanded the fixed income product suite for investors. At the time of the issuance, it was the largest variable-rate ringgit sukuk in the market (Cagamas 2010). Since the first issuance, Cagamas has issued and will continue to issue variable-rate sukuk.

Variable-rate Sukuk Murabahah is an Islamic instrument with an adjustable profit rate pegged to the Kuala Lumpur Interbank Offered Rate (KLIBOR). With the feature of adjustable profit rate, the company is required to undertake a Commodity Murabahah process at each profit payment. New commodity trade facilitates the new deferred sale price on the next profit payment. Figure 16 illustrates the variable-rate sukuk structure at each profit payment before maturity.

Cagamas has continued issuing Sukuk Murabahah under the programme. As at 30 April 2013, Cagamas had RM9.9 billion Sukuk Murabahah outstanding with different tenures while conventional MTN outstanding for the same period was RM9,125 million.

V. Sukuk Al-Amanah Li Al-Istithmar (ALIm)

In 2010, in an effort to meet global shariah requirements for tradable sukuk, Cagamas issued hybrid sukuk consisting of 49% debt (Commodity Murabahah) and 51% tangible asset (Ijarah) components. They also had a unique redemption feature to meet one of the strictest shariah requirements.

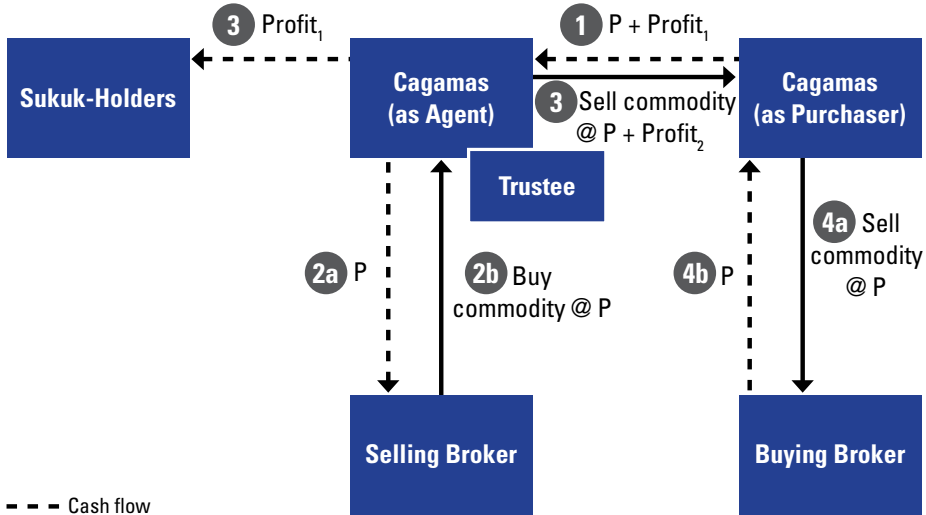
Unlike previous sukuk structures, there were two different trustees for this sukuk: the asset trustee and the sukuk trustee. Recall that the sukuk structure involves two underlying shariah concepts: *ijarah* and Commodity Murabahah. Sukuk Ijarah involves a sale and leaseback transaction. Generally, the Issuer-cum-Obligor sells certain assets to the trustee to obtain funding. Then, the trustee leases the asset back to the Obligor for the tenure of the sukuk. The rental includes a profit for investors.

In Sukuk ALIm, Cagamas first establishes a trust and transfers certain properties (either owned or procured by Cagamas) into the trust. The asset trustee issues an asset certificate to Cagamas as evidence of the asset trust. Cagamas then issues the sukuk. The sukuk trustee collects the proceeds from the sukuk-holders and applies it in the following manner:

- a. 51% of the proceeds are used to buy the asset certificate from Cagamas. The investors would then be the owners of the assets.

- b. 49% of the proceeds are used to enter into a Commodity Murabahah transaction with Cagamas.

Figure 16: Variable-rate sukuk structure at each profit payment before maturity



At each profit payment date (before maturity):

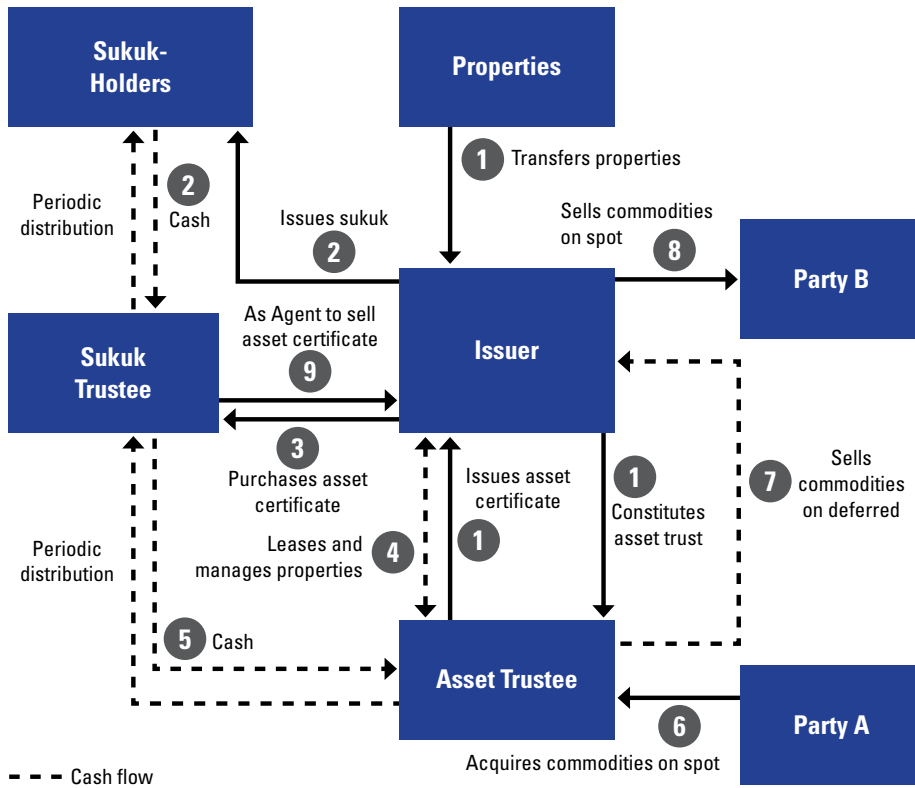
- 1) the Agent receives the deferred Sale Price (i.e. $P + \text{profit}_1$) AND when there is a request for a new Commodity Murabahah trade,
- 2) the Agent will use the P to purchase new commodities from the Selling Broker; and
- 3) subsequently sells the same to Cagamas on a murabahah basis ($P + \text{profit}_2$, new deferred Sale Price). The profit₁ will be distributed to the sukuk-holders.
- 4) Cagamas will then sell the same commodities to the Buying Broker at P .

Source: Cagamas Berhad.

Since the investors (via the sukuk trustee) are now the owners of the assets, the asset trustee will lease the assets back to Cagamas. In other words, Cagamas has entered into a sale and leaseback transaction with the sukuk-holders via the sukuk and asset trustees. According to global shariah standards, in a sale and leaseback transaction, the lessor (i.e. the sukuk-holder) is the owner of the underlying asset and will be responsible for ownership expenses (major maintenance, insurance and taxes). Commonly, investors will appoint the lessee as the servicing agent to cover these three areas. So after the leaseback, the asset trustee appoints Cagamas as the servicing agent. The asset trustee receives rent from Cagamas and will in turn pay Cagamas the fee to act as the servicing agent. The asset trustee then transfers the net rental to the sukuk trustee on a periodic basis to be paid to the sukuk-holders (see Figure 17).

For the Commodity Murabahah leg, the sukuk trustee transfers 49% of the sukuk proceeds to the asset trustee who will use it to buy the commodity on a spot basis from a third party. The asset trustee will then sell the commodity to Cagamas on a *murabahah* basis at a profit. To obtain the remaining funding amount, Cagamas, as owner of the commodity, will sell it on a spot basis to another party.

Figure 17: Sukuk ALIm structure



Source: Ashraf and Eghwan Mokhzanee, 2010.

In summary, sukuk-holders enter into a sale and leaseback transaction plus a Commodity Murabahah transaction with Cagamas via the two trustees. Therefore, on each periodic distribution date they will receive rental payments and the Murabahah instalment.

At maturity, the Murabahah leg would be completed as Cagamas pays off the instalment. However, for the Ijarah leg, the investors will still own the assets. In a common Sukuk Ijarah, the Obligor will provide a purchase undertaking to purchase the asset in the event of default, or at maturity. In 2008, The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) made a pronouncement restricting the use of a purchase undertaking at a pre-determined price in equity-based sukuk (i.e. Sukuk Musharakah, Mudarabah and Wakalah). However, the AAOIFI did not have the same restriction for Sukuk Ijarah. Nonetheless, Al-Rajhi's Shariah Board, whose members are the shariah advisors for this type of sukuk, dislikes the use of purchase undertakings at predetermined prices in any sukuk, including Sukuk Ijarah. Therefore, instead of using the common purchase undertaking, Sukuk ALIm uses a different exit mechanism.

Upon completion of the sale and leaseback transaction, the sukuk trustee will appoint Cagamas as its agent to dispose of the asset certificate via a private auction. Cagamas also has the right to bid at this auction. The asset will be sold to the highest bidder, subject to a

reserve price. The proceeds from the sale of this asset at maturity, together with the final Murabahah instalment, will be used to redeem the sukuk.

Because Sukuk Murabahah still face restrictions in the secondary market due to the different views on the sale of debt at discount, Sukuk ALIm solve the problem by ensuring that the majority of the sukuk asset consists of non-monetary assets (i.e. property). The AAOIFI and some sukuk in the market have allowed the lowest ratio of 30% non-monetary assets in order for the sukuk to be freely tradable. Nonetheless, the more common practice in the market is to have 51% non-monetary assets. In conclusion, Sukuk ALIm take a three-pronged approach. It avoids *bai' al-inah*, *bai' al-dayn* and the use of purchase undertakings at par. This AAA innovative issuance attracted 43% of its subscription from offshore investors with 33% coming from the Middle East, and was oversubscribed 2.7 times. Sukuk ALIm are a testament to Cagamas' commitment to the development of the sukuk market locally and globally.

VI. Sukuk Wakalah Bil Istithmar

In practice, Sukuk Istithmar may use different underlying shariah structures. In Sukuk ALIm, a combination of Commodity Murabahah and Ijarah was used. On 28 March 2012 Cagamas explored another variation of Sukuk Istithmar called Sukuk Wakalah Bil Istithmar, which involves a combination of Commodity Murabahah and equity (pool of investment assets) (see Figures 18 and 19).

Cagamas acts as *wakeel* for the investors. It uses the proceeds in the following manner:

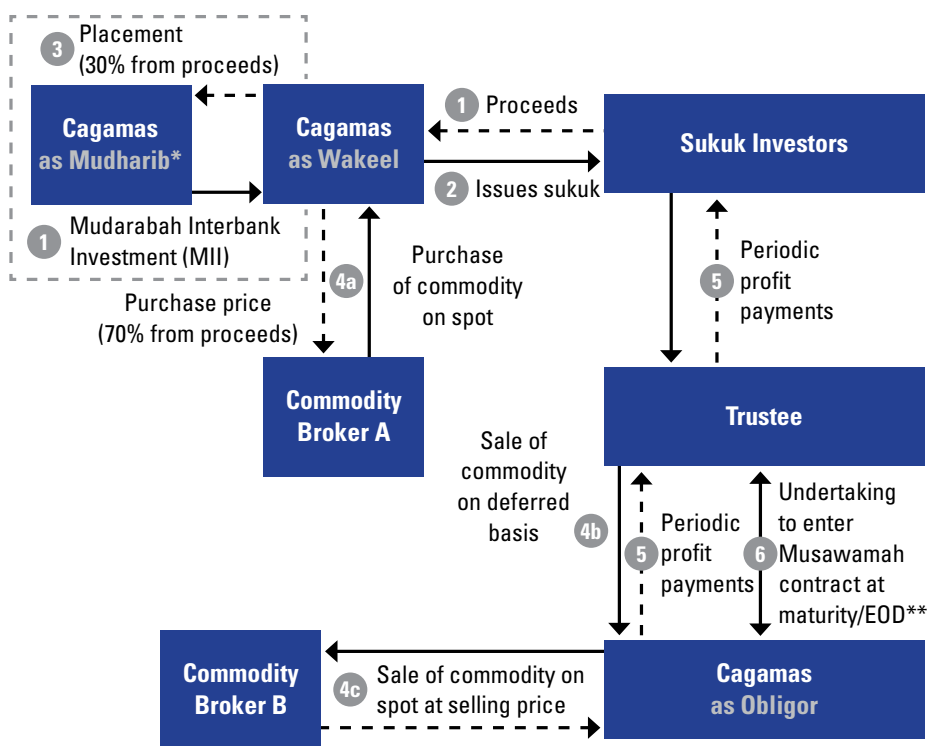
- a. 30% of the proceeds are used to enter into a Mudarabah with Cagamas via a Mudarabah Interbank Investment (MII). This is the equity component.
- b. 70% of the proceeds are used to enter into a Commodity Murabahah transaction with Cagamas. This is the debt component.

Although this transaction looks similar to ALIm by using two underlying components in the structure, there are differences in the details. First, compared to Sukuk ALIm, this Sukuk uses Mudarabah (i.e. equity) instead of an Ijarah component. The 30% ratio is the minimum non-debt component required by AAOIFI to enable tradability in the secondary market. Cagamas uses the Mudarabah capital to invest in investment products as approved by the Shariah Advisory Council (SAC) of the SC and BNM, and other recognised shariah authorities. Please recall that Sukuk ALIm also uses 51% Ijarah instead of 30% equity.

Second, the selling price of the Commodity Murabahah component will be equivalent to 100% of the nominal value of the sukuk (i.e. the principal) plus the aggregate of all periodic profit distributions payable under the Sukuk Wakalah. This selling price will be due on a deferred payment basis. This pricing approach (i.e. the Murabahah price covers the total amount due to Sukuk-holders) minimises the risk of non-performance on the Mudarabah (i.e. equity) component.

In addition, an auction method is used at maturity in Sukuk ALIm. In Sukuk Wakalah Bil Istithmar, a *musawamah* arrangement is used.

Figure 18: Sukuk Wakalah Bil Istithmar at inception



*Managing partner

**Event of default

--- Cash flow

Source: Cagamas Berhad.

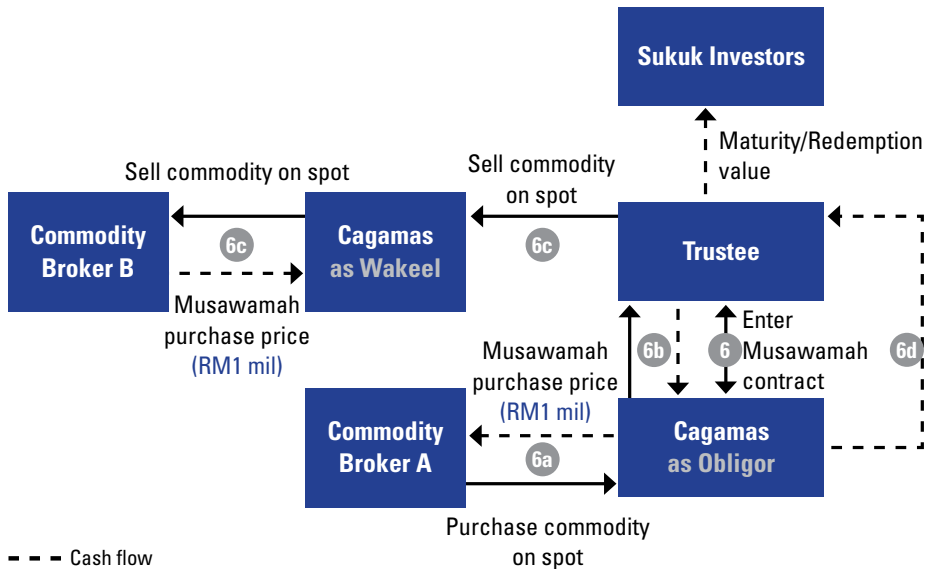
At inception, Cagamas provided a Musawamah⁴ undertaking to the trustee (step 6 in Figure 18). Let’s examine the function of the Musawamah undertaking (see Figure 19).

Cagamas will use the payment due under the Murabahah component, and income generated from the Mudarabah component (if any), to pay the periodic distribution to investors. At maturity (or EOD), the remaining balance of the Murabahah component will become due. Please recall that the amount due under the Murabahah covers the full principal and profit due to the investors.

Cagamas and the trustee will enter into a Musawamah transaction to offset the amount due to the investors under the Mudarabah component. The transaction steps are as follows:

- Cagamas will purchase a commodity on a spot basis from Broker A for a cash consideration (the Musawamah purchase price).
- Cagamas will subsequently sell the commodity to the Sukuk Wakalah investors via the trustee at the Musawamah selling price. The Musawamah selling price is benchmarked against the principal and actual profit payable by Cagamas on the Mudarabah component (MII) and the Musawamah purchase price.⁵

Figure 19: Sukuk Wakalah Bil Istithmar at maturity or in the event of default (EOD)



Source: Cagamas Berhad.

- c. The trustee (on behalf of the investors via Cagamas as *wakeel*) will then sell the commodity to Broker B for a cash consideration equivalent to the Musawamah purchase price.
- d. The Musawamah selling price is set off by Cagamas against the amount due to Sukuk Wakalah investors from Cagamas in respect of the MII investment and the selling price received by Cagamas (as a *wakeel* to the sukuk investors) from Broker B.

Keep in mind that the purpose of the Musawamah is to offset the amount due under the Mudarabah component in the sukuk:

- a. Under the sukuk, Cagamas has to pay the investors the Mudarabah capital and profit upon liquidation of the equity asset.
- b. Under the Musawamah, the investors have to pay Cagamas the selling price, which includes the Mudarabah capital and profit.

So these two amounts will be offset. The investors will be paid the full principal and profit due under the sukuk via the Murabahah component.

Unlike Sukuk ALIm, Sukuk Wakalah Bil Istithmar does not use an Ijarah component. The exclusion of the Ijarah component from a sukuk structure does not automatically affect its tradability in the secondary market. Sukuk Wakalah Bil Istithmar uses 30% Mudarabah and 70% Murabahah. A large group of investors view the Mudarabah component as non-debt. As AAOFI requires a minimum 30% non-debt component, this sukuk will be freely tradable in the secondary market.

There is a smaller subset of global Islamic investors who will scrutinise the Mudarabah component before deciding on its tradability status. For this group of investors, if the Mudarabah is to buy a pool of Ijarah assets (for example), then the Sukuk Wakalah Bil Istithmar is freely tradable in the secondary market. However, if the Mudarabah is to buy a pool of Murabahah portfolios (for example), then they will buy the sukuk and hold it to maturity.

In March 2012, Cagamas issued a RM500 million Sukuk Wakalah Bil Istithmar under the CP/MTN programme. The sukuk were priced competitively at 3.35% (one year), 3.5% (three years) and 3.7% (five years). These sukuk were also recognised as the Highly Commended/ Most Innovative Deal by *The Asset* in 2013.

From the review of the different types of sukuk issued by Cagamas, we can conclude that Cagamas is truly a pioneer in many aspects of the sukuk market. It has been an issuer since 1994, long before many of today's major players emerged in the local market. This pioneering role provides confidence to other issuers that sukuk are a workable concept and that there is an investor base in the market. Cagamas is also a pioneer that has experimented with different forms of sukuk to meet not only local investor needs but also global sukuk demand.

BENEFITS OF CAGAMAS' SUKUK ISSUANCE

I. Supporting sukuk market liquidity

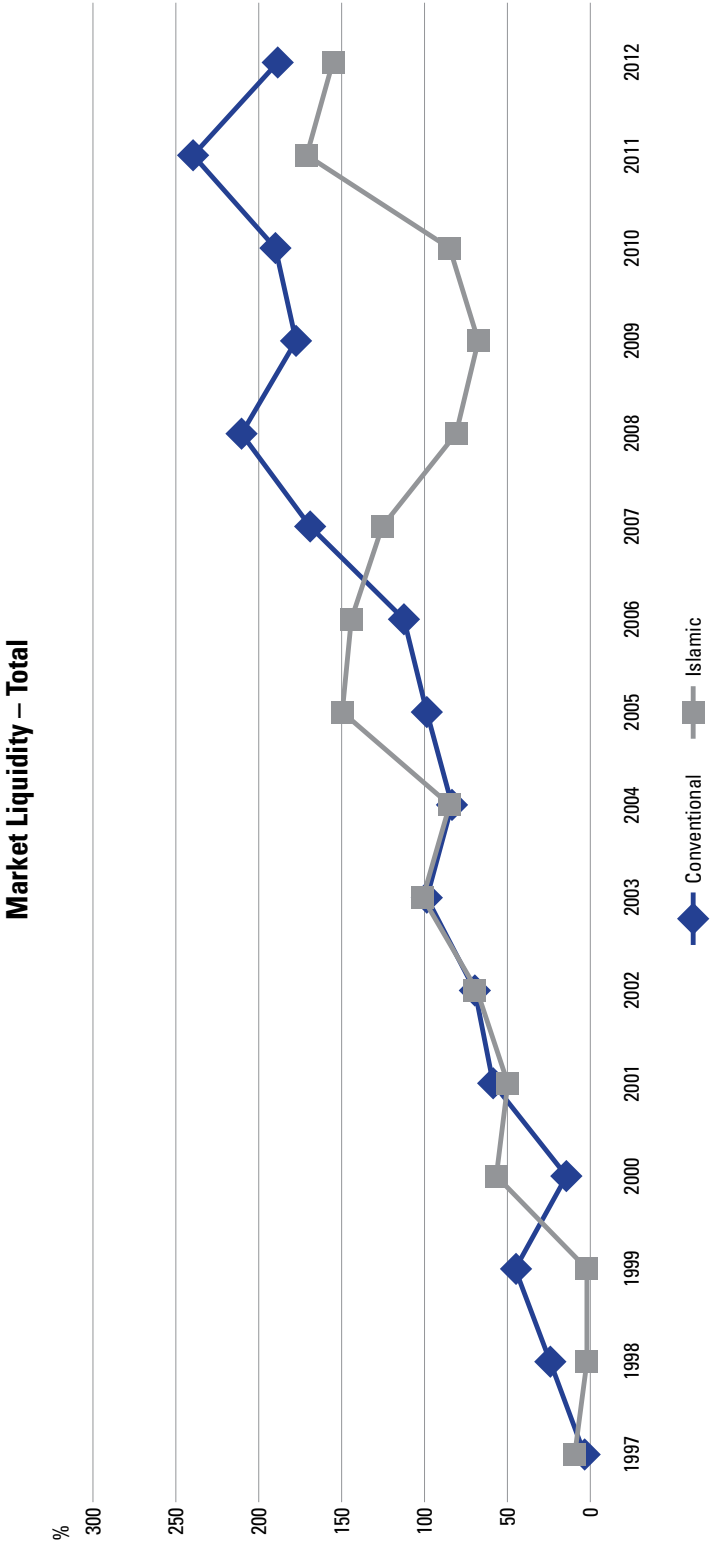
Cagamas' sukuk have allowed Cagamas to diversify its investor base and attract investors to support its Islamic business while at the same time bringing new investors to the Malaysian market. Securities like Sukuk ALIm have also allowed Cagamas to attract investors with more stringent shariah requirements. As discussed in the previous section, Cagamas is a laboratory for product development and experimentation.

There are two measures of the liquidity of Islamic securities: the annual bond/sukuk turnover ratio and the amount of secondary market trading. Market liquidity is basically the annual turnover as a percentage of the average outstanding bonds/sukuk.

This measure provides us with a ratio to compare the liquidity of conventional and Islamic securities. The higher the ratio, the more active the secondary market trading is. Bond Info Hub provides the breakdown of the liquidity ratio according to Government, BNM and other issuers. (Cagamas, Khazanah Nasional and the like fall under "other issuers".)

In general, secondary market trading for both bonds and sukuk is on the rise. After 2006, the bond market seems to have had higher trading compared to sukuk, although 2012 shows a closer point of convergence as can be seen in Figure 20. Interestingly, if we examine the main driver of market liquidity (the Government, BNM and others) the conventional and Islamic markets have different stories to tell (see Figure 21). Conventional liquidity is driven by Government and BNM trading. In the Islamic market, trading was dominated by corporate trading at the beginning of the market and in 2012. Therefore, we analysed the liquidity trend in the "other" segment for both markets, which seemed to be the opposite of the overall trend (see Figure 22). Islamic securities have shown consistently higher liquidity than conventional securities, and secondary market trading in other Islamic securities has been substantially higher than conventional securities after 2008.

Figure 20: Market liquidity ratio for conventional and Islamic securities



Source: Bond Info Hub Malaysia.

The total trading amount for the period 2005–2013 was RM8.45 trillion (RM5.81 trillion conventional and RM2.64 trillion Islamic). Within conventional and Islamic trading activities, we can see a similar trend to that of market liquidity. Trading of corporate and quasi-Government (i.e. Khazanah Nasional Berhad, Cagamas and the like) securities has been higher in the Islamic market compared to the conventional market (see Figure 23). In addition, trading of Cagamas’ conventional securities has declined – but the trading of Cagamas’ Islamic securities has increased, reaching convergence in 2011.

Figure 21: Market liquidity ratio: details and drivers

Year	Conventional liquidity	Islamic liquidity	Driver - C	Driver - I
1997	2.91	8.03	G	O
1998	23.17	2.20	G	O
1999	46.55	2.20	G	O
2000	12.41	56.38	G	O
2001	58.23	47.89	G	O
2002	63.19	64.52	G	G
2003	96.98	100.33	G	G
2004	84.82	87.02	G	G
2005	97.40	149.35	BNM	BNM
2006	110.09	145.21	BNM	BNM
2007	165.75	123.16	BNM	BNM
2008	208.13	85.16	BNM	BNM
2009	175.44	69.60	BNM	BNM
2010	193.69	87.41	BNM	G
2011	243.40	168.54	BNM	G
2012	192.57	155.95	BNM	O
2013	72.09	72.61	BNM	O

C: Conventional

I: Islamic

G: Government

BNM: Bank Negara Malaysia

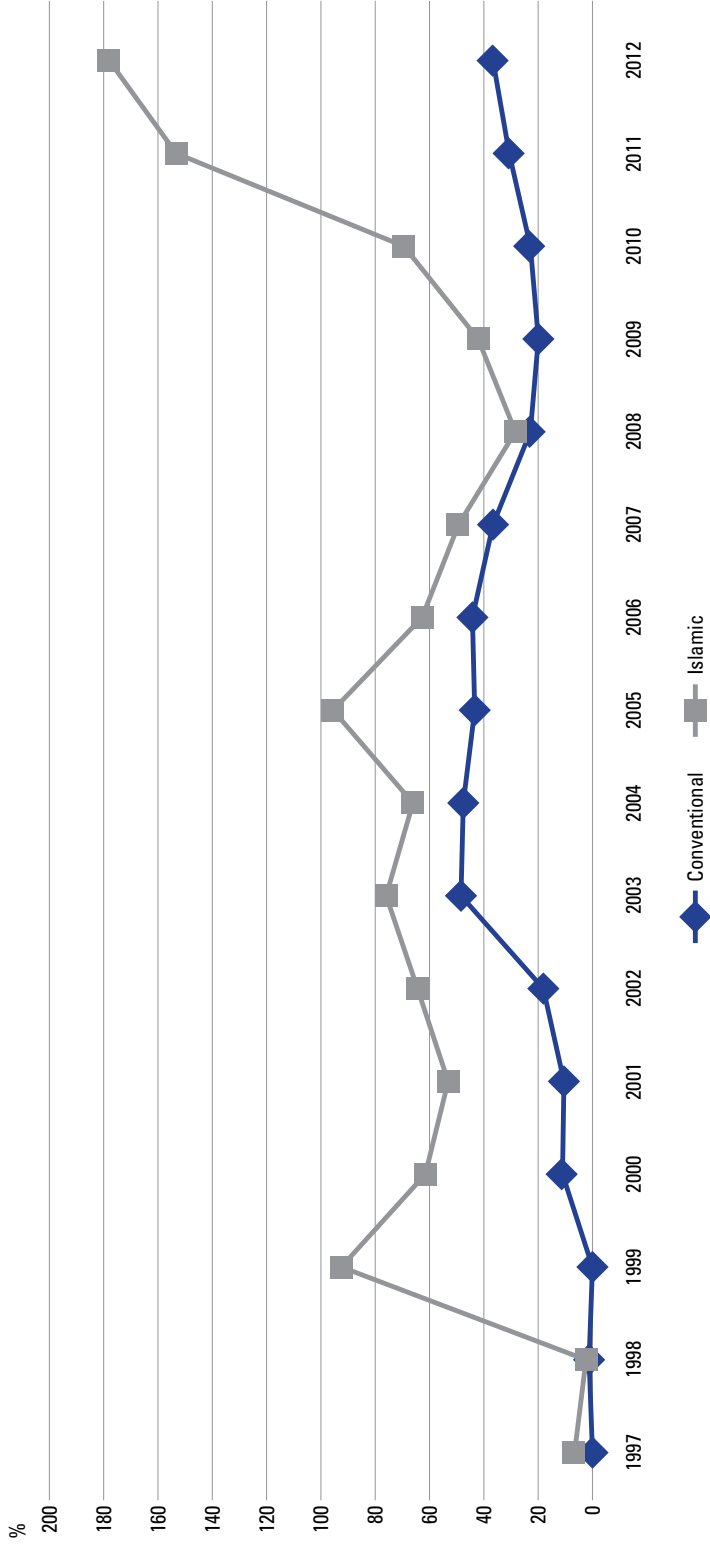
O: Others

Source: Bond Info Hub Malaysia.

Zooming in on trading activity in both the Islamic and conventional markets in 2008 and 2009 – the financial crisis period when investors tended to flock to Government securities and trading was depressed – shows that the conventional and the Islamic markets again had different trends (see Figure 24). In the conventional market, there was increased overall trading activity in 2008 driven by Government and BNM securities. Analysis of trading in other securities, including Cagamas securities, shows a substantial decline in 2008.

Figure 22: Market liquidity ratio for “other” issuers

Market Liquidity – Others



Source: Bond Info Hub Malaysia.

Figure 23: Trading activity comparison (% of total trading for the period 2005–2013)

Conventional	Islamic
BNM = 48%	BNM = 43%
Govt = 46%	Govt = 35%
Corporate = 2%	Corporate = 16%
Quasi-Govt = 1%	Quasi-Govt = 5%

Does not include asset-backed securities

Source: Bond Pricing Agency Malaysia.

Figure 24: Trading activity during the Global Financial Crisis

	Conventional Change Y-o-Y		Islamic Change Y-o-Y	
	2008	2009	2008	2009
Overall trading	+35%	-10%	-21%	-9%
Government trading	+23%	0%	-40%	+68%
BNM trading	+56%	-17%	+11%	-36%
Cagamas trading	-42%	-24%	+113%	-48%
Khazanah trading	-100%	0	-31%	-63%
Corporate trading	-19%	+4%	-48%	-15%

Source: Bond Pricing Agency Malaysia.

In comparison, although there was an overall trading decline in the Islamic market in 2008, there was a substantial increase in Cagamas' securities trading, which more than doubled in 2008 compared to 2007. Also, only Cagamas and BNM securities had increased trading activity in 2008. There was even a decline in the trading of Government securities in contrast to the conventional market trend.

In summary, Cagamas has supported the sukuk market in various ways through market development, experimentation with form and providing constant supply in the market, which has reinforced secondary market liquidity. Liquidity for non-Government Islamic securities has increased substantially compared to conventional securities, growing from about 27% in 2008 to almost 180% in 2012. In addition, investors flocked to Cagamas' Islamic securities during the recent Global Financial Crisis. The results speak clearly for Cagamas' role in enhancing the liquidity of the sukuk market.

II. Trends in Islamic home financing

The further role of Cagamas issuances has been to support both the growth of IHF in Malaysia and experimentation with applied methods.⁶ The home financing mission is supported by the provision of similar secondary market operations for the IHF sector. These are also provided to the conventional mortgage sector.

With the exception of a fall in 1999, home financing in Malaysia as provided by the banking system has been on an increasing trend. In terms of outstanding amounts, total home financing (Islamic and conventional) has shown an astonishing growth of 747% from RM36 billion in 1996 to RM305 billion as at April 2013. Home financing as a percentage of total financing in the banking market indicates growth of about 11% in 1996 to almost 27% in April 2013.

Information on IHF has been available only from 2006 in BNM's Monthly Statistical Bulletins. In terms of the outstanding amount, IHF grew from RM8.4 billion in December 2006 to RM52 billion in April 2013 (a compound annual growth rate or CAGR of 28.65%). In comparison, the total housing loans outstanding only grew at a CAGR of 11.55% during the same period. We may therefore conclude that IHF has grown at a higher rate than that of the overall growth in home financing in Malaysia.

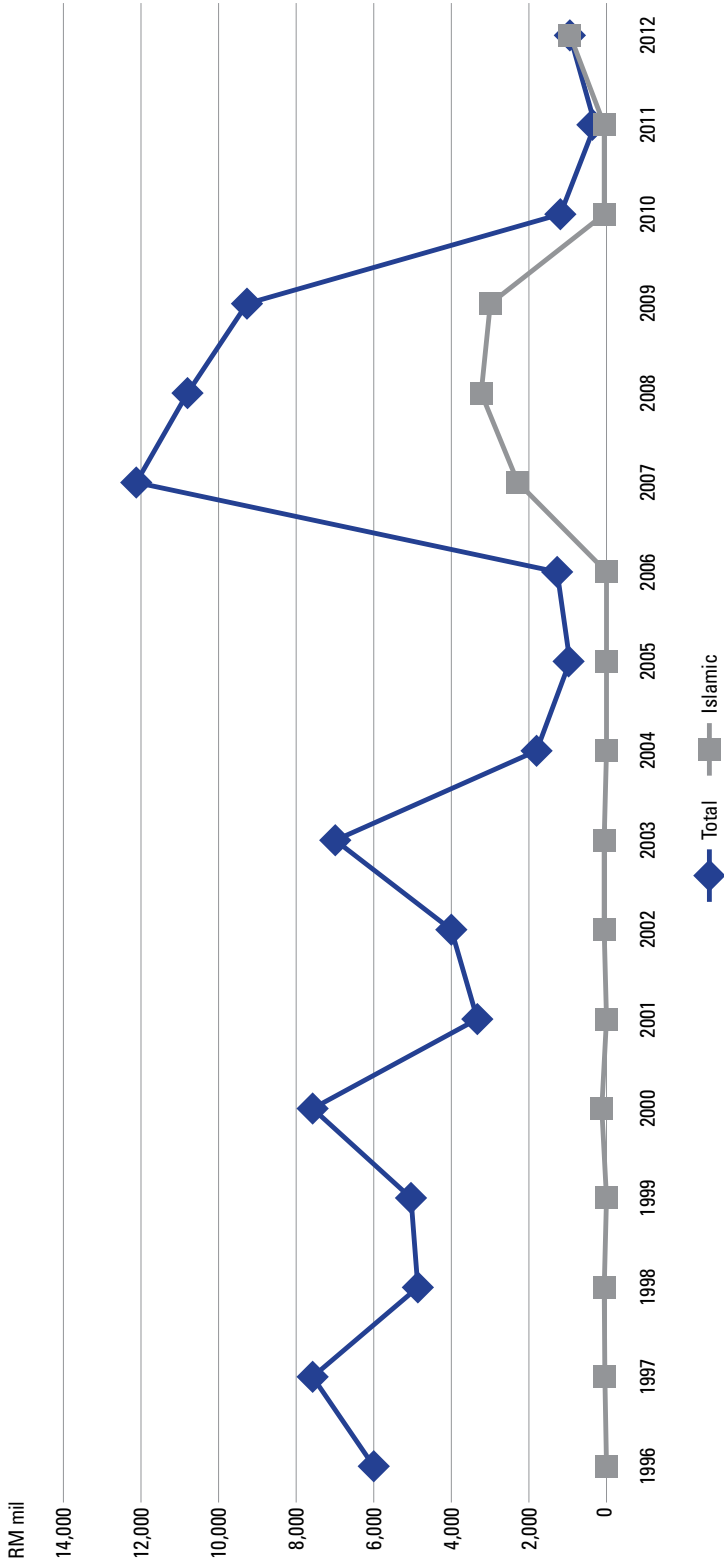
Various factors may have contributed to the higher growth of IHF, and the IFIs' ability to tap into Cagamas' funding is indeed an important factor. The main benefit for the IFIs from Cagamas' operations is their ability to manage profit-rate risk and maturity gaps. For IFIs that carry fixed-rate housing portfolios, the profit-rate risk is minimised when they are funded with Cagamas' fixed-rate PWR or PWOR. In addition, Cagamas also minimises the maturity gap as the facility offered has a longer maturity compared to customer or interbank deposits. Although less popular than PWR, IFIs that tap into the PWOR scheme may use this to manage capital requirements as well.

Figure 25 shows the trend of Cagamas' purchase of home financing from the market since 1996. The spike in IHF purchases in 2008 coincided with the growth of IHF in the same year.

Unlike Freddie Mac (Fannie Mae does not buy Islamic instruments) in the US, which only supports certain Islamic instruments due to charter restrictions, Cagamas clearly participates in the coordination of market development. This includes the introduction of new financial instruments and business practices. IFIs in Malaysia have used various underlying shariah concepts for IHF, and these offerings have evolved from *bai' al-inah* to Commodity Murabahah and *musharakah mutanaqisah* (declining balance partnership). With a broader offering of Islamic finance by IFIs, Cagamas may also use sukuk proceeds to buy a pool of home financing based on different shariah concepts.

One of the critical roles played in the market by Cagamas' purchases is the provision of liquidity to Malaysian banks. The very existence of Cagamas is a major stimulant of liquidity by itself. PWOR for home finance deals that conform to minimum standards accelerates the liquidity cycle. The result is that banks may sustain their home financing even when balance-sheet growth is low, and banks can expand into new market sub-segments allowing a more rapid growth of homeownership compared to a market in which there is no secondary market-maker like Cagamas.

Figure 25: Cagamas' purchase of home financing from the market



Source: Cagamas Berhad.

CONCLUSION

In many cases, state agencies follow instructions and do not lead the market. In Malaysia, Cagamas has taken a progressive view of how to implement its mission. This has resulted in a diversified portfolio that drives the home financing market to be more inclusive in ways that support all Malaysians, and to strengthen all financial institutions. The Islamic finance sector has enjoyed two primary benefits from Cagamas: first and foremost, Cagamas has elected to experiment with different sukuk and underlying transaction structures. The meaning for the market has been clear and retail bankers, investment bankers and investors have all responded to the lead of Cagamas, a strong state-sponsored actor. The second benefit has been to prove the efficacy of different contract types and different market vehicles. There is no doubt that without leadership from a body such as Cagamas, the state of the Malaysian domestic Islamic finance market would be weaker and the market penetration would be less. Moreover, the critical role that Cagamas has played in the Islamic securities market has also meant that regional and global sukuk markets have taken comfort in different business models demonstrated by Cagamas and its constituents. As a result, Cagamas is an important light for the Islamic financial markets.

Endnotes

¹ Since July 2012, the Government of Malaysia has been issuing sukuk to fund civil servants' housing finance. This move not only diversified the sources of funding for government housing finance, but also supported the continuous development of the sukuk market in Malaysia (Bond Info Hub 2012).

² Overcollateralisation is not limited to meeting the projected default rates in the case of the Government; it also takes care of the interest subsidy.

³ "The two-year Sanadat Cagamas and three-year Sanadat Cagamas were priced at 3.25% p.a. and 3.65% p.a. respectively, both at about five basis points above Malaysian Government Securities (MGS) of equivalent tenures" (Cagamas 2004).

⁴ *Musawamah* refers to a negotiated sale. In *musawamah*, the seller only needs to disclose the end selling price. In *murabahah* the seller is required under shariah to disclose the profit and the cost in the selling price. A *musawamah* transaction provides flexibility to parties to deal with transactions for which the exact amount will only be known in the future.

⁵ Selling price = Musawamah purchase price plus principal + profit under MII. In the EOD, only the actual profit up to the declaration of EOD will be included in the formula.

⁶ Cagamas supports different home financing methods offered by IFIs. In addition, Cagamas itself continuously explores the development of various sukuk tools.

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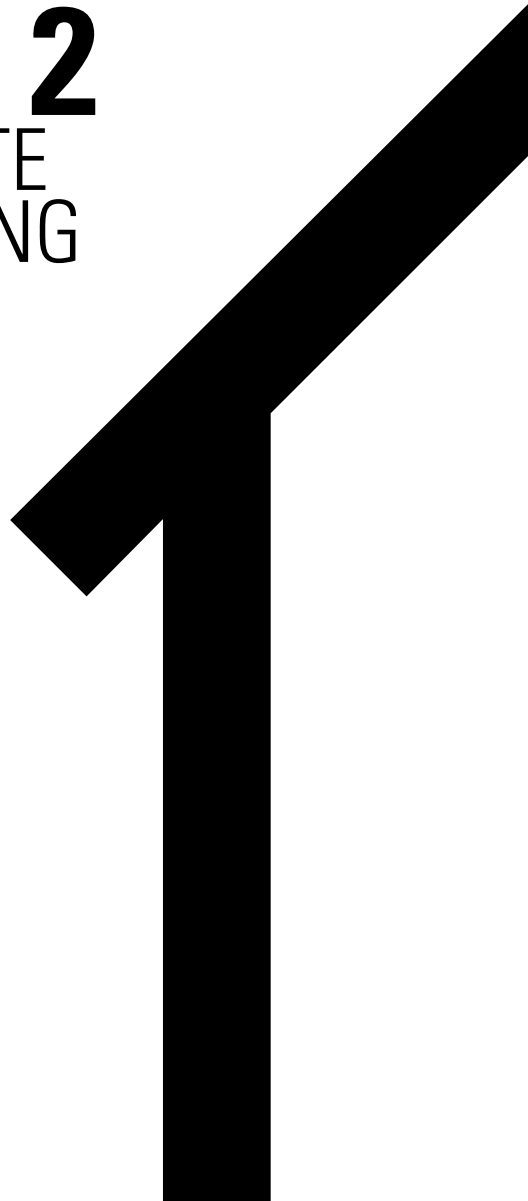
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PART 2

THE STATE
OF HOUSING



I. Challenges and Changes in the Industry

Michael Yam**INTRODUCTION**

In Malaysia's relatively short history as a nation, the progression from the *kampung* and village house (constructed largely from timber, with *atap* roofs and bare concrete floors) to that of planned townships of concrete and masonry (concrete roofs, marble and tiled floors and masonry walls) has been extremely speedy. This transformation from basic dwelling to built environment complete with all the conveniences of modern living testifies to the growing affluence of Malaysians and the impact of globalisation where the expectations and awareness of the populace are high.

Whereas in the pre-Independence era the provision of planned housing (and fenced Chinese New Villages) was undertaken mainly by the British-administered Government and plantation companies, the private sector developed or supplied houses either on an ad hoc basis or in the form of small-scale communities on greenfield sites. The 1960s saw the advent of "housing estates" being developed in pockets with a more formal planning approach covering the provision of piped water, power supply and better sewage treatment. As the population grew and urban migration increased, the Government had to plan holistically not only in ensuring adequate housing but also in providing infrastructure and services such as highways and amenities to support new communities and businesses. Out of this need, master plan communities and townships came into being and this was spearheaded by private-sector developers working hand-in-hand with the Government. The authorities soon realised that housing had a clear political impact and that complications could arise in township development (especially in dealing with land matters) as well as in coordinating and providing the necessary infrastructure and services. A Minister-in-Charge of housing was soon appointed to oversee this portfolio, and thus the Ministry of Local Government and Housing (as it was known then) was formed in May 1964.

For any strategy to be successful, all stakeholders must be engaged and consulted so that the desired outcome is achieved. Recognising that the common interest of the private housing industry needed to be represented and heard, in 1970 a few like-minded developers (a rare breed in those days in a small nation such as Malaysia) got together to form the Housing Developers' Association. From a small group of Kuala Lumpur-centric house builders founded some 43 years ago, this "fit for purpose" body evolved and changed its name in 2000 to the Real Estate and Housing Developers' Association (REHDA), reflecting wider interests not only in product segments but also in the geographical spread of its growing membership. Today, REHDA is represented in every state through 11 branches and has more than a thousand corporate members impacting no fewer than 140 upstream and downstream industries. It also directly or indirectly provides a million jobs including work for professionals, lawyers, bankers and consultants supporting the real estate sector.

REHDA members, who represent more than 80% of active property players in the country and count among their membership all the large developers in Malaysia, have been instrumental in delivering more than four million units of housing nationwide, ranging from low-cost housing to sophisticated lifestyle dwellings. Members are also responsible for most of the existing commercial, retail and mixed-use developments in the country, and their stature, competencies and financial strength have in recent times enabled their expansion to markets abroad.

Annually, REHDA members are responsible for generating some RM30 billion in real estate development, contributing positively to the nation's Gross Domestic Product. Not only do developers endeavour to deliver an average of 150,000 residential units per annum to meet forecast demand, they also meet prescribed conditions for the supply of social housing in the form of low-cost housing as well as social engineering in the form of Bumiputera discounts, and they pay upfront contributions to corporatised utility monopolies. Developers are also required to provide roads, infrastructure, services and improvements in the vicinity of their projects. On the negative side, private-sector developers must deal with bureaucratic land acquisition and approval processes, which vary from state to state. Developers also face labour and skills shortages, escalating prices of materials, upfront cash outflows and the increasingly capital-intensive nature of the business.

THE HOUSING DELIVERY SYSTEM

Malaysia is a developing nation that has an annual population growth rate of 2.3%. This translates into a current demand of around 150,000 units of housing per year. With the recent fall in average industry production capacity to below 100,000 units per annum (see Figure 1), these housing needs are barely met, given the average household formation at about 149,000 yearly. The shortage, however, is not apparent as the situation has been cushioned by the secondary market, particularly in more urbanised areas.

The success of private developers in building 100,000 or more units at affordable prices depends largely on the applied method of housing delivery – the Sell-Then-Build (STB) system – where payments for housing units are made by buyers via a legally-prescribed schedule of payment that progresses as construction takes place. The STB system is a proven one and has been used for over four decades, enabling sustainable production that has met the country's housing targets over the years.

Figure 1: Housing completion in Malaysia (2006–2012)

Year	2006	2007	2008	2009	2010	2011	2012
Units	171,448	181,123	136,881	103,335	99,866	65,866	72,195

Source: Property Market Report.

The progressive form of payment featured in the STB system lowers project financing costs and facilitates large-scale developments and high-density projects to meet targeted housing production at affordable prices. This is particularly significant to the industry as each housing development goes through a lengthy gestation period of five to six years from land purchase to full completion up to the expiry of the defects liability period. In recent years, there have been commendable efforts to shorten the approval process, procedures and time frames at various stages in order to expedite delivery and ensure greater ease of doing business. These measures include enhanced self-regulation through the introduction of the certificate of completion and compliance (CCC) issued by professional submitting persons; concurrent submission for land, planning and building approvals at One-Stop Centres established in local authority areas nationwide; one-day title registration; computerised land title and administration systems; online licensing and reporting; as well as various other initiatives executed through the Property Development Lab under the Ministry of Urban Wellbeing, Housing and Local Government.

While these efforts promote ease of doing business for the housing industry, their execution and implementation on the ground often face difficulties and challenges due to red tape and additional bureaucratic requirements.

MULTIFACETED STRENGTHS

Housing development in Malaysia acts as an important catalyst for the country's economic growth and social wellbeing. Private-sector housing development as practised in the country goes beyond the mere provision of housing and includes the following:

- Provision of lifestyle and social/recreational facilities for the community through public facilities, places of worship, schools, colleges, sports facilities, parks and open spaces, community halls, kindergartens, etc.
- Provision of infrastructure: highways, roads, drains, sewage treatment plants, reservoirs, substations, telecommunications services
- Provision of properly planned and executed landscaping
- Social engineering through cross-subsidising low-cost and low-medium-cost housing as well as predetermined discounts for Bumiputera-quota units
- Leadership of initiatives for the use of green technology and best practices in planning
- Promotion of community living, proper maintenance and management of strata schemes

- Creation of employment and business opportunities
- Creating a high spillover impact on upstream and downstream sectors and businesses, thus driving economic activity in these areas
- Spurring further growth and opening new development areas, particularly greenfield developments
- Contributing significantly to federal, state and local taxes
- Helping to create wealth.

The country needs at least 150,000 housing units annually for its population. Coupled with aspirations that Greater Kuala Lumpur will become a high-income city by 2020 with an additional one million housing units for its expanding populace, private developers will be hard-pressed to ensure that demand for housing is adequately met in the coming few years. To this end, it is crucial that all stakeholders – from policymakers and industry players to financiers and administrators of the relevant agencies – work in concert to ensure that targets are met through the elimination of hurdles and by capitalising on the combined strengths of the industry.

CHALLENGES AND CHANGES

Challenges facing the industry are aplenty, both on the demand and supply sides. On the demand side, the major issues confronting the industry are the widening affordability gap and a lack of demand for properties meant for certain target groups, including low-cost housing and Bumiputera-designated units. Supply (in terms of number of units completed) is inadequate and the mismatch in pricing and location has translated into over-demand in some locations and for specific types of housing.

I. The affordability gap

The affordability gap is a problem common in countries where many buyers are unable to get on to the homeownership ladder and are forced out of the market due to high house prices. Of late, it is noted that affordability gaps have widened even further mainly due to increased costs. The purchasing power of housebuying Malaysians has not increased in tandem with the increased costs of input elements that determine the pricing levels of new housing units in the country. This is especially so in urban areas where house prices have increased tremendously, reflecting higher costs of production (such as material and labour costs), rising land prices and costs of compliance and interest charges.

Notwithstanding this, the Malaysian housing market is still relatively cheaper than others in the region. Average Malaysian house prices typically extend to about seven times the average annual household income (based on the current average household income of RM5,000 per month). In countries such as Singapore, Indonesia and Thailand, prices of typical equivalent units can be more than 10 times the respective countries' average annual household incomes.

The authorities have since come up with various strategies to tackle the affordability issue. These include the introduction of the My First Home Scheme to provide financing for

new buyers, and the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA), which has been mandated to develop affordable housing for the people with a primary focus on urban areas. It is crucial that more sustainable strategies to cap increases in costs be established because, in the longer run, even the subsidised PR1MA housing will suffer increased costs if the underlying problems described above are not adequately and urgently addressed.

II. Lack of demand in target markets

The housing industry provides low-cost and Bumiputera-quota units to facilitate the Government's social engineering agenda. These quotas vary from state to state. On average, private developers deal with a 30% quota for low- and low-medium-cost housing at capped selling prices for the lower-income group, and a minimum 30% Bumiputera quota at discounts of 5% to 15% depending on state and type of property regardless of price (refer to the Annex for details). More often than not, developers face problems meeting these quotas simply because there is a lack of demand for low-cost and Bumiputera properties in the targeted market segments. Reasons include location, pricing, affordability levels and preferred types of property. The industry has long complied with these requirements through cross-subsidy, but the non-take-up of these quotas has resulted in adverse impacts on project cash flows, particularly when developers have to hold on to these unsold units without a definite timeline for release.

The industry has also built close to a million units of low-cost houses (since housing development became more structured beginning in the 1960s) to cater to the needs of the lower-income segment of society. With improved income levels and the demand for better quality living, along with the country's aspirations to become a high-income nation by the year 2020, it is no longer practical to build low-cost houses. It is imperative to move towards affordable housing to provide better living conditions and better facilities to dwellers. It is timely for the private sector to be left to focus on market-driven housing while housing for marginalised groups is provided by the Government through social housing schemes as well as rental housing projects funded, for example, through general corporate taxation.

There is therefore an urgent need to review quota impositions so that they reflect market conditions more accurately and with greater relevance. Discounts, if at all required, should be restricted to certain price brackets and should benefit only the targeted market segments and not the affluent. There must also be a standardised, structured and transparent release mechanism for unsold units to provide the industry with the certainty of a time frame and holding costs. It is wasteful for the industry to let resources remain idle in the form of unreleased and unsold units – these should be sold as quickly as possible so the proceeds may be reinvested further for the production of more housing for the *rakyat*.

III. Creation of new demand

It is important that the industry continues to create new demand for its housing production. One way to undertake this is to encourage investment in Malaysian housing by foreign investors and buyers. The percentage of foreign buyers in the Malaysian housing market is insignificant and the market is predominantly led by local buyers. In 2012, foreign ownership of total residential properties in Malaysia was less than 2% (Tharmalingam

2012). This is disappointing for the industry as the country offers unique and attractive value propositions in terms of economic growth and political stability, connectivity, return on investment, capital appreciation potential, relatively cheaper pricing within the region, a friendly and multilingual population and a choice of quality homes with world-class infrastructure.

The industry must capitalise on its strengths to attract foreign property investors into the housing market but this can be carried out successfully only in a business- and investment-friendly environment. Policy flip-flops and prohibitive tax regimes such as high real property gains tax will send out unwelcoming signals to foreign investors. Indeed, the creation of new demand through foreign investment must be promoted and enhanced by all parties so that the country does not lose out to competitors in the region. It will also help to balance capital outflows caused by Malaysians investing in foreign properties abroad.

IV. Increased cost of doing business

The industry is constantly challenged by issues of overregulation, increased costs of doing business and compliance, the quality and supply of labour and materials, bureaucratic delays as well as rigid and prescriptive laws and guidelines that have not kept pace with fast-changing technology and innovations. Some of these issues have plagued the industry for many years and continue to beset developers even today.

Higher compliance and administrative requirements have translated into higher costs and have inevitably led to higher house prices. An internal survey conducted among REHDA member-developers revealed that these costs could average around 25% of selling prices in typical housing developments. These include (but are not limited to) the following:

- **Planning requirements:** surrender of land for the construction of social and community facilities, roads and drainage, provision of open spaces
- **Utilities and infrastructure:** surrender of land and/or the construction of utilities, facilities and infrastructure including but not limited to electrical substations, reservoirs, sewage treatment plants, cabling and trunking
- **Financial contributions:** capital contributions, connection charges, conversion premiums, development charges, submission fees, contributions for drainage, infrastructure, burial grounds and others.

It is common for local planning authorities and the relevant agencies (including private utilities service providers) to require increasingly greater compliance and additional specifications on the part of developers without taking into account any cost-benefit analysis of these requirements or their financial impact on a project (and ultimately their effect on house prices). Examined in isolation, compliance issues may represent only a small percentage of project costs – contributions to privatised utility companies range between 2% and 5% while other contributions range between 7% and 23% – but once added up they constitute a significant portion of these costs, as mentioned above.

It should also be noted that most utility providers are private-sector conglomerates. These corporations benefit from the development through subscription to services by housebuyers. Utility providers, however, do not provide the infrastructure for such services

at their own cost; instead, the housing industry is conveniently made to foot the bill. In some cases the industry also pays capital contribution charges for upstream infrastructure works. This practice is unjust and unfair to the industry, particularly when such infrastructural provisions and capital contributions often involve high upfront costs on the part of developers.

It is time to review this practice with the objective of reducing costs of doing business so that savings can be passed on to housebuyers in the form of more affordably-priced houses. Amid current affordability challenges, this review is urgent and, in the future, cost-benefit and financial-impact analyses should be made prerequisites to any increase in regulatory compliance by the industry.

V. Overregulation

The Malaysian housing industry is governed by more than 50 laws, regulations and guidelines. These prescriptive and inhibitive regulatory structures were formulated generally out of necessity to protect housebuyers. As the market matured and the economy expanded, however, the laws and regulations continued to be amended but, instead of being facilitative, they tended to be more stringent and punitive, ostensibly to rein in the minority of defaulting and weak developers. This has inadvertently caused law-abiding industry players to be bogged down by too many compliance issues. Even so, despite laws being in place, the industry continues to be tarnished by the existence of unlicensed housing developers who completely disregard the Ministry, local planning authorities and the laws and regulations governing the industry. The perception of the lack of legal enforcement has encouraged unlicensed developers to continue operating illegal housing development businesses in broad daylight. Immediate action must be taken against these illegal operations, and members of the general public must be further engaged to enhance their awareness of the risks of buying houses from unlicensed developers as housebuyers' interests in such transactions cannot be properly safeguarded. Thus, more effort and resources should be expended to nip problems in the bud. There must be greater vigilance over, and enforcement on, unlicensed developers as well as closer surveillance over marketing ploys involving interest-guaranteed products linked to property.

There is some recognition that the numerous laws and regulations are obstructing the critical path of the approval process, which can in turn cause bottlenecks in housing supply. The World Bank's poor rating of Malaysia's approval process (in terms of length of time to enable commencement of work) has caused the authorities to review the system. Part of the improvement strategy involves self-regulation, and one of the outcomes is the substitution of the issuance of certificates of fitness for occupation (CFOs) with CCCs. Included in the solution is the exemption of building plan approval for certain types of development and, in the case of Kuala Lumpur, fast-track approvals for high-impact projects.

VI. Quality

Issues of construction quality and workmanship have always been a major challenge to the industry and the lack of skilled workers has affected the quality of houses delivered. Efforts taken to train and retain skilled local workers in the industry have not shown commendable results despite the industry being saddled with high levies. To a certain

extent, retaining foreign workers has also been a major problem, especially when these workers leave after a few years, taking away with them the knowledge and skills they have acquired at the industry's expense.

VII. Supply of labour and building materials

The availability of foreign labour is very limited and the housing industry often has to compete with other segments of the construction industry, especially when infrastructure and civil projects are running in full force, as has been the case in projects under the Economic Transformation Programme. Inconsistent or inadequate supply of labour is detrimental to the housing industry because specific construction and delivery timelines are part and parcel of Sale and Purchase Agreements (S&Ps). Developers therefore run the risk of paying liquidated damages due to delays in handing over vacant possession.

Similarly, any issues affecting consistent supply of main building materials (such as cement, steel and sand) will affect project timelines and costs. The cement and sand industries are monopolised by a few players and prices have been on an upward trend. Because house prices are fixed according to S&Ps and are not subsequently adjustable even if prices of materials rise, it is important that due and adequate notice is given to the industry prior to any increase in the prices of these critical materials so that the prices of completed houses will reflect the increase in costs. Otherwise, developers will be left in the lurch in the middle of construction, as upon signing the S&Ps they are obliged to honour the agreement without any amendments. Any post-S&P price increase is detrimental, and any increase in development costs will have to be absorbed by the developers themselves.

VIII. Bureaucratic delays, additional requirements

Despite extensive efforts to ensure standardised technical requirements for land matters, planning and building plan approval (which can be handled at One-Stop Centres), situations persist in which different local authorities require different sets of documents or impose additional requirements. It is also common for different local authorities to interpret planning guidelines differently, to the extent that some federal planning requirements that serve as guidelines become compulsory at the local level.

As mentioned above, additional compliance translates into additional costs and higher prices. It also creates bureaucratic delays in the approval process as submissions may have to be done all over again due to incomplete documentation or non-compliance with the authorities' additional requirements.

IX. Sustainability

Sustainability in housing development is the way forward. Unfortunately, at present the green agenda has not been widely adopted in housing the nation, mainly due to the relatively high costs involved in "greening" a project as well as getting these projects certified. Currently, the fee for local green certification (gold star rating) can increase the cost of total construction by an average of 15%. Adopting green need not be expensive as there are creative ways to use materials, recycled materials and technologies that would bring the

same desired results without spending excessive amounts. Green certification fees should also be reduced to make certification accessible and affordable to all industry players. Very recently, an alternative green rating tool that is practical, efficient and managed as a not-for-profit initiative has been established. This tool may be the best solution to the challenge of ensuring greater adoption of green features in new housing developments, especially if the rating and certification are offered at affordable rates.

ASPIRATIONS FOR THE HOUSING INDUSTRY

The housing industry has emerged from its infancy and it is time for it to transform into a more efficient industry that promotes self-regulation with minimal government intervention. It should be allowed to grow as a market-driven industry governed only by transparent and consistent policies. In efforts to reduce inefficiency, the industry must move away from cross-subsidies to keep cost-push inflation in check while continuously enhancing consumer empowerment in terms of knowledge and awareness to make buyers more knowledgeable and informed about their rights.

In line with these principles, there must be an action plan geared towards the goal of achieving a sustainable world-class housing industry that is efficient, cost-effective and transparent, and which caters to the needs of all communities and socioeconomic segments of the nation. Going forward, proposals should include:

- A better model to forecast housing demand and supply with breakdowns for each segment and price points for different locations. While the National Property Information Centre captures historical data, an improved monitoring system needs to be in place to ascertain demand and supply in the pipeline. This information will help the Government and industry reduce volatility and the incidence of boom-bust scenarios.
- A review of compliance costs incurred by the industry. While some of these costs are crucial to ensuring the sustainability of our built environments, others should not be borne by the industry but by the relevant service providers.
- Enhanced efficiency in public-sector service delivery through greater application of electronic submissions, approvals, reporting and licensing processes, with consistent and transparent checklists so that bureaucratic delays and issues can be further eliminated.
- Reduction in housing acquisition costs to boost the market and encourage homeownership. This includes lower stamp duty, zero-rated goods and services taxation, lower legal fees for standard S&Ps for both primary sales and secondary market transactions, access to low-cost financing and expedited transfer processes.
- A cost-benefit analysis must be carried out before any proposed change in policy is implemented or any additional regulation is introduced. The industry stands ready to help assess the impact of such changes.
- In reality, there are two housing delivery systems in existence in Malaysia: the STB (as detailed above) and the Build-Then-Sell (BTS). The STB system is currently the

preferred method and has been the mainstay of the successful delivery of housing in Malaysia as it enables the industry to cross-subsidise and provide infrastructure and services over and above requirements. It also allows greater output of units, lowers costs and enables smaller developers to build in smaller towns and rural areas. The significant enabler of this delivery system (which is prevalent in Asia and other emerging countries) is the method by which individual purchasers pay for their units progressively based on the various stages of physical completion. This overcomes the risk that financial institutions are often unprepared to take with single customers, and it reduces loan levels and lowers bank borrowing costs. The Government's proposal to legislate BTS as the only delivery system should be reconsidered, especially when other (even fiscally strong) nations are either maintaining or emulating the STB system.

- The requirement that developers provide heavily subsidised low-cost housing and hold on to unsold Bumiputera units is inequitable, unsustainable and should be reviewed. In reality, the bulk of the subsidy and discount burden is borne by purchasers of non-low-cost and non-Bumiputera units in a given project. This is tantamount to these purchasers being indirectly taxed to support their neighbours financially, whereas the national agenda for social and subsidised housing should be borne by the nation.
- An additional cost burden is borne by purchasers when corporatised utility companies exploit their monopolistic or oligopolistic status by demanding contributions from developers that cannot be justified. The fact that capital contributions for sewage treatment and also supply of water are based on a percentage of the sales value of the property – and not on the number of persons per household – is another example of upfront cross-subsidy. Developers often have little choice but to run the risk of having their approvals delayed and must pay these capital contributions before they are passed on, with interest, to buyers. The utility companies should instead revise their own processes so that their capital outlays can be recovered via tariffs based on consumption, or through federal funding from general taxation, to ensure better efficiency and transparency.

CONCLUSION

As Malaysia approaches developed-nation status and becomes a high-income economy by 2020, the housing industry too has matured and come of age. Legislation and regulations put in place over the years to protect the less-educated or economically disadvantaged population should be reviewed to reduce subsidies and eliminate inefficiencies for the benefit of all stakeholders.

Towards this end REHDA, which is the industry's official sounding board and whose members have delivered more than four million houses including a million units of subsidised low-cost and low-medium-cost housing, stands ready to work with the Government for the betterment and wellbeing of the housing industry and the people of Malaysia. REHDA members and their employees, who are also consumers, understand the political nature and sensitivity of the supply and demand of housing. As such, they are well able to strategise and help meet the aspirations of the Government and industry.

References

Tharmalingam, Kumar. 2012. "Putting Things Into Perspective". *The Star*, 21 April.

Annex: Low-Cost Housing Policy
(Compiled by REHDA Institute, January 2013)

STATE	POLICY
<p>JOHOR</p>	<p>40% for low-cost housing, which comprises:</p> <ul style="list-style-type: none"> • 20%: Low-cost houses priced at < RM35,000 per unit • 8%: Low-medium-cost houses priced at < RM50,000 per unit • 8%: Low-medium-cost houses priced at < RM80,000 per unit • 4%: Shophouses priced at RM150,000 per unit <p>The following is applicable only to the Iskandar Malaysia development:</p> <ul style="list-style-type: none"> • Johor Community Housing (PKJ) Type A 5% of development: 720sq ft Type: Strata Selling price: RM42,000 • Johor Community Housing (PKJ) Type B 10% of development: 850sq ft Type: Strata, landed or link-house (size 16' x 55') Selling price: RM80,000 • Johor Affordable Housing (RMMJ) 20% of development: 1,000sq ft Type: Link-house (18' x 60') or town house (20' x 70') Or strata (if within Flagship Zones) Selling price: RM120,000 to RM150,000 • Low-Medium-Cost Shop 5% of development: 1,200sq ft Type: Landed Selling price: RM200,000 <p>Total is 40% of the total development.</p>

STATE	POLICY																														
KEDAH PERLIS	<p>Within Malay Reserve Land</p> <ul style="list-style-type: none"> Housing development of up to 99 units with 100% sales to Malays – exempted from low-cost quota Housing development of 100 or more units: 20% low-cost <p>Outside Malay Reserve Land</p> <ul style="list-style-type: none"> Housing development project of 49 units or less: exempted Housing development project of 50 to 99 units: 20% low-cost More than 100 units: 30% low-cost <p>(Developers can apply to the state government for exemption but must pay a penalty of RM10,000 per unit exempted.)</p>																														
	<p>KELANTAN</p> <ul style="list-style-type: none"> 30% low-cost for development on alienated land only 																														
KUALA LUMPUR	<ul style="list-style-type: none"> 30% low-cost contribution based on approved units Private developers are allowed to pay a contribution at RM3,250 per unit for total units approved in lieu of such quota 																														
MELAKA	<ul style="list-style-type: none"> 30% low-cost for a development area of more than eight acres Commercial, multistorey buildings and bungalow lots in development areas of more than eight acres, with financial contributions in lieu of 30% low-cost provision as follows: <table border="1"> <thead> <tr> <th>Price category (RM)</th> <th>Contribution/unit (RM)</th> </tr> </thead> <tbody> <tr> <td>40,001–50,000</td> <td>2,000</td> </tr> <tr> <td>50,001–60,000</td> <td>3,000</td> </tr> <tr> <td>60,001–70,000</td> <td>4,000</td> </tr> <tr> <td>70,001–80,000</td> <td>5,000</td> </tr> <tr> <td>80,001–90,000</td> <td>6,000</td> </tr> <tr> <td>90,001–100,000</td> <td>7,000</td> </tr> <tr> <td>100,001–110,000</td> <td>8,000</td> </tr> <tr> <td>110,001–120,000</td> <td>9,000</td> </tr> <tr> <td>120,001–130,000</td> <td>10,000</td> </tr> <tr> <td>130,001–140,000</td> <td>11,000</td> </tr> <tr> <td>140,001–150,000</td> <td>12,000</td> </tr> <tr> <td>150,001–200,000</td> <td>13,000</td> </tr> <tr> <td>200,001 and above</td> <td>15,000</td> </tr> <tr> <td>Vacant bungalow lots</td> <td>15,000</td> </tr> </tbody> </table>	Price category (RM)	Contribution/unit (RM)	40,001–50,000	2,000	50,001–60,000	3,000	60,001–70,000	4,000	70,001–80,000	5,000	80,001–90,000	6,000	90,001–100,000	7,000	100,001–110,000	8,000	110,001–120,000	9,000	120,001–130,000	10,000	130,001–140,000	11,000	140,001–150,000	12,000	150,001–200,000	13,000	200,001 and above	15,000	Vacant bungalow lots	15,000
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Vacant bungalow lots	15,000																														

STATE	POLICY																
MELAKA (cont.)	<ul style="list-style-type: none"> Exemptions if development involves: <ul style="list-style-type: none"> – 100% low-cost houses – Low-cost and medium-cost houses – Tourism and industrial projects 																
NEGERI SEMBILAN	<ul style="list-style-type: none"> 30% low-cost for development on private land 																
PAHANG	<ul style="list-style-type: none"> 30% low-medium-cost houses between RM60,000–RM80,000 																
PENANG	<ul style="list-style-type: none"> Development > 150 units (within urban areas): 30% low-cost Development > 100 units (outside urban areas): 30% low-cost <p><u>Financial contributions in lieu of physical provision</u></p> <ul style="list-style-type: none"> Where developers have previously constructed fully low-cost/low-medium-cost projects and have unutilised quota, the state government, subject to approval, will impose the following contributions: <ul style="list-style-type: none"> – For the first 45 units of low-cost: RM40,000 per unit – For the first 45 units of low-medium-cost: RM30,000 per unit – For the 46th unit and above of low-cost: RM70,000 per unit – For the 46th unit and above of medium-cost: RM60,000 per unit – Otherwise, RM120,000 per unit of low-cost 																
PERAK	<ul style="list-style-type: none"> Private land: 20% low-cost State alienated land: 30% low-cost For developments of 10 acres and above 																
SELANGOR	<p><u>Residential</u></p> <ul style="list-style-type: none"> For developments of 10 acres and above: <p>Quota</p> <table border="1"> <thead> <tr> <th></th> <th>Within Majlis Perbandaran/ Majlis Bandaraya</th> <th>Within Majlis Daerah</th> <th>Outside Majlis Perbandaran/ Majlis Bandaraya/ Majlis Daerah</th> </tr> </thead> <tbody> <tr> <td>Low-cost houses</td> <td>20%</td> <td>20%</td> <td>20%</td> </tr> <tr> <td>Low-medium-cost houses</td> <td>20%</td> <td>20%</td> <td>10%</td> </tr> <tr> <td>Medium-cost houses</td> <td>10%</td> <td>10%</td> <td>10%</td> </tr> </tbody> </table>		Within Majlis Perbandaran/ Majlis Bandaraya	Within Majlis Daerah	Outside Majlis Perbandaran/ Majlis Bandaraya/ Majlis Daerah	Low-cost houses	20%	20%	20%	Low-medium-cost houses	20%	20%	10%	Medium-cost houses	10%	10%	10%
	Within Majlis Perbandaran/ Majlis Bandaraya	Within Majlis Daerah	Outside Majlis Perbandaran/ Majlis Bandaraya/ Majlis Daerah														
Low-cost houses	20%	20%	20%														
Low-medium-cost houses	20%	20%	10%														
Medium-cost houses	10%	10%	10%														

STATE	POLICY			
SELANGOR (cont.)	Selling price	Within Majlis Perbandaran/ Majlis Bandaraya	Within Majlis Daerah	Outside Majlis Perbandaran/ Majlis Bandaraya/ Majlis Daerah
	Low-cost houses	RM42,000	RM35,000	RM30,000
	Low-medium-cost houses	RM72,000	RM60,000	RM50,000
	Medium-cost houses	RM100,000	RM85,000	RM70,000
	<ul style="list-style-type: none"> For developments of fewer than 10 acres: 			
	Quota	Within Klang Valley (two to fewer than 10 acres)	Outside Klang Valley (five to fewer than 10 acres)	
	Medium-cost houses	30%	30%	
	Commercial			
	<ul style="list-style-type: none"> For developments of 50 units and above: 			
		Low-cost quota	Selling price	
	Low-cost commercial units	20%	RM120,000	
	<ul style="list-style-type: none"> For developments of 10 acres and above: 			
		Low-cost quota	Selling price	
	Low-cost commercial units	30%	RM150,000	

All information is based on feedback received from REHDA branches nationwide.

II. The Housing Affordability Question**Chang Kim Loong****INTRODUCTION**

Housing, education and healthcare are the most basic human needs that must be fulfilled to ensure a harmonious society. It has been left largely to the private sector to provide housing while the Government has concentrated on education and healthcare. The Real Estate and Housing Developers' Association (REHDA) proudly boasts of having built more than four million houses, surpassing the Government's own efforts (REHDA 2013).

However, how relevant are these claims to the first-time housebuyer today? Can the lower- and middle-income groups afford to buy their dream homes? Can the current crop of young professionals who want to start their own families afford to fly from their parents' nests and start their own? This chapter will discuss the questions above and will focus on middle-income earners and households in the Federal Territory of Kuala Lumpur and the state of Selangor, where the affordability problem is very serious.

RESPONSIBLE FINANCING GUIDELINES

Prior to 1 January 2012, the general rule was that a monthly loan repayment could not exceed a third of a household's gross monthly income. In 2012, however, Bank Negara Malaysia (BNM) introduced its Guidelines on Responsible Financing, effective 1 January that year, which stated that:

- Banks are free to set their own debt service ratios (i.e. the ratio of a monthly loan repayment to the borrower's income).
- Banks must assess borrowers based on their net incomes (i.e. income less statutory deductions such as Employees Provident Fund contributions and income tax).
- Banks are to assess borrowers based on statutory income only and all discretionary income such as overtime, bonuses and commissions is to be disregarded.

BNM introduced the Guidelines with the aim of controlling the level of household debt by instructing banks to be more responsible in their lending and to carefully assess the repayment capabilities of their borrowers.

As borrowers are now assessed based on their net income (or take-home pay), which is lower than their gross income, they can expect that the maximum amount they can borrow will be significantly lower. However, in the period following the removal of the previous rule-of-thumb debt service ratio of a third of gross income, when banks had yet to publish their respective debt service ratios, some potential borrowers might not have known that they no longer qualified for a housing loan.

In addition, the ruling that banks must disregard all forms of discretionary income had some impact on borrowers who were dependent on incomes such as commissions, bonuses, overtime, etc. These borrowers would have found it more difficult to secure housing loans with (say) a 90% margin of financing and would either have had to fork out a higher down payment or continue renting until the rules allowed banks to recognise part of their discretionary incomes in loan calculations.

In July 2013, BNM announced that the maximum tenure of a housing loan would be capped at 35 years compared to the previous 45 years. This was a very timely decision. A 35-year loan is more than adequate for housebuyers to own their dream homes. If a housebuyer needs a loan tenure exceeding 35 years, he or she is clearly attempting to purchase a property far beyond his or her current income level.

In fact, most banks provide housing loans only up to 30 years although certain banks previously issued loans of up to 45 years (called two-generation loans). The National House Buyers Association (HBA, of which this writer is Honorary Secretary-General) opposes two-generation loans as the second generation is literally born into debt.

Housebuyers should always only buy properties that are within their means, and the rules of thumb are that:

- Any single (monthly) loan repayment should not exceed a third of the borrower's monthly income.
- All combined monthly loan repayments should not exceed half of the borrower's monthly income.

The price of the property should ideally be three times the borrower's annual household income to be deemed affordable (based on a study by Harvard University and the World Bank). For example, if a borrower and his or her spouse each earn RM5,000 a month, the household income is RM10,000 per month or RM120,000 per annum. Thus the price of the property under consideration should not exceed RM360,000.

MISMATCH BETWEEN PRICES AND TRUE AFFORDABILITY

There is currently a mismatch between the types of housing units offered and the units desired by the lower- and middle-income groups that make up the bulk of housebuyers in Malaysia. Non-luxury condominium units or intermediate link-houses offered by private housing developers can easily cost more than RM500,000 in most urban and even suburban

locations, and are far beyond the reach of the lower- and middle-income groups. Unless immediate action is taken, a homeless generation will emerge and wreak havoc on the fabric of society.

Some numbers will help put this into perspective. The average monthly household incomes in Kuala Lumpur and Selangor in 2012 were RM8,586 and RM7,023 respectively. Based on these figures, what kinds of property could families aspire to buy?

The ratio of property price to annual household income is widely used as a benchmark to evaluate the affordability of property prices, especially in urban markets (see Figure 1).

Figure 1: Housing affordability as a ratio of price to annual income

Category	Property price as multiple of annual household income (times) (Price/income)
Severely unaffordable	5.1 and over
Seriously unaffordable	4.1 to 5.0
Moderately unaffordable	3.1 to 4.0
Affordable	3.0 or less

Source: Adjusted from Demographia, 2013.

The maximum tenure for housing loans offered by most banks is 30 years. The Base Lending Rate (BLR) at the point of writing is 6.6%. Housing loan rates are quite competitive, with banks offering rates of the BLR less 2.5%, or an effective rate of 4.1% per annum.

Based on the foregoing, the maximum housing loan and value of property that a household earning the average income can afford to buy can be calculated per Figure 2.

Let us now compare the affordability of selected landed properties in suburban locations in Kuala Lumpur and Selangor. In 2012 the average annual household income in Kuala Lumpur was RM103,032 (RM8,586 x 12 months).

Figure 2: Maximum prices affordable to average-income households (Kuala Lumpur and Selangor)

	Kuala Lumpur	Selangor
Household income in 2012 (average)	RM8,586	RM7,023
Maximum monthly loan repayment at a third of monthly income	RM2,862	RM2,341
Maximum loan amount	RM592,303	RM484,480
Maximum property value based on minimum 10% down payment	RM658,114	RM538,311

Figure 3: Prices of selected properties in selected suburban areas

	Average property price	Ability to purchase with average household income (KL)	Ability to purchase with average household income (Selangor)	Property price as multiple of average annual KL household income (times) (Price/income)
Landed property in Kajang	RM558,000	Yes	No	5.41
Landed property in Kota Damansara	RM830,000	No	No	8.06
Landed property in Puchong	RM662,000	No	No	6.43
Condominium in Kepong	RM475,000	Yes	Yes	4.61
Condominium in Kota Damansara	RM536,000	Yes	Yes	5.20
Condominium in Puchong	RM480,000	Yes	Yes	4.65

For the purposes of this chapter, the author surveyed 43 sales listings for landed properties in Kota Damansara and 36 in Puchong, as well as 42 condominium units in Kepong, 23 in Kota Damansara and 29 in Puchong. The price of the (single) Kajang property was obtained from a sales brochure.

Source: iProperty.com, 2013.

From the HBA's research on the prices of standard intermediate link-houses in three areas (Kajang, Puchong and Kota Damansara) and non-luxury condominiums in three areas (Kepong, Puchong and Kota Damansara), it was found that most of the selected property prices at these locations were "severely unaffordable" by international standards. Figure 3 provides comparisons for a new launch in Kajang, as well as average prices of existing properties advertised for sale in Puchong and Kota Damansara as there were no new launches of landed properties in either area at the time of research. Moreover, housing developers always use the current advertised prices of nearby properties as a minimum benchmark to price their future sales.

However, there is a difference between being able to buy a property and being able to maintain the same property without sacrificing the minimum standard of life required by an average urban or suburban family. For a dual-income family with a combined monthly income of only RM8,586, the maximum truly affordable price is RM400,000. Figure 4 compares the savings of a family of the "sandwich generation" – i.e. a family with children as well as aging parents who need financial support – after making deductions for typical household expenses.

Figure 4: “Sandwich generation” savings comparison

Property price (RM)	658,114	400,000	350,000	300,000
Loan amount (RM)	592,303	360,000	315,000	270,000
	RM	RM	RM	RM
Gross pay	8,586	8,586	8,586	8,586
Less:				
• Statutory deductions				
– Income tax	(224)	(224)	(224)	(224)
– EPF contributions	(944)	(944)	(944)	(944)
Net take-home pay	7,418	7,418	7,418	7,418
Less:				
• Mortgage instalments	(2,862)	(1,740)	(1,523)	(1,305)
• Management expenses	(150)	(150)	(150)	(150)
• Utilities, hire-purchase, quit rent, etc.	(350)	(350)	(350)	(350)
• Car hire-purchase instalments (for one car)	(750)	(750)	(750)	(750)
• Petrol and maintenance (for two cars)	(600)	(600)	(600)	(600)
• Food and household expenses	(900)	(900)	(900)	(900)
• Childcare expenses	(700)	(700)	(700)	(700)
• Insurance plan (RM100 per spouse)	(200)	(200)	(200)	(200)
• Parents (RM200 per spouse)	(400)	(400)	(400)	(400)
Net savings	506	1,628	1,845	2,063
Savings as % of monthly income	5.89%	18.96%	21.48%	24.02%
Property price as multiple of annual household income (times)	6.39	3.88	3.40	2.91

The following assumptions are made in Figure 4:

- Household income is RM8,586 per month (the average household income in Kuala Lumpur is used as it is higher than that of Selangor).
- The family makes a 10% down payment on their housing loan for 30 years with interest at BLR less 2.5%.
- Each spouse earns RM4,293 a month and claims tax allowance for one child, thus yielding a combined schedular tax deduction of RM224 a month.
- Each spouse supports his or her aging parents by contributing only RM200 a month.
- The family has two cars bought on hire purchase but one of them has been fully repaid.

From the above calculation, the household with a monthly income of RM8,586 that borrows the maximum amount it is eligible for (based on its household income) can only save an average of RM506 a month and may not have enough cash reserves in the event of an emergency. The household savings of RM506 or 5.89% is also far lower than the recommended savings of at least 10% per month.

In contrast, purchasing a house priced at between RM300,000 and RM400,000 would provide the family with savings at the end of every month of between 19% and 24% of its gross monthly income, which would come in handy in an emergency.

Unfortunately, a quick check at most new property launches will reveal that there are hardly any new launches priced in this range. If there are indeed such properties, they are located far from the Kuala Lumpur city centre (some are in fact located in Sepang and Nilai). Buyers of these properties would then have to endure long daily commutes to work.

While housebuyers may not face problems qualifying for higher housing loans (which can be deemed “severely unaffordable”), such a scenario is not advisable as the borrower can run into financial difficulty in the event of any unexpected emergency.

SINGLE-INCOME HOUSEHOLDS AND LOWER-INCOME GROUPS

The illustrations above are based on an average household income consisting of two working spouses. The outlook for single-income housebuyers is thus even bleaker. With an average income of only about RM4,293 (half of RM8,586), the true affordability of this group of housebuyers lies in the range of RM150,000 to RM300,000. New properties in this range are almost impossible to find unless they are located very far from the Kuala Lumpur city centre, i.e. more than 30km away, for example in Kajang or Shah Alam.

As a result, this group of people, together with many of the earlier group, are forced to rent, and in the long run can end up homeless after retirement. The emergence of this homeless generation will result in more social problems unless it is urgently addressed by the Government.

This group of *rakyat* can be considered to be among the worst-off as their incomes make them ineligible for many forms of Government assistance – but, at the same time, their incomes are so low that they may not be able to sustain an acceptable standard of living.

If the middle-income group can find it difficult to own homes, the situation is also very bleak for the lower-income group. With a monthly household income of less than RM2,000, this group can afford to buy only a low- or medium-cost house priced below RM80,000 per unit. However, this group often finds it very difficult to obtain a housing loan as many cannot afford to pay the down payment. They are also often turned away from banks because they are deemed to be high-risk and their properties are considered undesirable as collateral.

The solution for the lower-income group is for the Government and its various agencies to provide suitable properties for rent with the option to buy. The rent must also be affordable and the location close to suitable amenities and public transport to provide a conducive living environment. After renting for a certain number of years and displaying a good payment track record, the tenant will have the option to buy the unit from the Government.

However, constant monitoring must be carried out to ensure that only deserving applicants are approved and that units are not rented to the undeserving (especially foreign workers). Also, the end-owner must be prohibited from selling the unit to a third party and should be able only to transfer the unit to his or her next of kin. This will prevent owners from profiting from the generosity of the Government.

PROPOSALS TO STEM THE RISE IN PROPERTY PRICES

In the past, the HBA has recommended that the Government adopt the following measures:

I. Further reduce the loan-to-value (LTV) ratio for housebuyers taking their third (or more) mortgage or loan

BNM has set a maximum LTV of 70% for housebuyers taking their third or more mortgage or loan. This means that housebuyers with two existing mortgages or loans must come up with 30% cash upfront if they wish to buy their third property. However, a speculative investor just needs to “flip” one of his or her existing properties to settle the mortgage loan, after which he or she will be able to borrow up to the current maximum of 90% to 95% (or even 100%).

The HBA has proposed the following measures to tighten the loopholes:

- For housebuyers taking their third mortgage (i.e. they possess two existing mortgages), the LTV should be further reduced to 50%.
- When a buyer with two existing mortgages fully settles one or two mortgages and subsequently applies for a new mortgage, a three-year moratorium should be imposed on the eligibility of this buyer for the current LTV of 90%-95% (or even 100%). This means that within three years of fully settling one or two mortgages, the buyer (i.e. with two previous mortgages) who takes a third mortgage will only be allowed an LTV of 50%.

II. Tighten real property gains tax to increase exit costs

Malaysian real property gains tax (RPGT) does not discriminate between genuine buyers and property speculators as it is calculated based on the number of years the property is held.

Property speculators have taken advantage of the low RPGT regime to wreak havoc on the property market, driving up prices beyond the reach of genuine housebuyers. “Investors clubs” are now prevalent in the property market. These clubs buy into a project in bulk at a hefty discount at the prelaunch stage with the sole intention of later flipping the properties for a large profit upon delivery of vacant possession. These unhealthy alliances and collaborations among developers, builders, vendors and investors clubs contribute to the unbridled increase in property prices.

The HBA has proposed that the RPGT be fine-tuned as follows:

- The RPGT should be calculated based on the date of the Sale and Purchase

Agreement (S&P) or the completion date of construction if the property is bought from a housing developer. This is because landed properties bought from housing developers need two years to be completed, and subdivided (stratified) properties need three. Currently, speculators can buy multiple properties from housing developers upon launching, flip them for huge profits and pay only 5% RPGT.

- The scale rate of RPGT should be set higher for the first two properties. The HBA has proposed that the RPGT scale rate (previous formula) prior to 2002 be brought back to discourage speculative investments, even for first-time housebuyers. However, the scale rate would not affect genuine housebuyers who buy in order to occupy the properties themselves and to hold them for long-term investment.
- A flat RPGT scale rate for the third and subsequent properties should be imposed for the first 10 years. This will greatly deter speculators without deterring long-term property investors.

The proposed change to RPGT above will not affect genuine buyers who are buying for their own occupation or in the interests of holding a long-term investment, say, for the benefit of their children.

In light of this, the HBA views the new RPGT measures that were announced recently as part of the 2014 Budget favourably and believes they will help mitigate the steep rise in property prices due to excessive speculation. Under the new measures, the RPGT is 30% for property disposed within three years of acquisition; 20% within four years of acquisition; 15% within five years and 0% for the sixth and subsequent years. This is far better than the previous scale (see Figure 5).

III. Increase stamp duty

The current stamp duty payable for the transfer of properties is based on the value of the property. This does not deter speculators as the stamp duty rate is the same regardless of the number of properties already held or bought. The Government's current low stamp duty regime has been misused by property speculators to accumulate multiple properties, driving up prices by creating false demand and denying genuine buyers the opportunity to buy such properties.

The HBA has proposed that the current stamp duty scale should remain the same for the first two properties bought, but should be increased to a flat rate based on the property price for the third and subsequent properties to discourage speculative buying.

Figure 6 illustrates the comparison between the current stamp duty practice and that proposed by the HBA.

As is currently practised, the same scaled stamp duty payable regardless of the previous number of properties held does not deter speculators from buying multiple properties. For example, even in the case of properties costing RM600,000, the stamp duty payable is only 2% of the value of the property.

Figure 5: Changes in the RPGT

Previous RPGT rates

Holding period from date of acquisition	Rate (regardless of number of properties owned)
Within two years	15%
More than two years but less than three	10%
More than three years but less than four	10%
More than four years but less than five	10%
More than five years	0%

New RPGT rates under the 2014 Budget

Holding period from date of acquisition	Rate (regardless of number of properties owned)
Within three years	30%
Within four years	20%
Within five years	15%
In the sixth and subsequent years	0%

Figure 6: Proposed changes to stamp duty

Current stamp duty payable	Current rate (regardless of number of properties owned)	HBA proposal			
		First two properties – status quo	Third property	Fourth property	Fifth and subsequent properties
Purchase price of property	RM600,000	RM600,000	RM600,000	RM600,000	RM600,000
First RM100,000 @ 1%	RM1,000	RM1,000	–	–	–
RM100,001–RM500,000 @ 2%	RM8,000	RM8,000	–	–	–
RM500,001–above @ 3%	RM3,000	RM3,000	–	–	–
Flat rate regardless of property price	–	–	RM30,000	RM45,000	RM60,000
Total	RM12,000	RM12,000	RM30,000	RM45,000	RM60,000
% of property price	2%	2%	5%	7.5%	10%

The HBA's proposal for the revision of stamp duty will not cause any inconvenience to the genuine housebuyer who can afford to buy only two properties in a lifetime. On the other hand, property speculators will be discouraged as the stamp duty greatly increases their entry costs, since:

- For the third property, the stamp duty payable at a flat rate of 5% of the property price is more than twice the stamp duty payable for the first two properties.
- For the fourth property, the stamp duty payable at a flat rate of 7.5% of the property price is more than triple the stamp duty payable for the first two properties and 50% higher compared to the third property.
- For the fifth property and thereafter, the stamp duty payable at a flat rate of 10% of the property price is more than quadruple the normal stamp duty payable for the first two properties, twice the third property and 33% higher than the fourth property.

IV. Tighten foreign ownership rules

While Malaysia welcomes investment by non-Malaysian citizens in the property market, certain safeguards must be put in place to ensure that there is no excessive speculation resulting in property prices being pushed beyond the affordability of Malaysians. The various measures that can be put in place include:

- “Bread and butter properties” should be reserved for Malaysians. These properties comprise intermediate link-houses and standard condominiums. Non-resident foreign investors should only be allowed to purchase properties such as semi-detached properties, detached properties (i.e. bungalows), penthouses and high-cost niche condominiums.
- The minimum price for properties that non-resident foreign investors may buy should be above RM2 million in most urban and suburban areas. This is to ensure that the bulk of the affordable properties are not purchased en masse by non-resident foreign investors.
- Non-resident foreign investors should be subject to a flat RPGT of 30% for the first five years from the purchase or completion of the property, whichever is later. This is to prevent them from buying merely to flip the property later. Exceptions should be made for expatriate workers returning to their home countries for good. After all, developers often claim that property prices in Malaysia are among the lowest in Asia (Yap 2012).

The HBA therefore welcomes the Government's decision to increase the minimum price for properties that non-resident foreign investors can purchase from RM500,000 to RM1 million, as was announced in the 2014 Budget. This is a step in the right direction as foreigners must be prevented from artificially inflating property prices, especially in development corridors such as Iskandar Malaysia, which has already seen foreign purchasers arriving in droves and sweeping up properties.

HOUSEBUYERS' HOPES AND ASPIRATIONS

Every member of the *rakyat* hopes to be able to own a dream home within his or her working lifetime. We hope that the homes we buy will not look completely different from what is advertised and that we will get our homes within the period stipulated in the S&P.

Under the current Sell-Then-Build system (STB) housing developers are allowed to sell their units, after obtaining all the necessary approvals, without first having to physically build the properties. Developers will then use the proceeds from progress billings to the housebuyer (or through their housing loans) to build the said properties. Hence, the developer needs minimal capital to embark even on a mega-property project as the developer can use housebuyers' money. As a result, many housebuyers who purchased directly from developers have been short-changed.

There have been countless stories of housebuyers whose dream homes have remained abandoned even after more than 15 years. To make matters worse, many buyers have been forced to continue servicing their housing loans under threats of legal action and bankruptcy by the banks. As their dream homes never become reality, these unfortunate housebuyers must also continue renting their current homes.

To put a stop to this, the HBA has recommended a 10:90 system whereby developers may collect a maximum of only 10% in down payment from housebuyers with the remaining 90% to be paid upon the successful completion of the property with an accompanying certificate of completion and compliance. This will protect the housebuyer from the risk of abandoned projects and developers must use their own funds to undertake the work.

Under the 10:90 system, the developer will also be committed to ensuring that the quality of the completed units is as advertised. Housebuyers under the current STB system often complain that completed units vary greatly from advertised units or details in sales pamphlets.

CONCLUSION

The HBA hopes that the Government will heed its recommendations in efforts to curb the unbridled escalation of property prices. The Government should not be taken in by scaremongers or the smokescreens of parties that have vested interests in ensuring that they maximise profits.

The HBA fully understands and appreciates the vital role played by the housing industry in the nation's social and economic development. It is for this very reason that it has been critical of the weaknesses prevalent in the industry.

The HBA believes that sustainable growth for the industry can flourish only in an environment of orderliness and good governance. Housing developers should have some humanitarian feelings and corporate social obligations to serve the people and the nation.

Loans should be given to developers so that they can continue to build houses, while housebuyers' loans should only come in to pay for completed houses in the Build-Then-Sell 10:90 system that is to be made mandatory in 2015.

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I. The National Housing Policy

The Ministry of Urban Wellbeing, Housing and Local Government

INTRODUCTION

Housing encompasses the physical, social, economic, cultural and political environments while aiming to provide for the comfort and wellbeing of the people. However, the housing sector is heavily influenced by prevailing economic conditions. Rapid urbanisation is the key factor driving population growth in large urban areas such as Kuala Lumpur, Penang and Johor Bahru. Currently, 71% of the Malaysian population or approximately 20 million people reside in urban areas (Department of Statistics Malaysia 2011). This is in stark contrast to 1957 when 89% of the population lived in rural areas. The urban population will continue to grow as Malaysia becomes a developed and high-income nation, resulting in high demand for housing in urban areas. This in turn will lead to sharp price increases for urban housing, making housing affordability an issue in most urban areas in Malaysia.

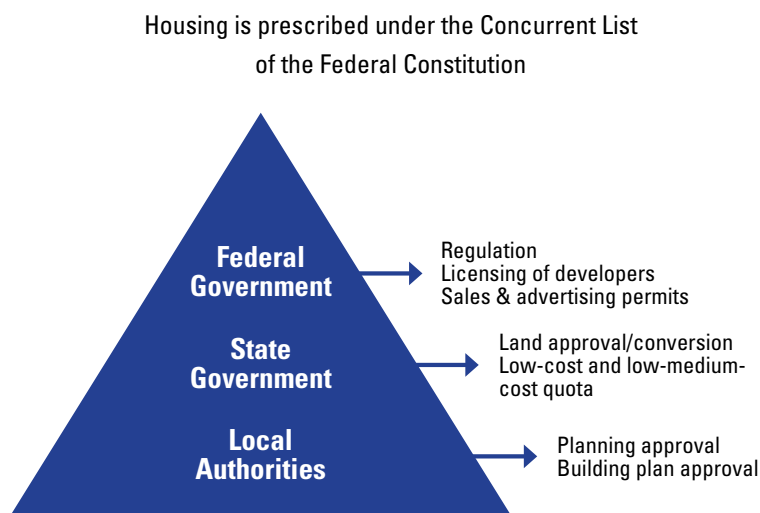
The Government's vision is to provide Malaysians of all income levels (particularly the low- and middle-income groups) accessibility to adequate, affordable and quality housing. This can be done by ensuring that demand is matched with supply, promoting an efficient and sustainable housing industry and providing well-functioning public utilities and services. The Government has introduced various housing policies and programmes to achieve this. Policies relating to housing development are outlined in the five-year Malaysia Plans and the longer-term Outline Perspective Plans. One key objective of housing policies is to ensure that Malaysians, particularly those from the low-income group, have greater access to adequate and affordable shelter and related facilities. Therefore, the Government has set targets to be achieved by both the public and private sectors for each of the five-year Malaysia Plans.

INSTITUTIONAL FRAMEWORK

Malaysia has a three-tier type of administration, namely federal, state and local government as shown in Figure 1. The Federal Constitution clearly outlines the responsibilities of and division of power between the federal and state governments. Although most responsibilities lie within the federal Government's jurisdiction – such as the licensing of developers and regulations – state governments still have absolute power and control over land matters, including housing. Local authorities come under state government jurisdiction and also have the power to approve building plans and issue development orders. To improve and enhance coordination within the government machinery, the Federal Constitution provides avenues of federal influence over state governments.

In Malaysia, the key players involved in the housing industry include the Government, state governments and private organisations, i.e. housing developers. The Government is represented by various ministries and agencies such as the Ministry of Urban Wellbeing, Housing and Local Government (MHLG); the Ministry of Rural and Regional Development (MRRD) and the Regional Development Authorities (RDA); the Ministry of Federal Territories; the Prime Minister's Office (PMO) through the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA); the Ministry of Finance (MoF) through Syarikat Perumahan Negara Berhad (SPNB); and the Ministry of Agriculture (MoA). The MoF is also involved in financial services through Cagamas Berhad for the My First Home Scheme (Skim Rumah Pertamaku or SRP) and the Housing Loan Division for civil servants. At the state level, some of the more prominent state economic development corporations are also involved in housing programmes, such as the Penang Development Corporation, the Selangor State Development Corporation and the Negeri Sembilan State Development Corporation.

Figure 1: The Government's institutional framework



Source: The National Housing Department.

PRIVATE SECTOR INVESTMENT IN HOUSING

Since 2010, there has been an increase in housing investments by the private sector. The year 2012 saw a 101.1% increase amounting to RM30.3 billion from RM15.1 billion in 2011. Investments in 2011 had registered an even bigger increase of 218.9% as compared to 2010 (see Figure 2).

Figure 2: Private sector investment

Year	RM (billion)	% increase
2010	4.7	-
2011	15.1	218.9
2012	30.3	101.1

Source: The National Housing Department.

This increase is largely due to the growing number of houses being built and the conducive investment climate in Malaysia (Jabatan Perumahan Negara 2012). It is expected that investments in the housing sector will continue to contribute to the country's economic growth.

HOUSING AFFORDABILITY

The term "affordable housing" refers to the financial affordability of housing with respect to the occupants' incomes, as opposed to certain types of housing such as "social housing", "public housing" and "low-cost housing", which are very often used (UN-HABITAT 2011). Housing affordability, however, involves more than the often-used, simplified comparison of house purchase price to household income. The lack of housing finance or unsupportive finance terms (for instance, high down payment requirements, high interest rates and short loan periods) also directly limit housing affordability, especially for the lower- and middle-income groups. PR1MA, for example, defines affordable housing as housing that is adequate in quality and location and does not cost so much that it prohibits its occupants from meeting other basic living costs or threatens their enjoyment of basic human rights. The MHLG defines affordable housing as those priced at RM300,000 and below for reasons that will be explained.

Notwithstanding the definition, there is currently a lack of affordable housing in Malaysia, especially for the middle-income group. The free market is skewed towards higher-priced properties whereas existing public housing programmes cater only for the low-income group (i.e. those having monthly household incomes of below RM2,500). Even these are grossly insufficient to meet demand. The middle-income group (i.e. those having a monthly household income of between RM2,501 and RM7,500) are somewhat left out. Contributing factors to this issue include rising construction costs, a shortage of land banks in popular/prime areas, urban migration and moderate growth rates for household income.

The Household Income and Basic Amenities Survey Report 2009 by the Department of Statistics Malaysia found that 76% of households were earning RM5,000 and below per

month while 53% were earning RM3,000 or below per month. Based on the credit line of 30% of net income for housing loans, loan tenures ranging between 30 and 35 years and the current Base Lending Rate of 6.6%, the maximum house price that the middle-income group can afford is RM300,000. This calculation assumes that the household has two income-earners and that the individuals do not have other loans or financial commitments. This means that for those who do, the maximum affordable price could be lower. According to the 2012 National Property Report, only 27.5% of all newly-launched housing developments were for properties priced in the range of RM100,000 to RM250,000. Thus, there is still a mismatch between the provision of affordable housing and the needs of the low- and middle-income groups. This is even more evident in urban areas, especially in the Klang Valley and Penang.

THE NATIONAL HOUSING POLICY AND HOUSING AFFORDABILITY

The National Housing Policy (NHP) was launched on 10 February 2011 to outline the direction of and to form the basis for the planning and development of the housing sector at the federal, state and local levels. The NHP's objective is to provide adequate, comfortable, quality and affordable houses to improve the wellbeing of the people. These objectives are encapsulated in six thrusts and 20 policy statements.

One of the policy statements highlights the Government's plan to enhance the role of state government agencies, besides federal Government agencies and the private sector, in continuing the effort to provide affordable houses for rent or for sale. In other words, while the Government has played a leading role in providing affordable housing, the NHP encourages state governments and state agencies to also play a more active role in this area. Under the NHP, the MHLG plans to set the prices for affordable houses, particularly in projects which are subsidised by the Government, as well as to control the ownership and sale of these houses to avoid speculation. Private developers are also encouraged to develop medium-cost houses to fulfil the needs of the middle-income group with monthly household incomes of RM2,500 to RM7,500.

The low-income group will continue to receive the Government's attention in housing issues. Providing housing for all, especially low-cost houses for the low-income group and encouraging the provision of medium-cost houses for the middle-income group, is also one of the NHP's policy statements. State governments have been given the flexibility to determine the quota of low-cost houses to be built in mixed-development areas, based on the suitability of the location and local demand. Prior to the NHP, most state governments fixed the quota for low-cost houses at 30% for housing projects above a certain size. In rural areas especially, this has led to supply exceeding demand, which in turn has resulted in vacant units. This flexibility allows state governments to adjust this quota to meet actual needs in specific locations. The Ministry is also planning to set a realistic rental rate for low-cost houses. The current rental rate for public low-cost houses throughout the country is RM124 per month. There is a need to review this rate, which has remained unchanged for the past decade.

Finally, the Government will continue to provide financial support to the low-income group so that people from this group can enter into homeownership. The low-income group

faces various obstacles, including the inability to raise 10% of the purchase price for the down payment and problems in securing bank loans to purchase these houses. Thus, some form of financial support is needed to ensure that the low-income group is able to own houses.

ACTION PLAN FOR THE NHP

An action plan has been formulated to outline strategic steps to realise the NHP's purpose and objectives. Lead agencies for each action have been identified and time frames have been set for the plan's implementation. While a monitoring committee has been established to ensure that the plan is implemented successfully, it still relies very much on the commitment and collaboration of all parties in the housing industry. In this regard, a close relationship between the public and private sectors is essential to address various issues and challenges faced by the housing industry. There are various strategies outlined in the action plans, but those related to housing affordability are as follows:

- **Information:** Information regarding affordable housing projects is to be provided by all government agencies and channelled to the people through a specific medium. The MHLG is working towards establishing a single portal for the public to access all necessary information on affordable housing, including information on eligibility conditions and bank loans. Currently, in many instances the public is not aware of where affordable housing can be found and how to go about purchasing it. Similarly, the agencies providing affordable housing and information on these houses are highly decentralised. There is a need for a single agency to collect and collate the data on all affordable housing. A single agency at the federal level will be entrusted with the responsibility of data collection on all affordable housing in the country.
- **Focus:** Agencies at the state level are to focus only on providing affordable housing. State agencies in many cases have moved away from their earlier role of providing affordable housing, going instead into commercial and high-end houses.
- **Needs-based housing:** All government agencies that provide affordable housing at all levels must provide public housing for sale/rent based on needs and household size. This will enable the standard-sized unit currently being offered by government agencies to be diversified.
- **Housing quotas:** State governments are to be given flexibility in deciding low-cost, low-medium-cost and medium-cost housing construction quotas based on a specific guideline. As explained earlier, this is to move away from the fixed 30% low-cost policy. For example, based on the needs of potential residents the quota could be amended to 20:20:10, i.e. 20% low-cost, 20% low-medium-cost and 10% medium-cost housing. Developers are to face levies/contributions if they are exempted from developing low-cost or medium-cost houses, and these levies are then to be used by state governments to build low-cost or medium-cost houses.
- **Price:** The current price guidelines for low-cost, low-medium-cost and medium-cost houses are to be reviewed and used by all agencies that provide affordable

housing. This review is necessary since the price guidelines are almost a decade old. The monthly rental rates for public low-cost houses will also be revised based on the occupants' household income, the maintenance and management costs of the building and its location.

- **Financing:** All commercial banks will be required to collaborate with Syarikat Jaminan Kredit Perumahan under the Housing Credit Guarantee Scheme in giving out end-financing to the target groups to purchase affordable houses. Second-generation housing loans with flexibilities are to be given by banks to help those in their late 40s to secure housing loans. The scope of the Housing Loan Scheme under the NHD has been expanded, whereby the loan amount has been increased from RM25,000 to RM45,000 and extended for second-generation loans.

REALISING THE NHP ACTION PLAN

I. The role of the MHLG in providing public housing

In the past 50 years, the Government has placed emphasis on the provision of low-cost housing (Noraliah and Ho 2008). At the federal level, the MHLG is responsible for the provision of public low-cost housing through People's Housing Programme (Program Perumahan Rakyat or PPR) projects. There are two types of PPR houses: for rent and for sale. The rent for these houses is RM124 per month while sale prices range from RM35,000 to RM42,000. At the end of 2012, a total of 90 PPR projects consisting of 67,886 units (for rent and sale) throughout the country had been built (see Figure 3).

Figure 3: PPR houses for rent and sale (2001–2012)

State	PPR for rent		PPR for sale	
	No. of projects	No. of units	No. of projects	No. of units
Kuala Lumpur	25	32,762	0	0
Sabah	15	13,256	0	0
Johor	7	7,108	0	0
Perak	6	675	0	0
Selangor	3	4,884	0	0
Sarawak	3	1,516	0	0
Kedah	2	1,894	0	0
Perlis	2	1,228	0	0
Penang	2	698	0	0
Negeri Sembilan	1	420	0	0
Melaka	1	336	0	0
Pahang	0	0	23	3,109
Total	67	64,777	23	3,109

Source: The National Housing Department.

PPR houses are also built to resettle squatters. By the end of 2012, the Government had resettled 35,566 squatters throughout the country through the PPR (see Figure 4).

Figure 4: Resettlement of squatters into PPR (2001–2012)

State	Squatters
Federal Territory	24,150
Negeri Sembilan	101
Johor	2,476
Perak	141
Perlis	136
Kedah	19
Penang	45
Sabah	8,356
Sarawak	142
Total	35,566

Source: The National Housing Department.

The pressing need for more of these houses can be seen from the fact that there are still 71,662 registered squatters awaiting resettlement throughout Malaysia. With land in urban and suburban areas getting more expensive and the cost of construction also increasing, the MHLG faces more challenges in ensuring an adequate supply of PPR houses.

II. Strengthening the role of state governments

As land is a state matter, state governments have the flexibility to determine housing quotas based on current demand in specific areas. State authorities also control land conversion and, through the local authorities, approval for building plans and development orders. Local authorities also decide on public facilities, the number of parking bays and other facilities to be provided by a developer before developers can apply for licenses and advertising permits from the MHLG. Thus, through all these instruments, state authorities can play an important role in ensuring an adequate supply of affordable houses.

Currently, most state governments only impose a low-cost housing quota for housing projects. States should review these quotas as they can impose a higher quota for affordable housing according to need, while reducing the low-cost quota. For example, there can be a 20% quota for low-cost housing and a 20% quota for affordable housing. Other states impose levies or contributions on developers if the latter are exempted from developing low-cost and low-medium-cost houses. These levies or contributions vary from state to state; for example, Penang's levy on developers who are exempted from building low-cost houses can go as high as RM120,000 per unit. The levy imposed should be high enough to act as a deterrent or to contribute positively to the states' efforts in building low-cost houses. The payment should also be used to construct low-cost and low-medium-cost houses. Besides this, and to accelerate the development of affordable housing, state governments may in certain cases redevelop existing low-cost housing areas into mixed-development zones

with affordable houses, according to current demand. To implement all the above, however, it is crucial that state and local authorities, especially in urban and suburban areas, be equipped with a capable workforce and sufficient funds to enable them to expedite the work processes and the necessary approvals in a professional and timely manner. Data availability is also crucial, and this will be elaborated on in greater detail below.

III. Strengthening the roles of other government agencies

The involvement of state governments in housing development is carried out through government-linked companies (GLCs) such as the state economic and development corporations, which operate like private housing developers but are responsible for fulfilling state objectives. They build houses for sale and are expected to make a profit from the development. Thus, state-owned agencies involved in housing should focus on building affordable houses to fulfil demand. GLCs involved in housing development should also be compelled to deliver a certain percentage of affordable houses since they have directly or indirectly been beneficiaries of various government programmes. These efforts will help the Government to increase the number of affordable houses being built each year, hence increasing homeownership among the people. Theoretically, the increase in the supply of affordable houses will also contribute to stabilising the overall price of houses in the country.

IV. Determining housing demand and supply

At the moment, there is no single agency that collects data on the demand and supply of houses. The NHP outlines the need for a single agency (to be determined later) at the federal level to collect data from all states and use them not only for the provision of affordable houses, but also for planning and policy directions for the housing industry. The MHLG has taken the lead in this and will be responsible for collecting and collating all this data. However, it will require the commitment and capability of all the state governments as they are in the best position to determine the actual need and demand for affordable housing in each state. For this to take place, a systematic registration system and a specific database is necessary to enable a thorough demand-supply analysis to be conducted at the state level. The demand-supply analysis will enable state governments to establish the current demand of specific target groups. It will also help states to properly plan development and introduce necessary policies to ensure that houses are built to meet the requirements of the people, while the information is channelled to the MHLG to facilitate better planning of housing programmes and policies at the federal level.

V. Achieving efficiency in land use

It cannot be denied that rising land costs have contributed to sharp increases in house prices. The public sector is left with little option but to collaborate with the private sector in designing, developing, managing and maintaining affordable quality homes throughout the country. Currently PR1MA, under the PMO, has taken the lead in cooperating with state governments, whereby the latter provide the land while reputable private-sector developers are invited to participate in the construction of affordable houses that will be priced at least 20% below the market price. PR1MA will also provide a facilitation fund for infrastructure

development. Through PR1MA, it is hoped that more Malaysians will be able to own a house, thus assuring them of a better future.

Furthermore, the development of affordable houses can be expanded through the use of general *wakaf* (charitable) land and reserve land of the respective State Islamic Religious Councils (Majlis Agama Islam Negeri or MAIN). Idle *wakaf* land can be used for housing projects for the benefit of low- and medium-income earners. As at 2011, there was a total of 13,397ha of idle *wakaf* land throughout the country. In this regard, the Department of Wakaf, Zakat and Hajj in the Prime Minister's Department can serve as a facilitator in discussions between MHLG and MAIN to develop low-cost housing. Each MAIN will also act as the sole trustee of *wakaf* property in its state.

For example, the Selangor Zakat Board currently takes a community development approach to allocating *zakat* funds through its Social Development Programme. It has introduced four schemes under this programme: the construction or improvement of individual houses, the construction of cluster housing, rental housing for transit dwellers and old folks' homes. The Board has also outlined a few criteria or requirements based on income, family size and local leaders' recommendations to determine the eligibility of applicants who can benefit from their housing schemes (Mohammad and Nurul 2011).

CONCLUSION

The Government has played an active role in designing and implementing a wide range of housing policies to eradicate squatter settlements and provide affordable houses. This is aimed at fulfilling the aspirations of low- and middle-income groups to become part of the homeownership democracy. Therefore, it is imperative that all government agencies involved in housing at all levels be encouraged to reduce bureaucracy in the use of land, rules and regulations. The MHLG, on the other hand, has and will continue to concentrate on attaining the social objective of providing sufficient quality houses to meet the growing needs of the masses at affordable rental prices, particularly for low- and medium-income groups and squatters, while continuing to protect the rights of housebuyers.

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II. From Past to Present – the
Developers' Perspective

David K.T. Chua

GENESIS OF HOUSING DEVELOPMENT – THE EARLY YEARS

In the 1950s and 1960s, urbanisation in Malaya (and then Malaysia) took place slowly as the agrarian economy still prevailed. Rural environments were dominated by simple semi-permanent housing accommodations. The common urban landscape was characterised by pre-war buildings featuring shophouses and some residential homes.

As society became more affluent, formal housing began to emerge with greater urbanisation. In the more rapidly urbanising areas, the Government began to undertake planned housing estates albeit on a small scale. Essentially, these were intended to cater mainly to the needs of those employed in the public service. Apart from the district town centres, the peripheral New Villages were the main centres of population concentration.

Before Independence and the setting up of the three-tiered Government, there was no formal comprehensive government and administrative framework to regulate the provision of formal housing. For nearly 15 years post Merdeka, the business of housing development remained very much a small-scale undertaking.

THE PIONEERING DEVELOPERS

After the mid-1960s, ingenious businessmen who saw opportunities in the increasing demand for housing as society became more affluent undertook housing development as a new business venture. In the subsequent years, with the new entrants onto the housing scene, the housing sector grew rapidly.

As the provision of housing was driven by the commercial initiatives of private enterprises rather than as a social programme of the public sector, the main concentration was the building of housing types to cater to the middle- and upper-income groups. This gave rise to a widening disparity between social classes in terms of housing areas, as well

as the marginalisation of the urban poor. The rural sector was content with informal housing associated with agricultural holdings.

The Government was quick to respond to this new phenomenon. Interventionist policies were put in place to ensure a reasonable spread of housing types, including the provision of affordable housing for lower-income strata. In the late 1970s, it was made compulsory for developers to include a quota of 30% low-cost housing in most residential projects.

As the housing sector continued to grow steadily, so did urban land prices. This put considerable pressure on private developers to comply with the 30% low-cost housing policy. It must also be borne in mind that very little state land had been alienated for private housing development to mitigate the demand pressure for affordable homes.

The land conversion process was tedious and the premium for converting land was costly. Making the private sector responsible for providing low-cost housing was detested by the nascent industry due to the heavy price subsidies that had to be borne by the developers with no concessions extended by the Government for the provision of infrastructure at an acceptable standard.

Housing development involves a multiplicity of inputs ranging from land, infrastructure, services, utilities and other amenities. It is to a large extent because of the tedious and costly processes, from the inception of a project until its completion, that private-sector commercial housing was beyond the reach of the lower-middle and low-income groups during this time.

It was only after the late 1980s that the Government began to intervene in a big way by undertaking major affordable-home schemes run by state-owned housing agencies and corporations.

FIVE DECADES OF CONTINUOUS HIGH GROWTH

The phenomenal growth of the housing and general property development sectors has not only contributed significantly to the nation's formal housing stock – the spin-off effect on upstream and downstream activities has also been enormous both in breadth and depth. Property development activities have generated vast employment opportunities as well as the growth of the services sector, manufacturing, home furnishings, appliances and the like. Cumulatively, property and construction activities have been a key driver of economic growth for the nation.

Specific to the housing sector itself, demand-driven trends compelled the raising of standards involving all inputs such as professional services, as evidenced by the higher degree of sophistication and professionalism in their conduct and provision. In the process, the “shaking out” or elimination of amateurs took its course. This process of evolution has shaped the property development fraternity as a domain for developers who are committed, responsible and mindful of corporate social responsibility alongside profit objectives. The new generation of property developers, represented by the leading corporations of today, are the standard-bearers who display good governance and prioritise concerns of quality and branding.

Malaysia entered the new millennium with significant milestones in a wide array of quality homes, albeit at high prices. In part, this has a direct relationship with the value of the ringgit and other factors that have contributed to the rising cost of, *inter alia*, labour, materials and service inputs. Nonetheless, housing and property development remains a lucrative business due to property being seen as a store of value and as one of the best, most efficient and highest-yielding modes of investment, apart from the value of its actual use as a residence.

Also, there is a growing number of younger Malaysians who regard homeownership as more than the mere fulfilment of a basic need. For them, homeownership has assumed a new meaning and purpose associated with the quality of the living environment, the lifestyle of modern families and any attendant novelty value. These developments have necessitated enhancements to institutional support in terms of management and governance.

GOVERNING LEGISLATION

In 1966, the Government saw the need to introduce legislation in the form of the Housing Developers (Control and Licensing) Act to regulate housing development in Peninsular Malaysia. It took several years for the Act to be accepted by the players in the young economic sector as they were not ready to adapt to the provisions and rules of the new legislation. The Act was eventually made effective in 1969 but saw several amendments in the decades to come.

Against the backdrop of widening legislative and regulatory controls and the need to build a common platform to safeguard their common interests in the new business environment, the early developers formed a grouping that eventually gave birth to the Housing Developers' Association of Malaysia (HDA), which was later renamed the Real Estate and Housing Developers' Association of Malaysia (REHDA). In the ensuing years, REHDA played a pivotal role in influencing the course of and changes to legislation that directly or indirectly affected the business of housing development.

Undeniably, the Housing Developers (Control and Licensing) Act 1966 – renamed the Housing Development (Control and Licensing Act) in 2002 – has put in place the necessary safeguards for developers and housebuyers alike. The Act has certainly contributed to bringing about a more orderly growth of the housing development business, although it has fallen short of making housing development a profession. Among other things, this has been due to the lack of compulsion in determining or prescribing qualifications for developers undertaking the business of housing or property development. As such, virtually anyone with the capital to undertake the business is free to do so, subject of course to obtaining a licence.

EVOLUTION OF THE NATIONAL HOUSING POLICY

In the early years of nationhood, the Government's chief concerns were to bring about stability and a sense of belonging to the new country. One of the key elements was to ensure the provision of shelter for each family. The concept of a "home-owning democracy" was first mooted in 1972 by then-Prime Minister the late Tun Abdul Razak Hussein, but this was reoriented when Tun Dr Mahathir Mohamad became Prime Minister in 1981 to lower the

high expectations due to a sudden and rapid surge in demand for housing while output through the delivery system was slow.

Alongside increasing supply capacities, a reorientation of the home-owning democracy idea sought to de-emphasise homeownership by replacing it with property ownership, i.e. one might not necessarily be limited to owning a home or a house – one could also own other forms of property. While the provision of adequate and affordable housing remained a priority, meeting demand and mitigating the rising costs of materials and house prices posed very difficult challenges. This has, in fact, remained a thorny issue for legislators and policymakers even today.

Various initiatives to design a National Housing Policy were made but they did not result in a clearly-defined policy to guide the delivery of housing. This was due to the complexities of the delivery system and the lack of comprehensive legal and institutional frameworks at the time. Throughout the 1980s and 1990s, there was much debate about the roles of the public and private sectors in meeting demand for housing by all social strata in an equitable way. The private sector opined that social housing should be the task of the Government and commercial housing should remain the domain of the private sector. The counterargument was that, as good corporate citizens, private housing developers should bear a certain level of corporate social responsibility in developing housing for sale to lower-income groups as well.

The Government mooted the idea of “cross-subsidisation” to mitigate the developers’ financial burden such that certain degrees of relaxation would be allowed for open-market housing targeted for profitable sale while, in return, part of the gains would be used to cross-subsidise low-cost housing units.

The housing and general property sectors continued to register impressive growth throughout the 1980s and 1990s despite short spells of recession in the mid-1980s and the Asian Financial Crisis. The Government at both the federal and state levels accordingly geared up to undertake public housing schemes in order to ease the demand pressure for affordable homes, especially in the enlarged urban areas. This was seen as an important initiative both socially and politically, and of particular significance was the gradual reduction of urban squatters. There were planned targets to achieve zero squatters within given timelines. Enforcement efforts also minimised the proliferation of squatters, which remains a common phenomenon in developing economies faced with rural-urban drift.

It was a situation where the objective of increasing housing supply took precedence over the pronouncement of a national housing policy so as to provide a road map towards achieving adequate housing. In part, pragmatism demanded that policymakers avoid making high-level promises and running the risk of attainments falling short of expectations. Nonetheless, housing programmes were announced on an ad hoc basis and, over time, this contributed to a growing pool of housing schemes supported by the public sector.

It would be uncharitable to say that no clear, comprehensive and well-defined national housing policy was ever put in place throughout the past four decades of the rapid growth of the housing and property sectors. However, from the point of view of practical outcomes, Malaysia has indeed achieved a near-adequate state of housing for the growing population. The national housing stock continues to grow with the public sector contributing in a bigger

way to public housing in urban and suburban areas. In light of increased demand for housing by the younger generation (who form the majority of the population) when they reach adulthood and start to raise families, the federal and state governments have responded with special housing programmes in major towns and cities that have varied according to the different needs of the various social strata.

The private sector continues to concentrate on commercially-viable schemes either in urban renewal or redevelopment projects as well as the creation of new townships. These new townships effectively lessen the pressure of overconcentration in the already congested traditional urban centres. At the same time, these new townships generate new growth centres that are, in turn, efficiently linked to the main urban centres by an excellent network of expressways throughout the length and breadth of Peninsular Malaysia.

The state of housing in Sabah and Sarawak, although less problematic, is gradually assuming similar patterns of growth as witnessed in Peninsular Malaysia. For one thing, the population density is relatively lower in these two states whose economy is principally agrarian with a sprinkling of industries that are mainly resource-based. Most lacking in Sabah and Sarawak are basic infrastructure, services, utilities and other essential social amenities.

The growth pattern and experience in the development scene of Peninsular Malaysia can serve as a good template for the orderly planning and implementation of housing in Sabah and Sarawak. Owing to the special circumstances of the two states, however, many aspects of federal legislation involving housing have not been uniformly applicable there.

LEGISLATIVE AND INSTITUTIONAL REFORMS

While grappling for a set of national policies, the urgent task consists of working towards meeting demand, managing issues immediately confronting the property sector's pace of growth, and assisting property buyers in overcoming problems associated with the purchase of their homes.

On the procedural front, processes have been significantly streamlined and in many ways simplified. The management of records has been progressively digitised and electronically archived. More efficient and cost-effective building systems have been progressively introduced to speed up construction and minimise the use of manual labour. Alternative materials are continuously introduced to facilitate construction, cost-effectiveness and aesthetics. More innovative designs for better-quality buildings, energy-saving measures and intelligent building services dominate the cityscape today, thereby giving the country an air of modernity and projecting the emergence of a new generation of buildings in towns and cities. These not only portray clear signs of progress, but also signify the coming-into-being of global standards in the modern Malaysian metropolis.

With regard to housing accommodation, new innovations and trends have moved ahead of reforms in legislation and related procedures as well as the institutional framework and supporting agencies. These innovations, such as subdivided (or strata) buildings, gated communities and the use of certain alternative materials (due to design and sometimes cost considerations) vis-à-vis existing building by-laws, continue to pose major challenges to

the establishment of a well-defined and efficiently administered delivery system as well as requirements for completion, post-delivery administration and governance. The review and reform of legislation in Malaysia generally takes a long time and laws and regulations relating to the housing sector are no exception.

That said, the Government has taken significant steps to bring into force the Uniform Building By-Laws 1984, the Town and Country Planning Act 1976, the Strata Titles Act 1985 and more recently the Strata Management Act 2013, *inter alia*. Some of the existing legislation has been amended in keeping with changing circumstances.

As housing development constantly faces the problem of scarcity of land (and hence rising land prices), the density of housing units is invariably raised to optimise the use of land. In the process, medium- and high-rise buildings in the form of flats, apartments, condominium units and the like have progressively dominated the supply pattern. Properties with individual land titles are giving way to strata units in subdivided buildings, leading to landed properties commanding a premium.

Introduced in 1985, the Strata Titles Act has served its purpose for nearly 30 years. To date, the Land Office and Land Titles Registry have been able to perform their tasks in the issuance of strata titles and in handling dealings under the National Land Code 1965.

During the past two decades, however, more strata properties have been built and so the number of residential strata-title units has increased significantly. Upon completion and handover, a variety of obligations come into being that require fulfilment by both developers and purchasers. A number of issues have surfaced (and these have escalated in many ways) to the extent of presenting considerable headaches to developers, purchasers, local authorities and the Land and District Offices. Principally, these concern the unwillingness of purchasers to take up the transfer of strata titles in order to compose the quorum (i.e. at least one third of registered owners) needed to hold the first general meeting for the purpose of setting up the management corporation.

While the Strata Titles Act 1985 provides adequate legislative measures for subdivision and the issuance of strata titles, and regulates matters pertaining to organisational and management issues, experience in the past three decades has uncovered many unresolved problems associated with management and the obligations of developers and unit owners.

The complexity and degree of problems faced vary according to the category of strata-title unit. For the more affluent middle- and upper-income strata communities, problems are less acute because owners or occupants generally have higher levels of education and understand their rights, duties and obligations in shared community living. They also have the financial means to meet their payment obligations. The same cannot always be said of lower-middle and low-income strata communities, especially if they can barely understand the essentials to make community living work. Also, more often than not, the lack of financial means inevitably results in defaults in payments, in turn adversely affecting the management's financial capability to meet the cost of maintaining and servicing the property as a whole.

Prolonged and substantial arrears in the settlement of service and maintenance charges and sinking funds place a heavy burden on the provision of maintenance services and in

meeting outgoings, including utilities and other statutory levies. This unsatisfactory state of affairs ultimately translates into poor maintenance and upkeep, leading to dilapidation and poor living conditions due to lack of repair.

For this reason, the Government has introduced the Strata Management Act 2013, and accordingly repealed the Building and Common Property (Maintenance and Management) Act 2007. The new Act was gazetted on 8 February 2013 with the principal purpose of providing more stringent controls over the proper management and maintenance of strata properties, the discharge of obligations of unit owners and the powers of the management body.

MERITS AND DEMERITS OF POLICY INTERVENTION

While the scarcity of housing supply has always been seen as a major impediment to realising one's homeownership dreams, a significant number of purchasers have had the misfortune of being embroiled in housing projects that were subsequently abandoned. This has prompted the Government to tighten measures to curb delinquent developers, *inter alia* by introducing the Build-Then-Sell (BTS) concept. Ostensibly the BTS system appears to give purchasers better assurances of getting their homes delivered without risking their life savings or putting their home financing at risk. In practice, however, the BTS concept has been beset by a host of issues and problems. Consequently, it may be argued that the BTS approach does not, in the truest sense of the word, benefit house purchasers.

The critical nexus lies in the developers' capacity to raise financing to fund construction. Moreover, the additional capital and operating costs borne by the developer will ultimately be passed on to purchasers at the end of the production chain. Such a concept will have the effect of reducing output due to any limitation in financing. On the other hand, financial institutions might not be ready to shoulder the burden of financing the entire housing delivery system. Ultimately, the premature implementation of the BTS approach may significantly reduce housing output, in turn belying its objective of stabilising house prices through the interplay of supply and demand.

In the area of foreign ownership, Singapore's property market has among the highest number of foreign purchasers of non-landed properties in the ASEAN region. Comparatively, Malaysia at this juncture still has very limited foreign ownership although it has higher foreign ownership compared to other ASEAN nations excluding Singapore. As Malaysia attracts more foreign investments in other economic sectors, coupled with the "Malaysia My Second Home" programme and the expansion of the services sector in higher education, healthcare and tourism, it can be foreseen that foreign ownership of commercial, upmarket residential and tourism property products will continue to rise. The Malaysian property market will continue to attract regional and international purchasers who see in Malaysia the potential for value appreciation in tandem with economic growth, particularly in the decades to come as the country attains the status of a developed nation.

While these positive developments are comforting, the concern has always been to avoid asset inflation and the creation of a bubble economy fuelled by rising property prices. In order to mitigate the risk of asset inflation, particularly in respect of residential properties for the population in general, current curbs prescribing a limited price range should

continue to be enforced. Beyond the market segments thus reserved to protect the interests of the people, the rest (especially products orientated towards the non-residential property market) should be left to the forces of supply and demand as long as the acquisition of these assets does not result in undue competition for funding from the domestic commercial banking system, which can deprive local purchasers of opportunities to tap into these financing resources.

Past experience has shown that placing artificial curbs on an ad hoc basis will create a situation of uncertainty and unpredictability. This will hurt investment sentiments and create a dampening effect on attracting foreign investment and expertise. The enforcement of measures to control short-term speculation will be in order as long as they are well thought through and implemented with consistency and transparency.

THE NATIONAL HOUSING POLICY IN A CHANGING ENVIRONMENT

Malaysia has come a long way in achieving a state of near-adequacy in housing. Beyond satisfying basic needs, however, Malaysia can gradually provide greater avenues to foreign ownership, thereby contributing to the growth of other economic spheres. The continuing escalation of house prices has given rise to serious concerns about affordability among would-be homeowners. Many a time, blame is placed on foreign purchasers who are suspected of exploiting the weaker ringgit exchange rate to buy multiple properties – in turn creating artificial demand pressure that fuels the rise of overall house prices. This is completely untrue as guidelines for foreign purchases are quite well defined. As matters stand today, there are only certain categories of real estate – and these are above certain price thresholds – that foreign purchasers are allowed to buy. In other words, foreigners do not constitute direct competition to locals, especially in the area of housing units meant for domestic purchase. Steps must be taken to clarify this position to the public because the outbursts by locals against foreign ownership, though without basis, can send the wrong signal that foreign investment in Malaysian property is entirely unwelcome. This will hurt attempts to attract capital and investment into areas that are legitimately open to foreigners.

As far as matters concerning property ownership and accessibility are concerned, laws and regulations must be clearly defined and enforced. Owing to the special character of Malaysia's federal and state government structure, policies and measures for land and property ownership at the federal and state levels must be consistent in order to avoid ambiguity and uncertainty. The planning and design of residential housing estates and other forms of accommodation have shown considerable improvement over time. As such, the authorities should continue to encourage innovation and upgrading to provide a more harmonious living environment critical to raising families and bringing about greater social cohesion among the younger generation of Malaysians.

As part of national progress and the enhancement of human dignity, the labelling of "low-cost housing", which bears a negative connotation and social stigma, should be eliminated and progressively replaced with a more neutral term such as "affordable social housing". Through years of effort, the benefits of affordable housing undertaken by the federal and state governments and their agencies have taken root. These benefits must be further enhanced with a view to meeting the needs of every family that wishes to own the roof over its head.

There still exists a great potential to enhance the Government's role in social housing to take care of the needs of the lower-income group. This new effort should have the double objective of propelling the sustainable growth of the construction sector while at the same time satisfying one of the most critical needs of the people.

PROMOTING A STRONG MAINTENANCE CULTURE

The preservation of the value of assets is intimately linked to a strong maintenance culture that preserves the physical quality and character of a building. The older generation of buildings seriously lacked maintenance and upgrading such that the useful economic life of a given building of this class was seriously compromised. In the past decade, there has been a positive change to this deep-seated attitude with regard to new developments. Most new buildings in major capital cities today display aesthetically-pleasing façades and certainly command better rent and capital value.

This rising consciousness augurs well for the cityscapes of the future. Local government, developers and building owners can rightly take pride in their respective roles in this.

CHALLENGES OF THE NEXT DECADE

The Malaysian property market has attained a level of maturity in depth and breadth and is ready to join the league of modern metropolises. In tandem with rising affordability and affluence, future homeowners and property investors will be more discerning in their choices. It is incumbent upon developers, building service professionals and builders to rise to the challenge. The lifestyle element, as well as convenience in the conduct of everyday activities, will become increasingly important over and above issues of safety and security. The challenge of the next decade is to enhance institutional support in terms of regulatory reforms to meet the dictates of the changing times and to cater to the continuous advancement of design, the application of innovations and the increasing sophistication of building technologies.

III. The Views of the House-Buying Public

Goh Seng Toh

Large-scale housing construction in Malaysia was first undertaken in the late 1950s and early 1960s. This was an era when housing projects that consisted of hundreds (perhaps thousands) of units entered the scene, thanks to factors such as post-Merdeka economic progress and the post-Second World War baby boom. With the impressive economic advancement, jobseekers from rural areas converged on the Klang Valley, where much of this development was initially focused. Thus the scenario was set for a housing boom in this urban centre.

It all went reasonably well until the mid-1960s when housebuyers began to face problems when purchasing their houses. With an inherently low entry barrier into the industry, opportunists were quick to jump on the bandwagon and soon developers – genuine and bogus ones – swarmed the scene. Trouble began when certain housebuyers ended up paying for but not getting their houses and eventually losing whatever they had paid.

At that time, the mode of delivery for the industry was a variation of the Build-Then-Sell (BTS) 10:90 system. A buyer would pay a 10% down payment upon signing the Sale and Purchase Agreement (S&P). The remaining 90% would be payable when the house was completed. Since the Housing Developers Act was not yet in existence then, there was no standardised S&P or other safety measures to protect housebuyers.

According to the Hansard for the period, parliamentarians were concerned that bogus developers were fleecing housebuyers of their down payments by never building or finishing the properties (Hansard 1966). There was an obvious need for legislation to regulate the crucial and fast-growing housing industry, which had been operating in a “law-of-the-jungle” environment.

The first incarnation of the Housing Developers Act (HDA) emerged in 1966 under the sponsorship of then-Minister of Local Government and Housing, the late Tan Sri Khaw Kai Boh. However, the Bill drew cynical remarks from those who thought that it was meant to

protect developers instead of purchasers. Indeed, there was some basis for this perception. Despite the passage of the Act, housebuyers continued to suffer as a result of the industry's shortcomings.

A key tenet incorporated into this first HDA was the introduction of the Sell-Then-Build (STB) system, which has been sustained to this day. Typically, housebuyers pay a 10% deposit upon signing the S&P. The remaining 90% is paid progressively as the developer builds. The developers' consultant architects then certify the stages of completion and, based on these reports, financing banks will make progressive payments (or disbursements) to the developers from the housebuyers' housing loans. Interest on the disbursed amount is payable by the buyers on a progressive basis, subject to the amount that the banks disburse.

There are various permutations of this system and currently innovative developers use the so-called 5:95 system (or even 0:100) where the down payment is only 5% (or in the case of 0-100, none at all). Progressive interest is not paid during the construction phase and the full instalment kicks in only when the houses are completed. While this appears attractive, in reality the interest has already been factored into the basic price of the house, belying the impression that buyers do not have to pay progressive interest. It also gives the impression that the particular project conforms to the Build-Then-Sell (BTS) 10:90 system, which will be discussed in greater detail later.

The crucial disadvantage is that buyers' housing loans are still being drawn down and disbursed progressively to the developer. They are therefore still very much responsible and liable for the loans. If for whatever reason the project is abandoned, buyers get into serious financial problems. It is an extremely innovative marketing tool, more so in an environment where buyers are hardly aware of the true situation. Thus, a new buzzword has come into existence: the developer interest-bearing scheme or DIBS. DIBS tends to encourage speculators as the entry cost is even lower and there is no progressive interest to service. By the time the full instalment kicks in, it is time to flip the property.

The National House Buyers Association has been inundated with complaints by aggrieved housebuyers regarding shoddy (in certain instances, completely unacceptable) workmanship, failure to build according to plan, delayed handovers and so forth. The reason for all this is obvious: come handover time when housebuyers have fully paid for their purchases (except the retention sum), most if not all are too financially exhausted even to think of litigating. Even if buyers are financially capable of doing so, the delay in obtaining possession of their dream houses due to lengthy court processes is invariably a key deterrent. Developers have been quick to exploit this situation and irresponsible ones have adopted a very casual approach to the subject of quality. In this scenario, it is not difficult to understand why developers are fighting tooth and nail to preserve the STB status quo. The situation is vastly in their favour.

Due to a variety of other problems that continued to plague housebuyers, the HDA underwent two more major amendments, once in 2002 and again in 2007. The title of the Act was amended to read "The Housing Development Act" but it is noteworthy that until today, major and minor problems continue to plague the housing industry, with housebuyers bearing the brunt of the ensuing hardship.

WEAKNESSES IN THE CURRENT SYSTEM

I. Enforcement of legislation

Laws are only as effective as their degree of enforcement, so adding more legislative measures will not solve a problem if enforcement remains weak. Despite numerous amendments to the HDA, housebuyers in Malaysia continue to experience difficulties: some are mere irritants (such as leaking roofs) while others are clearly serious (houses literally sinking because they were constructed on unsuitable land and/or because adequate foundation works were not carried out).

II. The socioeconomic factor

Malaysia, being a free-market economy, tends to leave business activities to find their own levels. This has been the Government's stand towards the housing industry as well. For social considerations, however, legislative measures have been put in place in the interest of broader objectives such as Bumiputera allocations, discounts and low-cost units. Some describe these policies as "robbing Peter to pay Paul" but proponents explain that in terms of expanding the economic pie, it is the Government's duty to adjust the progressive share distribution based on the degree of need experienced by each segment of society. In other words, no one should be deprived of or denied his or her share of the expanding economic pie. The low-cost units, the special discounts and the mandatory units allotted to the Bumiputera, however, give developers an excuse to increase the prices of their products, citing "cross-subsidy" as a reason, for which there is some merit. Still, in complying with these policies irresponsible developers tend to market the non-discount units at higher prices that more than cover the costs incurred.

For the non-Bumiputera and non-low-cost housebuyers, these policies translate into more expensive houses because subsidies incurred by the low-cost and discounted units are factored into the other ones. The mandatory Bumiputera discount is another area where some unfairness seems to have crept in. Discounts given to deserving Bumiputera buyers are indeed justified but more often than not, Bumiputera discounts do not take into consideration Bumiputera buyers' incomes and financial standing. Thus, even non-deserving Bumiputera buyers get to enjoy these policies based on their race alone. Perhaps the institutionalised discounts should be done away with in houses that cost above a certain value (say RM500,000). There is certainly no justification for providing buyers of high-end properties any special discount.

Nevertheless, these problems pale in comparison to the worst-case scenario, in which projects are abandoned entirely.

III. Abandoned projects

The untold hardship suffered by affected housebuyers and the hundreds of millions spent by the Government to revive some of these projects are simply unacceptable. This situation is both financially and politically damaging. For the housebuyers, vast sums of their money are trapped in these abandoned projects. For end-financing banks, the large

sums tied down by way of progressive payments disbursed to abandoned projects may be irrecoverable and may have to be written off. In the meantime, these abandoned projects are left to grow increasingly dilapidated with the passing years. Angry and distressed victims blame the Government for allowing the situation to persist and for being unable to resolve their problems.

THE SPECIAL TASK FORCE

In 2009, after realising the seriousness of the problems posed by the unacceptable number of abandoned housing projects, the Government set up a Special Task Force (STF) headed by the Chief Secretary to the Government. The STF's primary role was to identify and revive abandoned housing projects. Meeting on a quarterly basis, the STF involved all ministries related to the housing industry and provided representation at the highest level to key stakeholders such as academicians, related professionals, non-governmental organisations and industry players. Yet for all the STF's efforts and taxpayers' money spent, the end results have been dismal. It needs to be stressed that it is not that the STF is not fulfilling its functions – indeed its achievements have been impressive – but the sad truth is that as abandoned projects are revived, more projects are abandoned. Trying to solve this problem resembles a search for the proverbial pot of gold at the end of the rainbow.

For the STF to achieve meaningful results and progress, the floodgates to project abandonment need to be closed; otherwise, the STF may as well be a permanent feature in our Government as a Ministry for the Revival of Abandoned Housing Projects. Jests aside, former Prime Minister Tun Abdullah Ahmad Badawi once described the current scenario as one where profits are privatised while losses are nationalised – an apt summary of the situation. The status quo is untenable and the crux of the issue is the STB system. Adopting the BTS system will remove the bulk of issues related to abandonment and help to address a host of other problems.

PROGRESS ON THE BUILD-THEN-SELL 10:90 MODEL

After several years of intense discussions, debates, mini-labs, workshops and seminars involving all related parties, in 2012 then-Minister of Housing and Local Government Datuk Seri Chor Chee Heung announced that the BTS 10:90 would be fully implemented by 2015. This announcement came like a fresh breeze in a suffocating atmosphere and, for once, housebuyers felt that something positive and meaningful was being done to remove this scourge from the housing industry.

However, what was announced by the Government was not truly a BTS system. In the announced 10:90 system, a buyer pays a deposit of 10% and then pays the remaining 90% only upon the completion of the house and the issuance of the certificate of completion and compliance (CCC). The 10% is paid to the lawyers acting as stakeholders so that the sale is locked in. For the housebuyers however, it is still a purchase based on brochures and the advertisement of a concept. The 10:90 system is therefore still a “sell first then build” model as homes are still yet to be built or completed at the time of the signing of the S&P.

The big difference is that a buyer does not pay progressive payments and if the developer fails to complete the project or abandons it for whatever reason, the buyer is

insulated from the disastrous fallout because his exposure is limited to the 10% that he paid upon signing the S&P. Even that sum is safely held by the stakeholder lawyer and deposited into an escrow account. If the house is abandoned, the buyer simply takes back the money together with whatever interest has accrued. When the developer successfully hands over the house to the buyer, he then takes the 10% together with the accrued interest, and the buyer pays the remaining 90%. The sale is then completed. If there is any dispute over the quality of the house or if the buyer raises other grievances, independent consultants may be brought in to verify the situation. To avoid further misconceptions and confusion, it may be advisable to refer to this recently-announced concept as the 10:90 system rather than a BTS system.

THE NATIONAL HOUSING POLICY

The timely introduction of the National Housing Policy (NHP) in 2011 set a new direction for the housing industry. It is comprehensive and covers all conceivable aspects of housing for the people of Malaysia, namely:

- The quality of houses built
- Abandoned housing projects
- The affordability and accessibility of low-cost and medium-cost houses
- The construction of Affordable Public Housing (APH) at non-strategic locations
- The distribution of APH.

However, a policy remains abstract unless it is vigorously pursued through tangible and measurable programmes. It is also vital that each thrust have a related achievement-measuring tool such as a key performance index.

I. Thrust 1: providing adequate housing based on the specific needs of target groups

Until recently, the lower-income group – to which all assistance has been directed – was this thrust's exclusive target. Under the new approach, developers are compelled to build low-cost houses specifically for this segment. Various government-linked companies have also contributed substantially to this thrust and the Government itself has been directly involved in the construction of low-cost flats under the People's Housing Programme (Program Perumahan Rakyat or PPR). This prong has largely achieved its intended objective, barring some issues of mismanagement – for example, some low-cost units have reportedly fallen into the hands of undeserving individuals who are well-connected, while some of the locations and the quality of this category of housing have also fallen short of the ideal.

Recently, the Government recognised that the middle-income group also required some form of assistance if they were to own their own homes. The 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) is aimed specifically at this segment. In a nutshell, PR1MA involves the unlocking of state land for the purpose of constructing affordable houses costing between RM100,000 and RM400,000 for sale to the middle-income group, which had until that point not received any government attention.

However, there appears to be some apprehension concerning PR1MA's invitation to private developers to participate in these projects. Since state land is involved, it seems odd that private developers are being brought in and that of all the units built on any particular plot of land, only a certain percentage will be affordable houses while the rest will either be commercial or high-end units. Being profit-oriented, private developers concentrate on maximising returns for their shareholders. The question therefore is, why bring in another level of profit when PR1MA can act as the developer and undertake the entire programme? In such a scenario, prices might be brought down even further, resulting in more pronounced affordability, while whatever profits gained can be rolled over to build even more such houses. PR1MA is a noble idea but it cannot be a long-term solution. How much land can the country afford to keep releasing to continually construct affordable houses for this group? State land will surely deplete over time. PR1MA should be designed to be a self-sustaining facility.

II. Thrust 2: improving the quality and productivity of housing development

As long as the STB system of delivery remains, there will be no pressure on developers to improve on quality. Hence, an evolution of the system to a BTS model will be a key influence on the quality of houses built. The logic is simple: no developer wants to get into a dispute with their buyers over questionable quality when the time comes for handover and full payment. This differs vastly from the present STB system, especially for developers who realise that, come what may, buyers have no option but to accept the houses regardless of their quality.

As long as developers continue to engage cheap and low-skilled workers, quality will continue to be questionable. The Construction Industry Development Board (CIDB) is vested with the responsibility of developing and ensuring quality in the construction industry. Prefabrication in housing construction, which the CIDB has been working on, has made little actual headway. As such, the CIDB should be more vigorous in its pursuit of these objectives.

III. Thrust 3: increasing the effectiveness of implementation and ensuring compliance of the housing service delivery system

The Government has made great effort to put in place measures to speed up the delivery system. These efforts include the establishment of One-Stop Centres (OSCs) as well as the replacement of the certificate of fitness for occupation (CFO) with the CCC by architects. The OSCs are established at all local councils to speed up the approval process for all housing projects. Consultants previously sent their project proposals to the various technical departments (health, fire and rescue, works, drainage and irrigation, etc.), but now only need to send them to the OSC. The OSC will then forward these proposals to the respective departments for comments, coordinate their responses and call for meetings to deliberate each proposal. If a department fails to attend these meetings, it would be assumed that it has no objection to the proposal. On the CCC currently in practice, as much as this new system speeds up the certification process, it can also be abused by developers because they are the ones who pay the architects. However, at the handing over of vacant possession, any buyer who feels that the quality of the house is not up to standard has the

right to have an independent consultant engaged to verify his or her stand.

Of all the measures that have been put in place to deal with shortcomings in delivery, the most crucial has been the Government's announcement that the present STB system would be phased out and that the BTS would be fully implemented by 2015. With the introduction of this system, the vast majority of the clauses in the HDA will become irrelevant or redundant. The financing system in the housing industry will operate within a more equitable, orderly and systematic environment. The rules and regulations that developers say stifle the industry can be greatly reduced and the industry itself will be more self-regulating.

IV. Thrust 4: improving the capability of the people to own and rent houses

The most obvious and logical way to achieve this thrust is to increase individual income, although this might not be feasible or effective in the immediate future. Even if this were possible, house prices will correspondingly find their own elevated and inflated levels so long as the other instruments to counter cost escalation are not vigorously pursued. There have indeed been various efforts in pursuit of this thrust, and the buzzword of the day is "affordable housing". This has been made necessary primarily by the phenomenon of massive price escalation in the housing market in recent years, which affects not only Malaysia but the Southeast Asian region as a whole.

Lowering the income level in the consideration of loan entitlements is not a wise solution. If a person does not qualify for a housing loan based on a bank's prerequisites, entitling him or her to take that loan by lowering the parameters will exacerbate the risk of subprime lending.

Various measures aimed at cooling the property sector have been put in place. However, it is felt that these measures have not been strong enough to discourage speculators effectively. Increasing the real property gains tax (RPGT) rate from 5% to 15% if the property is sold within the first two years of purchase is almost meaningless as the "flip" period for property speculators is beyond two years (i.e. after completion). In fact, in most instances developers do not allow sub-sale transactions until project completion. Any RPGT revision should be geared towards the sole intention of discouraging speculators without penalising bona fide buyers who are looking for homes for their families.

There are other instruments that can effectively discourage property speculation but these have not yet been exploited. One method involves the revision of the payable stamp duty – the structure can be easily redesigned to penalise or discourage only speculators while leaving genuine housebuyers alone. The authorities can vary parameters such as the cost of the property, whether it involves a first-time buyer, and implement a different scale for foreigners, etc. All payments should be made upfront and the loan-to-value-ratio can be applied in innovative ways so that genuine buyers are not adversely affected. The most pertinent considerations are the number of houses that a borrower has already bought and sold and the value (cost) of the houses being bought. The interest rate on loans can also be redesigned to further disadvantage speculators. Buyers of second or more houses, for example, should pay higher interest rates and be given shorter terms for repayment.

V. Thrust 5: ensuring the sustainability of the housing sector

Excessive borrowing tends to create systemic problems during economic downturns. In this regard, the Government should recognise the very high household debt-to-income ratio. The bulk of these debts are incurred as a result of the purchase of houses, and further enticing homebuyers to incur bigger debts beyond their capability to service will bring us ever closer to a subprime collapse.

Although there is no suggestion that the Government should implement price controls on housing, more effective measures to discourage speculative activities should be put in place. Just as the Government imposes price controls on household essentials such as sugar, cooking oil and so on, it should also make a greater effort to rein in the escalation of house prices lest this result in a large segment of homeless Malaysians. From a moral perspective, speculative gains from properties cannot be deemed as real profit. The gains that are reaped through property speculation today come at the expense of the future generation, who will suffer the consequences of having to pay for what others now enjoy.

VI. Thrust 6: enhancing the level of social amenities, basic services and livable environments

This is one area that centres largely on governmental regulating bodies. Before any housing project is approved, regulators should see to it that the necessary social amenities and services corresponding to these projects are fully provided for. However, the paradox of this situation is that while additional or adequate social amenities may be good for the community, they come with a price tag that conflicts with the aim of keeping house prices down.

CONCLUSION

The housing industry plays a crucial role in the socioeconomic development of Malaysia. It provides roofs over the people's heads and it contributes to over 4% of the nation's Gross Domestic Product. Many downstream industries and activities are dependent on the housing industry. Hence, it is of the utmost importance that the Government ensure that the housing industry operates in an environment of orderly sustainability. The paradox is that while industry players are complaining about legislation smothering and stifling the industry, prevailing circumstances make deregulation an extremely hazardous undertaking for the Government. How will the Government justify deregulating the industry when housebuyers are still exposed to a multitude of hazards and problems? Shoddy workmanship, houses of substandard quality, extended delays in completion and, worst of all, project abandonment are just some of the risks that housebuyers today must face.

Indeed, the key to deregulating the housing industry lies in the adoption of the BTS 10:90 system of delivery. Under this system, purchasers will not be exposed to the aforementioned disadvantages when buying their houses. The financing system will become more orderly, benefitting all parties including the Government. When the BTS 10:90 system is implemented fully by the year 2015, as announced by the Government, the industry will take an enormous step forward. It will progress along a more orderly and sustainable path. A large proportion

of the “smothering and stifling” clauses in current legislation will be made irrelevant. Perhaps even the Special Task Force headed by the Chief Secretary to the Government may see a light at the end of the tunnel.

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I. The Role of the Banking System

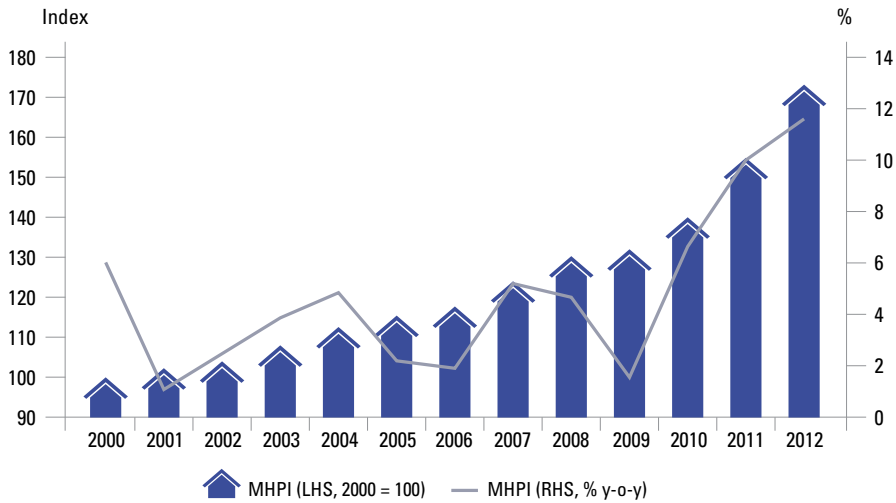
Rajan Paramesran

INTRODUCTION

The past decade has witnessed rapid growth in both the volume and types of financing extended to the housing sector. From the difficult conditions experienced in the aftermath of the Asian Financial Crisis – when house prices fell sharply against the backdrop of an economic contraction and high interest rate environment – the housing sector has steadily recovered, albeit with minor hiccups in its growth trajectory. The recovery has been supported by steady economic growth, rising income levels, a large and young demographic seeking homeownership, a relatively benign interest rate environment and a diverse supply of residential units. Despite the recent Global Financial Crisis, which impacted the Malaysian economy negatively, the setback to the residential property sector was temporary thanks largely to the Government’s quick and proactive response to moderating housing policies to maintain growth momentum in the sector.

For domestic housebuyers, the banking system’s ample liquidity has been a boon as banks have vied with each other to offer a variety of housing loans that can be tailored to meet individual preferences. This has led to an increase in demand for residential properties and subsequently a rise in property prices over the years (see Figure 1). Mindful of the potential pitfalls arising from an over-exuberance of lenders that can lead to speculative activities in the property sector, Bank Negara Malaysia (BNM) has stepped in on several occasions to introduce prudent measures aimed at moderating financing to the sector. The combination of BNM’s stance, government policy measures and the changing supply-demand dynamics in the housing sector has undergirded Malaysia’s residential property market over the past decade.

Figure 1: Malaysian House Price Index (MHPI)



Source: CEIC Data Company Ltd.

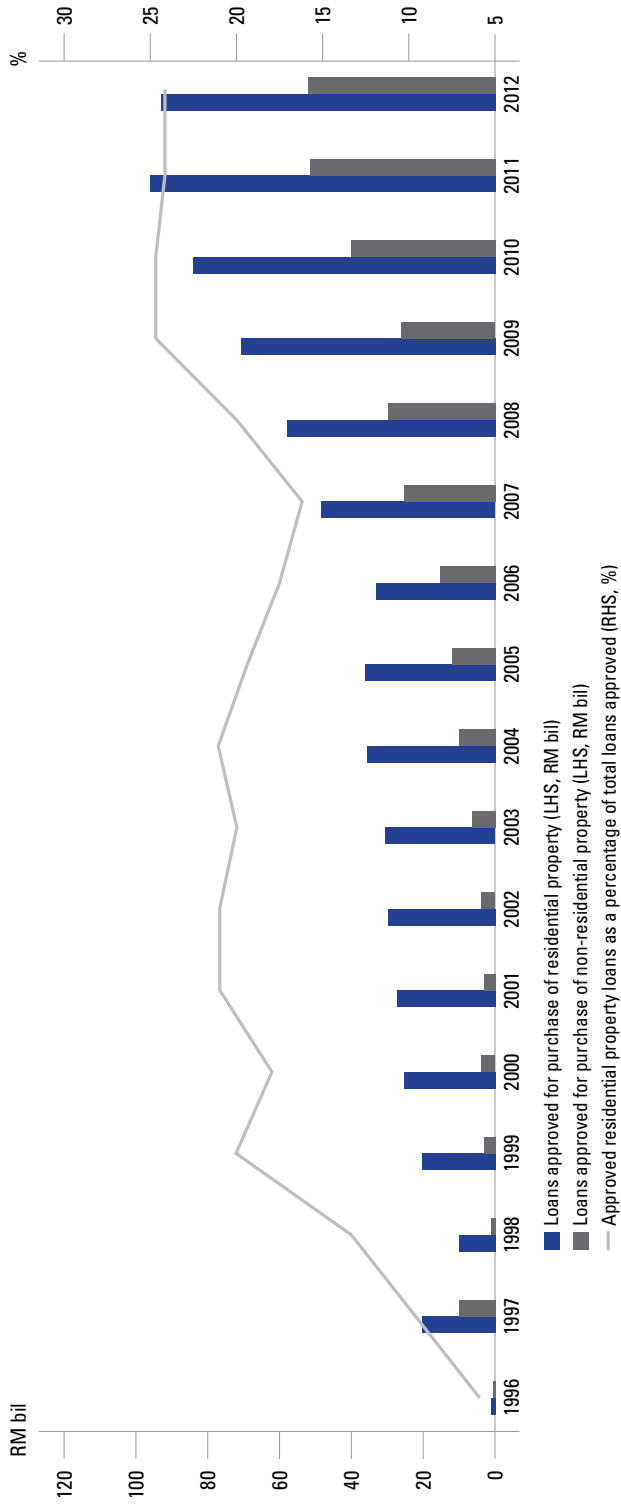
HOUSING LOAN GROWTH

The majority of housing loans are generally originated by financial institutions that come under BNM’s supervision. Financing extended to the housing sector by the banking sector grew by a compound annual growth rate (CAGR) of 10.6% between 1997 and 2012, with loans approved to the housing sector, which stood at RM20.5 billion in 1997, growing more than fourfold to RM95.2 billion by end-2012 (see Figure 2). In the past 15 years, year-on-year loans approved to the housing sector fell on only two occasions: a negative growth of 54.6% was registered between 1997 and 1998 as a result of the Asian Financial Crisis, and a negative growth of 10.4% was recorded between 2005 and 2006 partly due to a lack of property market incentives. As a proportion of total loans approved in the banking sector, loans approved to the housing sector have remained fairly steady in recent years, accounting for 23.8% at end-2012. The large increase occurred from 2007 to 2009 when loans approved for the housing sector grew from 16.1% to 24.6% before marginally tapering off.

Among the reasons attributed to the strong growth of loans in the residential sector from 2007 onwards was the sea change in government policy on taxing profits from property sales. The Real Property Gains Tax Act 1976 (RPGT) acted as a deterrent on speculative activities in the property sector through the imposition of a graduated tax regime on gains from the sale of properties. However, from 1 April 2007 onwards, the Government exempted all persons from all of the provisions of the RPGT with respect to any disposal of property, which set the stage for a rapid growth in demand for residential properties not only for the purpose of shelter but also investment. Prior to this exemption, sellers had to pay 30% of gains on properties sold within two years of purchase, the rate declining to 20% in the third year of acquisition, 15% in the fourth year, 5% in the fifth year and none thereafter.

For many buyers, the removal of the RPGT accelerated their decisions to venture into property investments that were supported by a favourable lending and interest rate

Figure 2: Loans to the housing sector



Source: Bank Negara Malaysia.

environment. A set of incentives, including developer interest-bearing schemes (DIBS), under which a property developer bears the interest for the loan during the construction period, was an added impetus, setting the stage for a sharp rise in property prices. Consequently, the RPGT was reintroduced in 2010 albeit at lower rates: with effect from 1 January 2010, a 5% tax was levied on the gains on property disposals within five years of acquisition. This was later revised from 1 January 2012 to 10% for a holding period of up to two years, 5% for between two and five years, and nil for a period exceeding five years (see Figure 3). The revisions in RPGT and the potential for additional restrictive measures to be introduced in the housing sector began to deter buying interest, which subsequently led to the tapering, in recent years, of loans extended to the housing sector as a proportion of total loans.

Figure 3: Real property gains tax applicable on disposal of properties

Disposal of properties	RPGT with effect from:		
	1 Jan 2010	1 Jan 2012	1 Jan 2013*
Within first and second year	5%	10%	15%
Within third to fifth year	5%	5%	10%
After fifth year	5%	0%	0%

*Applicable before the 2014 Budget period.

Source: Ministry of Finance.

LOW INTEREST RATE ENVIRONMENT

Housing finance in general is pegged to the Base Lending Rate (BLR) – a minimum interest rate calculated by financial institutions that takes into consideration the cost of funds and administrative costs. Any adjustment to the BLR correlates with changes to the Overnight Policy Rate (OPR) as determined by BNM. Figure 4 shows how the favourable trend in BLR movement has been a strong factor for housing loan growth. The BLR has fallen from a high of 12.27% in May 1998 (during the Asian Financial Crisis) to a low of 5.51% in August 2009. It has since risen steadily to 6.6% since May 2011. But even at this level, the BLR is considered low in comparison to its historical levels.

In tandem with the decline in the BLR, the Average Lending Rate (ALR) has followed suit with the spread between the two rates narrowing considerably, particularly since April 2004 when BNM allowed banks to set their own lending rates. As competition intensified in the banking industry, the ALR offered by some banks began to decline sharply. Low mortgage rates have been a significant factor in the growth of housing finance in recent years.

TYPES OF HOUSING FINANCE

Banks have been at the forefront of providing housing finance in the country and over the past decade their efforts have only intensified. Among the reasons for this is the increased liquidity in the domestic banking system (see Figure 5), which has also led to a prolonged period of low interest rates.

Figure 4: Average commercial bank lending rates

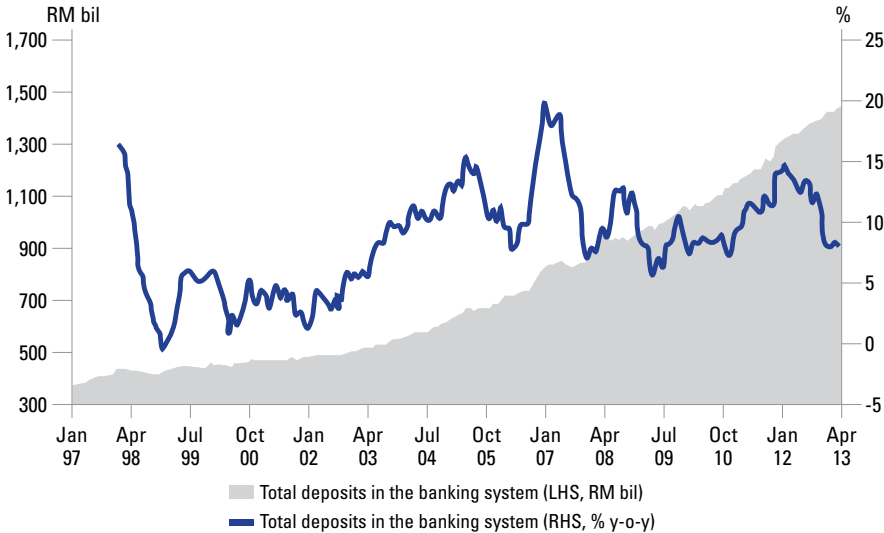


Source: Bank Negara Malaysia.

Bankers see property financing as a relatively safe option as the purchase of the unit that is being financed by the bank is collateralised by the loan. Any downside risks to the loan are mitigated by the buffer provided by the down payment, which can vary between 5% and 20%. While conventional housing loans were calculated on either fixed or floating rates pegged to the BLR for a period of 30 years, or up until the borrower reached the age of 65, whichever was first, banks now provide a variety of other types of housing loans. These include a combination of fixed- and floating-rate loan features with flexible loan tenures that can be suited to meet the borrower's preference. For fixed-rate housing loans, the instalment payment consists of the principal plus an interest component. The advantage of fixed-rate housing loans for borrowers is the certainty of the fixed payment and the tenure. For floating-rate housing loans, interest rates are pegged to the BLR and therefore any change in the interest rate can result in the quantum of instalments increasing or decreasing accordingly, or in the tenure of the facility being extended or reduced subject to renegotiation with the banks. Loans that combine fixed and floating rates, known as "hybrid housing loans", allow the borrower the flexibility of fixed instalment payments for a period of time before moving on to a floating-rate regime.

In addition, housing loans have been offered on the basis of a graduated repayment scheme where instalments are lower in the initial years but increase gradually over time. Such a scheme allows buyers to purchase units of higher value that are beyond their current repayment capacities but due consideration is given to potential increases in their incomes. Other schemes include zero per cent housing loans, in which no interest is paid in the initial years; zero moving-cost loans in which borrowers need not incur any costs for documentation and other miscellaneous charges when refinancing existing housing loans; and flexible accounts combining housing with the borrowers' current-account facility, allowing prepayments and transferring excess payments in the housing account to the current account.

Figure 5: Liquidity in the banking system



Source: Bank Negara Malaysia.

INCREASE IN ISLAMIC HOUSING LOANS

A notable trend in recent years has been the rapid increase in shariah-compliant home financing, which has steadily gained importance with housebuyers. Both local and foreign Islamic banks have emerged as a major force in mortgage financing, sharply outpacing conventional housing loans. From RM25.8 billion as at 30 June 2010, Islamic home financing grew by an average of 62% per annum to RM41.8 billion at end-2012, compared to an average of 23% for conventional loans for the same period.

From constituting 13.7% of total lending to property purchases, Islamic home financing has increased to 18.1% over the period. In addition to its compliance with Islamic principles, another attraction of Islamic home financing is the 20% discount on stamp duty that the Government has provided. Islamic home financing is typically based on the *bai' bi thaman ajil* and *musharakah mutanaqisah* arrangements. The former is based on a buy-and-sell concept, with the bank procuring the property at market price and then selling it to the borrower at an agreed price that includes the cost of the unit and a profit mark-up. The latter, meanwhile, takes on the form of a partnership between the bank and the borrower, with the bank leasing its portion of the share to the borrower. The capped instalment payments and flexible payment structures in Islamic financing have also contributed to the sharp increase in its popularity. Given this, conventional banks have added Islamic loan packages where floating rates are tagged to the Bank Financing Rate (BFR), which is similar to the BLR although, as with Islamic housing finance, no penalty is levied on prepayments.

DEVELOPERS' INCENTIVES TO HOUSEBUYERS

Incentives provided by several property developers have also buoyed interest in the housing sector. One of these is the DIBS, under which the developer will absorb the

interest component of the housing loan during the construction phase, which is generally 24 or 36 months. While buyers previously had to service the interest on the loan during the construction period, in some instances DIBS allows buyers the option to channel the interest into a fixed deposit to generate interest income until the completion of construction. DIBS has also resulted in buyers not having to come up with payments other than the initial deposit for the duration of the construction period.

Some developers have attempted to market DIBS as being in line with the Build-Then-Sell (BTS) concept, which the Government has been encouraging developers to adopt, as payments are only made when the house is completed. Nonetheless, as buyers are liable for the housing loans regardless of whether developers have completed the units or not – a feature common to the Sell-Then-Build (STB) concept – the scheme is not without its critics. Other incentives include the absorption of legal fees on the Sale and Purchase Agreement (S&P) as well as stamp duty and other miscellaneous charges incurred in the housing loan process. In addition, some developers have provided rental guarantees for the first few years to alleviate buyers' concerns over the ability of the residential units to generate reasonable rental yields. Freebies such as air-conditioners, fittings and furniture for the units have also been provided to attract buyers. The incentives have come under some criticism as possibly adding to the cost of the property, with calls to withdraw such "subsidies" that tend to mask the true cost of a housing unit. Under the 2014 Budget, however, property developers must provide a breakdown of all benefits and incentives offered to buyers such as exemption of legal fees, stamp duty, sales agreements, cash rebates and free gifts. The breakdown must be displayed in the detailed sales price. The 2014 Budget has also indicated that projects featuring DIBS mechanisms are now prohibited to prevent developers from incorporating interest rates on loans in house prices during the construction period. Accordingly, financial institutions are barred from providing final funding for DIBS projects.

PRUDENT MEASURES IMPOSED BY BANK NEGARA MALAYSIA

BNM has been closely monitoring financing to the housing sector to nip any untoward development in the bud. Among others, BNM pays close attention to the level of margin financing, i.e. the loan-to-value (LTV) ratio provided to housebuyers. Although LTV levels have varied among banks, taking into consideration borrowers' repayment capacities and their existing housing loan commitments among other factors, the fact that LTV is as high as 95% of property value – with borrowers needing only to come up with 5% (95:5 as opposed to the more common 90:10) – remains a concern. High LTV ratios have generated concern in BNM as any easy financing can lead to abuse, resulting in an untenably sharp rise in property values and speculative activities.

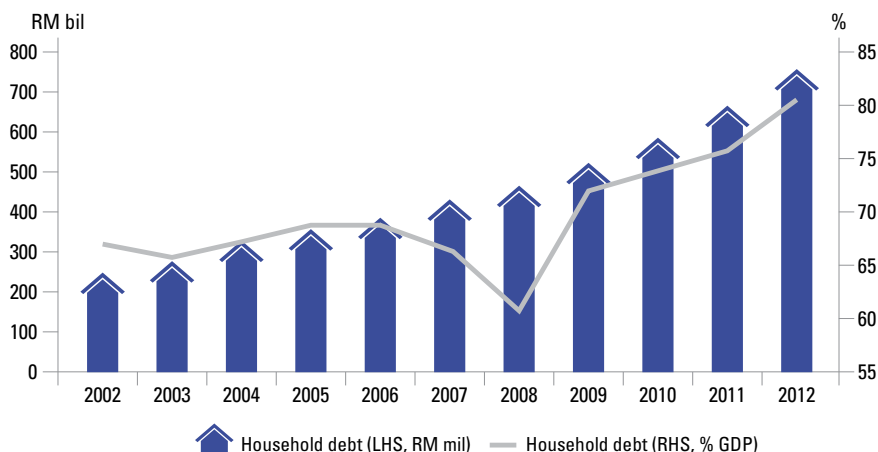
In addition to imposing a maximum LTV of 70% for a borrower's third house financing facility with effect from 3 November 2010, BNM also implemented the Guidelines on Responsible Financing, which is a framework to ensure financial institutions practise prudent lending, with effect from 1 January 2012. A key feature of the guidelines is that the revision to loan eligibility is based on net income instead of gross income. This implies that housing finance applicants will now qualify for a lower loan amount. The framework provides banks with some leeway to set the debt service ratio (DSR) at an appropriate level by taking into consideration housing applicants' daily and essential expenses, and to buffer

for contingencies. This is opposed to the previous DSR limit that took into account one third of gross income for single loan repayments and 50% of gross income for all loan repayments. The rationale for shifting the onus to banks was to allow them the responsibility to assess the repayment capacities of borrowers. BNM has required banks providing housing loans with LTV ratios of more than 90%, or personal financing with tenures longer than five years, to increase the risk weights. In light of the implementation, loan growth in the residential property sector has moderated.

RISING HOUSEHOLD DEBT

The Government remains concerned about household debt, with household debt-to-GDP rising from 46% in 2000 to 80.5% in 2012 (see Figure 6). Given that the largest portion of lending to the household segment has been for the purchase of residential properties, accounting for 46.8% of total loans to households in 2012, government regulatory policy has been focused on whether housing loans and instalments could become onerous on housebuyers. Compounding this issue has been the sharp rise in the number of residential units in recent years, particularly in the densely-populated Klang Valley, Johor Bahru and Penang. In the past, the general rule of thumb for the ratio of median house price to annual household income had been around three to four times, but it has since increased sharply – in certain areas by more than fivefold.

Figure 6: Household debt growth



Source: Bank Negara Malaysia.

At prevailing prices, buyers may be able to access housing loans through a combination of easy financing schemes offered by banks and incentives provided by developers. Servicing these loans, however, can further stretch household finances, a situation that can quickly be exacerbated by a rising interest rate environment and falling property prices.

In view of these factors, BNM has remained vigilant about lending to the household sector by implementing measures such as the Guidelines on Responsible Financing and also by exercising moral suasion on financial institutions. Accordingly, the delinquency

ratios for household loans have been low due to improved risk profiling of borrowers as well as early debt rehabilitation and recovery measures (Bank Negara Malaysia 2012). The gross impaired loan ratio for the purchase of residential properties fell from 3.2% in 2010 to 1.9% in 2012.

HOUSING AFFORDABILITY

The sharp increase in house prices has affected many buyers, particularly first-time housebuyers, who have found themselves shut out from the housing market. Lest this become a major social issue, the Government has pushed for the building of affordable housing by setting up a statutory body to implement its policy. However, the affordable housing segment is differentiated from other housing subsegments, such as the low- and medium-cost residential segment, which are targeted at households with monthly incomes of RM1,500 and below. (NB: According to the Department of Statistics Malaysia, in 2012 the median monthly household income for the bottom 40% of households in the country was RM1,852.)

Providing housing for the population has been a cornerstone of the Government's socioeconomic policy since Independence. This is evident from the formulation of housing policies over the decades, beginning with the setting up of a legal framework through the Housing Developers (Control and Licensing) Act in 1966. In 1982, the Government accelerated its emphasis on the low-cost housing policy through the imposition of a 30% low-cost housing quota on private developers with a per unit price of RM25,000. The Government, through its agencies at the federal and state levels, also launched several programmes such as the Public Low-Cost Housing Programme (PLHP) and Program Perumahan Rakyat (PPR) to meet the housing requirements for the low-income group. Syarikat Perumahan Negara Berhad (SPNB), which was set up by the Ministry of Finance Incorporated in 1997, launched several projects including Rumah Mesra Rakyat, Rumah Mampu Milik (for households with monthly incomes below RM2,000), government quarters as well as the rehabilitation of abandoned housing projects. With improving household incomes and in tandem with rising land and material costs, the low-cost house price was revised to RM42,000 (for municipal council homes) and RM35,000 (for district councils) in 1998; nonetheless, a poor maintenance culture coupled with less-than-preferable locations has blighted many of these developments.

Affordable housing has generally been defined as residential units that can be bought by households earning the median household income. The Government established Perumahan Rakyat 1Malaysia (PR1MA) Berhad under the PR1MA Act 2012 to develop affordable houses for monthly household incomes of between RM2,500 and RM7,500, with prices ranging from RM100,000 to RM400,000. The Government has provided capital for the project, allocating about RM1.9 billion in 2013 for an additional 123,000 units and has expanded the eligibility requirements for the affordable housing sector, such as with the My First Home Scheme (Skim Rumah Pertamaku or SRP).

The SRP was first announced under the 2011 Budget to address housing affordability for young working adults aged 35 and below and with a gross individual income limit of RM3,000. Given that these young Malaysians may not be able to place the requisite down payment on the property, the scheme allows for 100% financing from participating financial institutions. In turn, Cagamas SRP Berhad will guarantee the participating banks on any

financing above the 90% level. Under the scheme, borrowers are liable to the banks for the full financing amount taken, while the indemnification provided by Cagamas SRP Berhad for a maximum of 10% of the loan amounts provides some loss absorption to the participating banks.

The scheme has generated strong interest among young Malaysians and, under the 2013 Budget, the Government further revised the eligibility factor: with effect from 1 January 2013, gross income levels should not exceed RM5,000 per month for individuals and RM10,000 per month for joint borrowers. It is important to note that while the financing structure for the SRP should provide a leg up to homeownership for many young Malaysians, the scheme is not without safeguards for financiers. Among the qualifying criteria are applicants' employment in the private sector, their salaries deducted at source and their total financial obligations not exceeding 60% of their net monthly incomes. In addition, financial institutions are not expected to relax loan eligibility conditions in the era of responsible lending and can subject borrowers to underwriting and other affordability criteria.

As at end-April 2013, PR1MA has received some 40,000 applications, reflecting the pent-up demand for properties in this range. Given that the land for PR1MA projects is largely alienated by the Government, land costs have remained relatively low, allowing the cost of PR1MA properties to be 20% lower than similar projects undertaken by private developers. However, PR1MA has imposed several restrictions – the key ones are that PR1MA properties must be owner-occupied and cannot be sold for a minimum of 10 years. The Government has also been subsidising civil servants' housing loans by about RM6 billion per annum. Another form of subsidy is the 50% exemption on stamp duty for the purchase of houses below RM250,000.

ROLE OF THE EPF IN HOUSE FINANCING

The Employees Provident Fund (EPF) has continued to play a meaningful role in supporting home financing by allowing its contributors to withdraw from their EPF accounts to defray the cost of homeownership. Over the years, the EPF – one of the largest provident funds in the world – has continued to vary its withdrawal policies by taking into consideration the changing dynamics in the residential sector. Given that employees contribute 11% of their monthly incomes to their EPF accounts, with employers adding another 12%, a sizeable captive fund has been built up over time. From 1 January 2012, employers' contributions for employees with monthly wages of RM5,000 and below have been increased to 13%.

Contributors' funds are channelled into two accounts: 70% of the monthly contribution is routed into Account I while the remaining 30% goes into Account II. Only funds from Account II can be set aside for contributors' housing payment requirements. As a reflection of the EPF's flexibility towards this purpose, withdrawals can be made to meet diverse requirements: to purchase a house; to build a house; to reduce or settle housing loans; for monthly instalment payments on housing loans; and for flexible housing withdrawal schemes. In addition, the EPF allows funds in the accounts of a contributor's relations – such as a spouse, family members and other individuals – to be utilised for the intended purpose, thereby defraying the cost further.

The withdrawals have steadily risen, especially between 2007 and 2008, arguably in tandem with the growth phase of the residential property market (see Figure 7). However, from 2010 the withdrawals have shown signs of moderating as government policies to rein in lending to the housing sector began to take effect. Nonetheless, the EPF has continued to impose limitations on how much can be withdrawn from contributors' accounts as the fund remains mindful of its need to maintain sufficient savings to meet contributors' other requirements. In addition, the EPF is the owner of the 942.9ha piece of land in Sungai Buloh, where the Rubber Research Institute is sited, and plans are afoot to convert the large parcel into a sizeable housing development to meet the housing aspirations of the Klang Valley population.

Figure 7: EPF housing withdrawals

	2004	2005	2006	2007	2008	2009	2010	2011
Number of housing withdrawals	228,703	212,489	305,344	397,402	1,000,240	1,223,335	1,422,189	1,343,935
Amount of housing withdrawals (RM billion)	1.52	2.57	3.29	5.94	5.39	4.77	3.21	3.61

Source: Employees Provident Fund, EPF Annual Report, various years.

CONCLUSION

The Malaysian banking sector, in particular the commercial bank segment, has continued to play a longstanding and significant role in homeownership by ensuring the ready availability of funds to housebuyers. This has been evident in the steadily increasing loans to the property sector as a proportion of total loans. As at end-2012, 86.4% of housing loans in the country have been provided by the commercial bank segment, with public-sector financing steadily declining over the years from 12.6% in 2007 to 9.9% in 2012 (see Figure 8). The financing packages offered by banks are characterised by their increasing flexibility in incorporating borrowers' repayment capacities, and preferences for interest rate types and tenures. For buyers, banks will remain an integral component in realising their homeownership aspirations. For banks, financing properties for end-buyers has become a relatively less risky proposition: not only do they earn the interest income from extending the loans but the loans are also collateralised by the value of the properties financed. As long as banks continue to adopt prudent LTV levels, quick remedial action through proper monitoring mechanisms on housing loans will ensure full recovery on delinquent loans. While BNM has imposed restrictions on LTVs for the financing of only third property purchases, it will be more prudent for banks to seek lower LTVs for properties that are being bought for investment. In addition, banks should conduct proper investigations of potential buyers to ensure that the financing is not intended for speculative purposes.

Figure 8: Provision of housing loans in Malaysia

Housing loans outstanding (RM million)	2007	2008	2009	2010	2011	2012
Commercial banks	174,357	192,092	210,017	226,963	255,482	288,495
Treasury Housing Loans Division	26,822	27,393	26,716	26,007	31,208	32,982
Bank Kerjasama Rakyat Malaysia Berhad	3,769	4,417	4,189	3,837	3,382	2,978
Malaysia Building Society Berhad	4,413	5,141	5,274	5,354	5,160	4,947
Borneo Housing Mortgage Finance Berhad	716	742	717	682	652	641
Bank Simpanan Nasional	2,656	2,887	3,034	3,132	3,299	3,806
Sabah Credit Corporation	190	179	163	141	117	96
Total	212,923	232,851	250,110	266,116	299,300	333,945

Source: Bank Negara Malaysia.

The fact that the non-performing loan ratio for the banking sector continues to trend downwards – the gross impaired loan ratio declined from 4.8% in 2008 to 2% in 2012 – is an indication that banks have remained prudent and have continued to monitor their loan portfolios. The approach is fairly crucial in ensuring healthy loan portfolios given that the prevailing low interest rate environment could end, and any upward adjustment in interest rates will translate into higher housing instalment payments. This can impose a financial burden on some buyers.

The banks have continued to support the Government’s housing policies – in the past they have complied by imposing only a marginal interest spread over the BLR on low- to medium-cost properties priced below RM100,000 to encourage buyers. Banks are now participating in the affordable housing segment by providing 100% financing for purchases with only a maximum of 10% indemnified by Cagamas SRP Berhad. The support extended by the banks is crucial in ensuring that the affordable housing project succeeds.

In the era of responsible lending, banks also need to strike a balance between providing housing finance and mitigating concerns over rising household debt, given that housing loans have been a significant contributory factor to the current problem.

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II. Key Issues for Housebuyers

Elvin Fernandez

This part of the chapter looks at housing finance in Malaysia from a housebuyer's perspective. In particular, it addresses the main forms of housing finance, namely bank lending and Employees Provident Fund (EPF) withdrawals, as well as salient issues relating to speculation in the housing market and the affordability of housing in Malaysia. Also discussed are two significant risks to housebuyers going forward: rising prices and the implementation of the Build-Then-Sell system in 2015.

THREE CATEGORIES OF HOUSEBUYERS

Broadly, there are three categories of housebuyers: owner-occupiers, investors and speculators.

Owner-occupiers, who make up the majority of housebuyers in the country, can be further divided into first-time housebuyers and upgraders. First-time housebuyers are usually a priority target group insofar as the Government is concerned because it is important that they have access, through affordability, to homeownership. From an overall societal standpoint, a home-owning democracy is a desired end and a stated goal of government. However, there is also a school of thought, post-Global Financial Crisis, that undue resource allocation to this goal compromises overall economic efficiency. Accordingly, it is asserted that there should be equal emphasis placed on the owner-occupation and rental markets as choices in housing.

In the family lifecycle, the initial house purchased by a young family may become insufficient for its needs as the family grows and its earnings capacity and status improve. From time to time, the family house may have to be upgraded. With decades of good economic growth in Malaysia, upgraders have formed a sizeable group, buying from both the primary and secondary markets. The primary market is where developers build houses, both landed and non-landed, and then sell them to housebuyers. The secondary market

comprises existing houses, and here buyers purchase from sellers in the open market.

Houses are also desired as investments. Such houses are usually purchased and rented out for rental returns. There is usually also an expectation of capital appreciation, which, together with the rental returns, gives investors the total returns they seek. Landed properties such as the ubiquitous and popular double-storey link-houses usually fetch lower net rental returns. The yield for such houses over long periods of time, as monitored and tracked by this writer over the past few decades, has been about 3% per annum. For strata properties and for bigger-sized landed properties such as bungalows, the overall property management risk is higher and net yields are thus usually between 4% and 5% per annum. In the past decade, due mainly to accelerated economic growth in the region as a whole and in Malaysia in particular, yields have compressed and are now below 2% for landed properties such as double-storey link-houses in prime locations. This may call into question the attractiveness of houses as investments, but perhaps the market has headed this way because of its switch from pure investment returns to gains from capital appreciation.

The third category of buyers comprises speculators in the market, who generally buy properties and hold them purely in the expectation of selling them later at higher prices. It must be recognised that speculators in any market are not necessarily an undesirable group. It is excessive speculation that may be detrimental to the market as a whole.

EXCESSIVE SPECULATION IS UNDESIRABLE

In the Asian context in particular, there is always a tendency for speculators to exist simply because of an innate affinity with property. Since the Asian Financial Crisis, interest rates have been kept low for long periods of time and in Malaysia and other emerging markets with insufficient avenues for investment and savings, the money has flowed into the residential property market at somewhat higher levels than it otherwise would have.

In the immediate aftermath of the Global Financial Crisis, the office sector in Kuala Lumpur and the high-end condominium sector in the KLCC and Mont Kiara areas were affected to the tune of a 20% downward movement in prices. This was because the two sectors had run up to peaks in values that were unsustainable when looked at through the lens of their principle fundamentals, namely rental returns (for both) and, to a lesser extent, household income (for the latter). The housing market in general also slowed down, but developers quickly devised new offerings to counter this with measures such as the 5:95 scheme introduced in early 2009, and other incentives such as developer interest-bearing schemes (DIBS), stamp-duty and legal-fee waivers, early-bird discounts and even rental guarantees and cash-back payments. These incentives were more focused on the speculative end of the market. Global interest rates set at extraordinarily low levels, and markets flush with funds from measures such as quantitative easing by the major economies of the world, have provided even stronger inducement for buyers to engage in speculative activity in the Malaysian property market. Developers have also increasingly tailored residential products for these buyers. The buyer is induced to buy, in some cases multiple units, because the initial down payment is a low 5% and there is hope (realistic or unrealistic) of capital gains when the project is completed.

The incentives have in fact had another effect on the housing market throughout Malaysia in that the primary market has shot up in percentage terms against the secondary market. Prior to 2011, the primary market had always been around 12% of the market. This percentage increased to 20.7% in 2011 and to 22.1% in 2012 as analysed based on the Property Market Report for 2012. The incentives are not available in the secondary market and banks also usually insist on valuation reports from independent valuers for loans for house purchases from the secondary market, thus keeping it subdued.

To counter this potentially unhealthy trend, it may be important for the market to be made more aware that the incentives are de facto discounts in the market, and bank lending should therefore not be based on prices with the incentives but on prices without the incentives. Developers should also be required to disclose clearly the value of the incentives so that the price of the house without the incentives is known in the market. This will enable comparisons with prices in the secondary market and ensure that there are no undue markups in the residential price indices that are compiled by bodies such as the National Property Information Centre (NAPIC). The indices are significant economic barometers that may become even more important in the future as greater investment sophistication is developed in the market.

BANK LENDING

Banks find housing loans a safe avenue for lending because households do not default easily. Consequently, there is substantial competition among banks, under the Basel framework, to provide housing finance for housebuyers. The lower risk in lending to households holds true in normal circumstances, but if there is a housing bubble that may eventually burst, such bank lending becomes riskier. The difficulty is identifying an asset bubble before it reaches the bursting point.

Malaysian banks have generally lent to housebuyers based on tenures of up to 40 years or the borrower's age of 70, whichever was earlier. This was the practice until 5 July 2013 when Bank Negara Malaysia (BNM) issued new guidelines setting the maximum tenure at 35 years. A few years ago that upper limit was 30 years, with an upper age threshold fixed at 60 years. This is a reasonable limit given the soundness of our economy. It may not be prudent to lend on terms longer than this or to move towards intergenerational loans unless substantial studies are undertaken that back up the risk and return attributes of such policy changes to housing loans. Interest rates, which used to be pegged at basis points above the Base Lending Rate (BLR), have come down over the past decade to as low as -2.5% of the BLR. No doubt when the BLR moves upwards, the monthly repayments will also move upwards accordingly. But households, being more interested in the current impact to their affordability, may be swayed to continue taking such loans without adequate regard for the possibility of rapid upward movements in interest rates in the future.

According to this writer's computations, for the purchase of a house worth RM330,000, based on a 90% loan margin (i.e. a loan amount of RM297,000), a 35-year loan tenure and an interest rate of BLR (6.6%) minus 2.4%, the monthly repayment is RM1,351. Such a proposition is affordable for the average Malaysian household with a monthly income of RM4,600 as the monthly repayment is about one third of this amount.

However, if at some point in the future the BLR were to increase by a percentage point i.e. to 7.6%, the monthly repayment would increase to RM1,537. This will decrease slightly the affordability of this house as the monthly household income required for approval of home financing will increase from RM4,600 per month to RM5,200, which is on the higher end of the average household income of an average Malaysian family. Further increases in the BLR, or higher house prices than the RM330,000 used in the example above, will push affordability beyond the reach of the average Malaysian family, *ceteris paribus*.

Figure 1 shows various monthly repayment schedules based on house prices above RM330,000.

THE ROLE OF THE EPF

Contributors to the EPF are allowed to withdraw funds from their Account II for a range of purposes connected with house purchases. Generally, EPF savings are for retirement, with employees contributing 11% of their monthly incomes and employers contributing another 12%. Account II holds 30% of a member's EPF savings. The types of withdrawals allowed under Account II include housing withdrawals for buying a house, building a house, reducing or redeeming a housing loan, paying monthly housing loan instalments and withdrawing under the Flexible Housing Withdrawal facility (see Figure 2).

With its vast store of savings, the EPF can play a much bigger role in making housing more affordable and can assist substantially in the goal of creating a home-owning democracy. Further research needs to be done to identify effective additional programmes and fresh initiatives.

AFFORDABLE HOMES

Figure 3 presents average house prices matched against household income, by state, from 1995 to 2012.

The big picture that emerges from a brief study of the table is that house prices are precariously perched at high levels when compared with household incomes. In the long run, either household incomes must rise faster than house prices, or house prices must descend to lower levels so that a sustainable balance is struck between the two.

This brings us to the issue of affordable homes. Thus far, Malaysia has generally required developers to meet a 30% low-cost allocation in township developments and large developments. Requiring developers to provide low- and medium-cost housing for the lower-income segments of the population has translated, on the ground, into developers cross-subsidising the low- and medium-cost houses with the other houses in the project. In effect, the subsidy is paid for by the other purchasers in the scheme. Notwithstanding the inequity, this mode of delivery of affordable homes for the lower-income group has, over the past decades, brought a very substantial number of low- and medium-cost houses into the market. There are grouses about the low-cost houses not being in the right locations and the allocation process sometimes being incorrect or flawed, but these criticisms do not detract from the fact that, unlike many other emerging countries, we do in fact have low-cost houses in substantial numbers.

Figure 1: Monthly repayment schedules

		BLR : 6.6%				BLR : 7.6%			
		Loan interest rate: BLR minus 2.4%				Loan interest rate: BLR minus 2.4%			
		Loan tenure: 35 years				Loan tenure: 35 years			
House price	Loan margin @ 90%	Monthly repayment	Required monthly net income *	Required minimum monthly household income**	Property value to annual household income ratio	Monthly repayment	Required monthly net income *	Required minimum monthly household income**	Property value to annual household income ratio
RM330,000	RM297,000	RM1,351	RM4,053	RM4,600	5.98	RM1,537	RM4,611	RM5,200	5.29
RM400,000	RM360,000	RM1,637	RM4,912	RM5,500	6.06	RM1,863	RM5,589	RM6,300	5.29
RM500,000	RM450,000	RM2,047	RM6,140	RM6,900	6.04	RM2,329	RM6,986	RM7,800	5.34
RM750,000	RM675,000	RM3,070	RM9,211	RM10,300	6.07	RM3,493	RM10,480	RM11,800	5.30
RM1,000,000	RM900,000	RM4,094	RM12,281	RM13,800	6.04	RM4,658	RM13,973	RM15,700	5.31
RM1,500,000	RM1,350,000	RM6,140	RM18,421	RM20,700	6.04	RM6,986	RM20,959	RM23,500	5.32

* The required monthly net income is three times the monthly repayment of the loan, in line with general BNM regulations.

** The minimum monthly household income is the net income plus EPF contribution of 11%. This is the minimum gross income for households that have no other financial obligations (other than EPF contributions), such as car loans, personal loans, other housing loans, etc.

Source: Khong & Jaafar Research.

Figure 2: Housing withdrawals allowed under EPF Account II

Withdrawal to purchase a house	
House purchased by individual	Joint purchase with spouse or immediate family member or other individual
<p>The difference between the house price and the loan amount with an additional 10% of the house price</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>	<p>The difference between the house price and the loan amount with an additional 10% of the house price</p> <p>OR</p> <p>All the savings in each purchaser's Account II subject to the maximum amount eligible for withdrawal. <i>(Whichever is lower but not less than RM500)</i></p>
100% housing loan	Purchase without loan/cash purchase
<p>10% of the house price</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>	<p>House price with an additional 10% of the house price</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>

Withdrawal to build a house	
House built by an individual	Jointly built with spouse
<p>The difference between the cost of building the house and the loan amount with an additional 10% of the cost to build the house</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>	<p>The difference between the cost of building the house and the loan amount with an additional 10% of the cost to build the house</p> <p>OR</p> <p>All the savings in each purchaser's Account II subject to the maximum amount eligible for withdrawal. <i>(Whichever is lower but not less than RM500)</i></p>
100% housing loan	House built with cash
<p>10% of the cost to build the house</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>	<p>Cost to build the house and additional 10% of the cost to build the house</p> <p>OR</p> <p>All savings in Account II. <i>(Whichever is lower but not less than RM500)</i></p>

Figure 2: Housing withdrawals allowed under EPF Account II (cont.)

Withdrawal to reduce/redeem housing loan	
Individual withdrawal/ to assist spouse	Joint withdrawal by husband/wife or immediate family member(s) or other individual(s)
Total of housing loan balance OR All savings in Account II. <i>(Whichever is lower but not less than RM500)</i>	Total of housing loan balance OR All savings in Account II of each member, subject to the housing loan balance. <i>(Whichever is lower but not less than RM500)</i>

Housing loan monthly instalment withdrawal	
(This withdrawal is in addition to the existing withdrawal, which is the withdrawal to reduce/redeem housing loan)	
Individual withdrawal	Joint withdrawal with other individual
Total of housing loan balance OR All savings in Account II. <i>(Whichever is lower but subject to the minimum monthly payment of RM100 for the minimum period of six months and the maximum monthly payment not exceeding the total of monthly loan instalments)</i>	Total of housing loan balance OR All savings in Account II of each applicant subject to the housing loan balance. <i>(Whichever is lower but subject to the minimum monthly payment of RM100 for the minimum period of six months and the total of the maximum monthly payments of all applicants not exceeding the total of monthly loan instalments)</i>

Other conditions

1. The maximum monthly payment period does not exceed the remaining duration of the housing loan.
2. If during the application there is an existing withdrawal payment for the other borrower's housing loan monthly instalment, the applicant is eligible to withdraw only the difference in amount between the withdrawal amounts of the other borrower and the monthly loan instalment total subject to the minimum monthly payment of RM100.
3. The amount withdrawn from Account II will be set aside in a special account and the monthly payments will be made out from this account.
4. The amount set aside in the special account will be paid EPF dividend, which will be credited into Account II when the dividend is declared in the following year.

Figure 2: Housing withdrawals allowed under EPF Account II (cont.)

Flexible Housing Withdrawal (must be applied together with: (a) withdrawal to purchase/build a house, OR (b) withdrawal to reduce/redeem housing loan)
<ol style="list-style-type: none">1. The Flexible Housing Withdrawal is a process to ringfence (or set aside) a part of the savings in the member's Account II for the Flexible Housing Withdrawal Account to enable the member to obtain a higher housing loan amount to purchase/build a house.2. The concept of the Flexible Housing Withdrawal is to utilise current and future EPF savings/contribution value to increase the loan amount that can be obtained from the financial institution.3. Based on this concept, the monthly contribution to the EPF is considered as income. Therefore, the member can obtain a higher loan amount since the credit assessment on the net income also takes the EPF contribution into consideration (employee's and employer's shares). As a result, the member can purchase/build a house with a higher price since this enables him/her to obtain a larger loan to finance the purchase/building of a house. <p>Ringfencing and transfer amount</p> <ol style="list-style-type: none">1. The application amount must not be more than the housing loan amount.2. The application to transfer the savings in Account II can be made thus:<ol style="list-style-type: none">(a) Transfer of existing savings from Account II and monthly transfer (according to the fixed amount applied for by the member) OR(b) Monthly transfer (according to the fixed amount applied for by the member) only.3. The monthly fixed transfer amount cannot be changed and will remain according to the amount selected during application.

Source: Employees Provident Fund.

Figure 4 shows the total existing stock of houses in Malaysia and this is broadly divided to also show that a substantial 31.3% of houses are in the affordable category. In fact, some houses under "Others" may also include single-storey and double-storey link-houses, which may fall under the category of affordable homes. The percentage of affordable homes may therefore be more than 31.3%.

It should also be noted that where affordable homes are concerned, the issue sometimes is not that such homes are unavailable, but that they are not well-maintained and thus not desired by young middle-income households.

Since 2010, new government initiatives to provide affordable homes for the lower-income group include: (a) a commitment to build 23,000 low- and medium-priced apartments, (b) an allocation of RM543 million for 45 projects under the People's Housing Programme (Program Perumahan Rakyat or PPR) for the construction of 20,500 units, (c) a facilitation fund of RM1.2 billion to the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) to build 80,000 houses in high-demand allocations in 2013 and (d) a 50% stamp duty exemption on transfer and loan agreements for a first property purchased up to RM400,000.

Even more recently, the Government has committed to: (a) building a million affordable homes, driven by the public and private sectors, including 500,000 PR1MA houses, (b) pricing PR1MA houses at least 20% below market prices, (c) introducing a lease-and-own scheme for government housing projects, (d) taking over the maintenance and upkeep of all public housing projects, (e) assisting poor and lower-income homeowners in rehabilitating their houses, (f) improving housing in plantation estates and providing houses for former estate workers through government-estate partnerships and (g) abolishing stamping fees for first home purchases priced below RM400,000.

A SIGNIFICANT RISK GOING FORWARD

Malaysia's increasingly high level of household debt has been the subject of scrutiny by BNM in recent years. In 2012, the percentage exceeded 80% of Gross Domestic Product, and a big proportion of household debt is due to increased lending in the housing market. House prices must be monitored and attempts should be made through policy measures to keep house prices in a stable relationship vis-à-vis household incomes. For a rapidly developing economy, such a stable relationship should be four to five times annual household income as against three times, as observed by this writer, in the more developed cities of the world with economies functioning under normal conditions.

Another potentially major risk to the housing market in Malaysia is the proposed introduction of the Build-Then-Sell system (BTS) of housing delivery by 2015 to supplant the existing Sell-Then-Build system (STB).

Under STB, which has been the operating system in Malaysia these past decades, houses are launched for sale "off plan" and purchasers make progress payments as the house is completed. With this steady stream of income from purchasers, the developer's risk is minimised and his bridging financing needs can be kept to a minimum. The savings in financing costs can also be transferred to the price of the house. By the same token, if regulatory authorities impose high costs on the developer for the provision of various start-up infrastructure, including regulatory fees, these costs are usually passed on and factored into the price of the end-product. In other words, high costs imposed on the developer are eventually paid for by the housebuyer. This is a notion that is seldom fully appreciated as various parties pile up unreasonable costs under the mistaken notion that the "fat-cat" developer can pay. That said, it should also be borne in mind that many developers price their end-products according to supply and demand, regardless of the costs they have to bear or the savings they are able to make.

The STB system has its weaknesses and one that is often cited is that it leads to many abandoned projects where purchasers are left in the lurch. Through the Real Estate and Housing Developers Association, developers have challenged this perception vigorously, saying that abandoned projects constitute less than 1% of total projects, a ratio which should be tolerable. Moreover, there are various other means of alleviating the problem, such as the housing development accounts, where developers can only make authorised withdrawals from accounts that are kept for each phase of a development.

Consumer associations, in particular the National House Buyers Association, have demanded better remedies for abandoned housing projects on the basis that even a few

Figure 3: Analysis of house prices and household incomes by state (1995–2012)

STATE	Average house price					Average household income per month					Price divided by annual household income					Compound Annual Growth Rate CAGR (%)	
	1995	1999	2004	2007	2012	1995	1999	2004	2007	2012	1995	1999	2004	2007	2012	House price (1995–2012)	House hold income (1995–2012)
Malaysia	RM100,780	RM88,803	RM150,048	RM182,927	RM249,514	RM2,020	RM2,472	RM3,249	RM3,686	RM5,000	4.16	2.99	3.85	4.14	4.14	5.45	5.48
Kuala Lumpur	RM260,199	RM244,464	RM331,677	RM409,780	RM489,052	RM3,371	RM4,105	RM5,011	RM5,322	RM8,586	6.43	4.96	5.52	6.42	4.75	3.78	5.65
Selangor (incl. Putrajaya)	RM119,976	RM169,179	RM226,776	RM245,381	RM340,751	RM3,162	RM3,702	RM5,175	RM5,580	RM7,023	3.16	3.81	3.65	3.66	4.04	6.33	4.81
Klang Valley	RM147,871	RM185,826	RM252,147	RM277,736	RM376,498	RM3,267	RM3,904	RM5,093	RM5,451	RM7,805	3.77	3.97	4.13	4.25	4.02	5.65	5.26
Johor	RM111,556	RM126,951	RM140,711	RM137,219	RM197,147	RM2,138	RM2,647	RM3,076	RM3,457	RM4,658	4.35	4.00	3.81	3.31	3.53	3.41	4.69
Penang	RM124,513	RM146,992	RM168,581	RM212,358	RM304,858	RM2,225	RM3,128	RM3,531	RM4,004	RM5,055	4.66	3.92	3.98	4.42	5.03	5.41	4.95
Negeri Sembilan	RM59,094	RM81,868	RM108,384	RM128,188	RM169,796	RM1,767	RM2,335	RM2,886	RM3,336	RM4,576	2.79	2.92	3.13	3.20	3.09	6.41	5.76
Melaka	RM68,537	RM98,785	RM97,138	RM95,913	RM148,117	RM1,843	RM2,260	RM2,791	RM3,421	RM4,759	3.10	3.64	2.90	2.34	2.59	4.64	5.74

Figure 3: Analysis of house prices and household incomes by state (1995–2012) (cont.)

STATE	Average house price					Average household income per month					Price divided by annual household income					Compound Annual Growth Rate CAGR (%)	
	1995	1999	2004	2007	2012	1995	1999	2004	2007	2012	1995	1999	2004	2007	2012		House price (1995–2012)
Perak	RM47,471	RM66,790	RM79,827	RM93,057	RM128,673	RM1,436	RM1,743	RM2,207	RM2,545	RM3,548	2.75	3.19	3.01	3.05	3.02	6.04	5.46
Kedah	RM56,057	RM49,117	RM96,227	RM105,177	RM147,419	RM1,295	RM1,612	RM2,126	RM2,408	RM3,425	3.61	2.54	3.77	3.64	3.59	5.85	5.89
Perlis	RM51,136	RM65,506	RM77,207	RM68,346	RM115,606	RM1,158	RM1,431	RM2,046	RM2,541	RM3,538	3.68	3.81	3.14	2.24	2.72	4.92	6.79
Pahang	RM63,190	RM76,227	RM97,937	RM111,824	RM148,362	RM1,436	RM1,482	RM2,410	RM2,995	RM3,745	3.67	4.29	3.39	3.11	3.30	5.15	5.80
Terengganu	RM39,031	RM40,920	RM55,247	RM62,544	RM93,353	RM1,117	RM1,599	RM1,984	RM2,463	RM3,967	2.91	2.13	2.32	2.12	1.96	5.26	7.74
Kelantan	RM44,014	RM53,261	RM56,300	RM49,293	RM73,406	RM1,091	RM1,314	RM1,829	RM2,143	RM3,168	3.36	3.38	2.57	1.92	1.93	3.05	6.47
Sabah (incl. Labuan)	RM118,665	RM125,876	RM137,740	RM184,329	RM253,812	RM1,647	RM1,905	RM2,487	RM2,866	RM4,597	6.00	5.51	4.62	5.36	4.60	4.57	6.22
Sarawak	N/A	RM93,368	N/A	RM124,874	RM179,555	RM1,886	RM2,276	RM2,725	RM3,349	RM4,293	N/A	3.42	N/A	3.11	3.49	5.16	4.96

Source: Economic Planning Unit, Prime Minister's Department; the Valuation and Property Services Department; various property market reports.

Figure 4: The existing stock of residential units in Malaysia (Q2 2013)

STATE	Cluster houses		Low-cost houses		Low-cost flats		Flats		Clearly affordable (generally below RM200,000) cluster/low-cost houses/flats		Others		All types	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Kuala Lumpur	4,248	1.0	3,786	0.9	95,647	22.5	50,156	11.8	153,837	36.2	271,362	63.8	425,199	100
Putrajaya	0	0.0	0	0.0	0	0.0	2,538	53.5	2,538	53.5	2,210	46.5	4,748	100
Labuan	0	0.0	966	8.2	680	5.8	1,300	11.1	2,946	25.1	8,791	74.9	11,737	100
Selangor	7,285	0.5	88,563	6.6	195,641	14.6	153,298	11.4	444,787	33.1	898,057	66.9	1,342,844	100
Johor	3,507	0.5	124,907	17.9	45,026	6.5	21,796	3.1	195,236	28.0	502,517	72.0	697,753	100
Pulau Pinang	7,999	2.2	15,170	4.1	56,005	15.3	111,195	30.3	190,369	51.8	176,789	48.2	367,158	100
Perak	1,050	0.3	79,634	19.8	8,287	2.1	2,254	0.6	91,225	22.6	311,944	77.4	403,169	100
Negeri Sembilan	1,803	0.8	35,632	15.0	10,490	4.4	6,637	2.8	54,562	23.0	183,140	77.0	237,702	100
Melaka	0	0.0	31,329	19.4	5,829	3.6	6,465	4.0	43,623	27.1	117,625	72.9	161,248	100

Figure 4: The existing stock of residential units in Malaysia (Q2 2013) (cont.)

STATE	Cluster houses		Low-cost houses		Low-cost flats		Flats		Clearly affordable (generally below RM200,000) cluster/low-cost houses/flats		Others		All types	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Kedah	508	0.2	88,084	32.1	4,338	1.6	1,272	0.5	94,202	34.3	180,553	65.7	274,755	100
Pahang	154	0.1	45,433	20.2	3,941	1.7	3,292	1.5	52,820	23.4	172,473	76.6	225,293	100
Terengganu	48	0.1	15,359	19.1	4,131	5.1	826	1.0	20,364	25.3	60,243	74.7	80,607	100
Kelantan	800	1.4	9,732	16.8	514	0.9	436	0.8	11,482	19.9	46,356	80.1	57,838	100
Perlis	42	0.2	7,338	33.9	1,378	6.4	96	0.4	8,854	41.0	12,761	59.0	21,615	100
Sabah	804	0.5	13,987	9.4	21,757	14.6	8,884	5.9	45,432	30.4	103,957	69.6	149,389	100
Sarawak	1,088	0.5	29,512	14.1	15,380	7.3	2,641	1.3	48,621	23.2	160,803	76.8	209,424	100
Malaysia	29,336	0.6	589,432	12.6	469,044	10.0	373,086	8.0	1,460,898	31.3	3,209,581	68.7	4,670,479	100

In Q2 2013, the residential stock consisted of 1.46 million units of cluster, low-cost units & flats (about 31.3% of the total units).

- Cluster house: a house that shares two party walls, on one side and at the rear, with neighbouring houses.
- Low-cost houses/flats: housing units with ceiling prices allocated by developers or the Government for low-income groups.
- Flats: a multi-storey building that consists of multiple self-contained housing units.
- Others: link-houses, semi-detached houses, detached houses, town houses, serviced apartments, condominiums/apartments and small office/home office (SOHO) units.

Source: Jabatan Penilaian & Perkhidmatan Harta, *Residential Stock Report, 20 2013*.

abandoned projects are too many. They have strongly advocated the BTS system and have proposed that it be introduced legislatively, supplanting the STB system. The Ministry of Urban Wellbeing, Housing and Local Government has agreed and set a timetable for the introduction of the system in 2015.

Some commentators have argued that, taking into account sales values, costs and timing, the pre-tax internal rates of returns for the two systems differ. While the STB system returns a typical market rate of return as exemplified by analysis of typical projects, the returns drop considerably in a BTS project. One of the primary reasons for this is the cost of bridging finance. Based on a financial model developed by this writer, in order to secure the normal pre-tax internal rate of return in the BTS model, house prices would have to rise by about 80%, *ceteris paribus*. This will no doubt cause the relationship between house prices and household incomes to vary even more substantially, which may put many developers out of business as bridging financing becomes selective. In turn, it will generally lead to bigger and fewer developers, which may ultimately make the housing market more oligopolistic.

Perhaps more studies are needed before the BTS is introduced in 2015. Even if it is introduced as the sole housing delivery system in 2015, there should be a quick retreat from it should the objective of eradicating abandoned schemes not be met or should house prices start to rise due to the introduction of the BTS system.

CONCLUSION

The Malaysian housing market is fairly well developed and aside from recent selective run-ups in house prices relative to fundamentals such as household income and rental returns, the market is stable and plays an important role as a store of household wealth.

Banks compete to offer housing loans, which they regard as low-risk. Financing for housebuyers is also available through the EPF, which nevertheless can play an even bigger role in making houses more widely affordable.

At the national level, Malaysia's increasingly high level of household debt, which is due to increased lending in the housing market, has prompted the Government to take appropriate measures. While 40-year loan tenures were previously offered by banks, BNM issued new guidelines in July 2013 setting the maximum tenure at 35 years. Any move to revert to longer tenures, or to introduce intergenerational loans, must be carefully studied.

Looking ahead, house prices and their determinants must be closely monitored. The proposed BTS system, for example, may skew the market towards becoming oligopolistic and result in a substantial rise in house prices. Policy measures must therefore be taken to ensure that a sustainable relationship is maintained between house prices and household incomes, and that affordable homes continue to be available to the masses.

I. The Evolution of Housing Laws and Regulations

Salleh Buang

INTRODUCTION

Since the late 1960s, the local housing industry has focused on building houses for sale to housebuyers. Consequently, the laws enacted by Parliament have dealt almost exclusively with the relationship between developers and housebuyers, while the corresponding laws governing the relationship between landlords and tenants (or lessors and lessees) have remained at a standstill.

This chapter focuses on the principal statutes governing the housing industry in Peninsular Malaysia, and evaluates their effectiveness in protecting the interests of house purchasers, which is the primary objective of the law.¹ At the same time, it also considers whether the law, as it has been revised and updated over the past four decades, has been able to support the growth of a strong and responsible local housing industry.

PRINCIPAL STATUTES GOVERNING THE HOUSING INDUSTRY

There is no single comprehensive law governing the housing industry in Malaysia. What we have had over the years has been the Housing Developers (Control and Licensing) Act 1966, in force since 29 August 1969. After it was revamped in 2002, it became the Housing Development (Control and Licensing) Act 1966 (HDA). This Act applies to Peninsular Malaysia only, as Sabah and Sarawak have their own housing legislation.

Apart from the HDA, there are other statutes affecting the housing industry; most have been placed not under the jurisdiction of the Ministry of Housing and Local Government (renamed the Ministry of Urban Wellbeing, Housing and Local Government in 2013), but under other ministries, and state and local authorities. They include the National Land Code 1965, the Strata Titles Act 1985,² the Town and Country Planning Act 1976, the Environmental Quality Act 1974, and the Street, Drainage and Building Act 1974 along with its subsidiary legislation, the Uniform Building By-Laws 1984 (see Figure 1).

Figure 1: Key statutes affecting the housing industry (besides the HDA)

Act	Ministry/Authority	Provisions
National Land Code 1965	Natural Resources and Environment Ministry	Prescribes procedures for securing land development, payment of conversion premiums, issuance of land titles, etc.
Strata Titles Act 1985	Natural Resources and Environment Ministry	Prescribes procedures for the application and issuance of strata titles, and now governs gated community development.
Town and Country Planning Act 1976	Urban Wellbeing, Housing and Local Government Ministry	Prescribes the application and approval of planning permission, and the right of owners of neighbouring land to make representations against proposed developments in their vicinity.
Environmental Quality Act 1974	Natural Resources and Environment Ministry	Mandates that the developer obtain Environmental Impact Assessment (EIA) approval if the project covers an area of 50ha or more.
Street, Drainage and Building Act 1974	Urban Wellbeing, Housing and Local Government Ministry	Prescribes the standards of roads, drains and buildings.
Uniform Building By-Laws 1984 (a subsidiary legislation of the Street, Drainage and Building Act 1974)	Urban Wellbeing, Housing and Local Government Ministry	Prescribes the issuance of certificates of fitness for occupation (CFO), now replaced by certificates of completion and compliance (CCC).
Building and Common Property (Maintenance and Management) Act 2007 (to be replaced by the Strata Management Act 2013)	Natural Resources and Environment Ministry	Provides for the proper maintenance and management of buildings and common property, including the establishment of the joint management body.
Strata Management Act 2013	Urban Wellbeing, Housing and Local Government Ministry	Provides for the proper maintenance and management of buildings and common property.

In recent times, other laws have been enacted by Parliament which impact on the housing industry, including *inter alia*, the Building and Common Property (Maintenance and Management) Act 2007 (BCPA), which in the near future will be repealed and replaced by the Strata Management Act 2013 (SMA) (The Star 2011).

When this occurs, the Ministry of Urban Wellbeing, Housing and Local Government will take over from the Natural Resources and Environment Ministry the monitoring of the management of all stratified buildings as well as the operation of the SMA (Tan 2012).³ The new Act will also enable the management of a gated community to apply for a court order to seize and auction the property of a unit owner who has defaulted in paying his obligatory monthly management fee. The 2007 BCPA already empowers the management of strata properties to take the abovementioned measures against defaulting owners. Unfortunately, many are not aware of this, as the matter has not been clearly set out in the law.

The SMA will also establish a tribunal to hear disputes of this nature (The Star 2013). The Housing and Local Government Minister at the time, Datuk Seri Chor Chee Heung, said that “with this tribunal, such disputes need not be taken to court and can be resolved with minimal costs” (The Star 2013). The tribunal will be able to handle cases involving amounts of not more than RM250,000.

Subsidiary legislation

Apart from the HDA, laws regarding housing are also contained in two important pieces of subsidiary legislation, namely the Housing Developers (Control and Licensing) Regulations 1989, and the Housing Developers (Housing Development Account) Regulations 1991. The 1989 Regulations replaced the 1982 Regulations, which had earlier replaced the Housing Developers (Control and Licensing) Rules 1970.⁴

In essence, the 1970 Rules (read together with the HDA) can be regarded as the first housing laws regulating the industry in the country.

Following the amendment of the HDA in 2002, the two regulations mentioned above were also amended, and two new regulations, (c) and (d) below, were introduced. Consequently, the subsidiary legislation now in force under the HDA comprises:

- (a) the Housing Developers (Control and Licensing) Regulations 1989, subsequently amended by the Amendment Regulations of 2002. The amendments in effect updated the contents of Schedules G and H, which form the basis of the standard Sale and Purchase Agreement (S&P).
- (b) the Housing Developers (Housing Development Account) Regulations 1991, also amended by the Amendment Regulations of 2002.
- (c) the Housing Development (Tribunal for Homebuyer Claims) Regulations 2002, which sets out the procedures of the Tribunal.
- (d) the Housing Development (Compounding of Offences) Regulations 2002, which sets out certain offences which may be compounded by the Controller of Housing.

AMENDMENTS TO HOUSING LAW BETWEEN 2002 AND 2011

I. The 2002 amendment

Under the 2002 amendment (which came into force on 1 December 2002), the name of the principal Act (the Housing Developers (Control and Licensing) Act) was changed to the Housing Development (Control and Licensing) Act to give emphasis to a change in perspective and a shift in official policy. It provides new and improved measures to protect housebuyers against abandoned housing projects.

One such measure (under Section 6) requires the payment of a minimum deposit of RM200,000 by a company applying for a developer's licence. In the case of a business proprietorship, the deposit, previously RM100,000, is now RM200,000. This deposit is to be kept by the Controller until the expiry of the defects liability period. No developer's licence is to be granted to a company if a director, manager or secretary of the company has previously been convicted of an offence under the Act. Another important amendment, made to Section 7, ensures that a house purchaser gets the certificate of fitness for occupation (the CFO, which has since been replaced with the certificate of completion and compliance or CCC) as well as the issuance of his title or strata title and the transfer of such title to him upon completion and delivery of the house.

A new provision (Section 8A) states that if building work has not started six months after S&Ps have been signed, and at least 75% of all purchasers wish to terminate their agreements, the developer may apply to the Minister to have all the S&Ps terminated. The Minister has the discretion to approve or refuse the application and his decision is final. All monies received by the developer must be refunded free of interest within a time stipulated by the Minister.

The amendment also empowers the Controller to lodge a report on the conduct of an architect or engineer with his respective professional body in the event that such conduct has prejudiced the interests of the purchaser.

II. The 2007 amendment

After the HDA came into force in 1969, it was widely known that the law applied only to developers undertaking "housing development", a term restricted to mean "more than four units of housing accommodation". While developers undertaking shophouse developments were governed by the law, those undertaking commercial developments such as shops and office buildings, including developers of serviced apartments, were not governed by the law because the term "housing accommodation" had been expressly defined not to include "an accommodation erected on any land designated for and approved for commercial development". This position changed after the 2007 amendment.⁵

While the existing law had defined "housing development" as "any building, tenement or messuage which is wholly or principally constructed, adapted or intended for human habitation and partly for human habitation and partly for business premises", the 2007 amendment enlarged the definition to include "and such other type of accommodation as may be prescribed by the Minister from time to time to be a housing accommodation pursuant

to Section 3A.” Section 3A allows the Minister to prescribe any type of accommodation to be a housing accommodation. The Minister’s decision in this is final and may not be questioned by any court. In practical terms, the new housing law now applies to serviced apartments. Any developer undertaking a serviced apartment project, of which vacant possession had not been handed over to the purchasers when the new law came into force, had to apply for a housing developer’s licence not later than six months after the new law came into effect.

While existing owners of serviced apartments could not seek the protection of the housing law (because the law had no retroactive effect), purchasers of ongoing projects who had not yet been given possession of their properties by their developers when this new law came into force could find comfort under its protective umbrella. A developer who builds properties categorised as SOHO (small office/home office) for sale to the public is also required to obtain a developer’s licence, and his activities are governed fully by the HDA.

Another important development was the replacement of the old CFO with the CCC. The CCC is defined expressly as being a certificate “given or granted under the Street, Drainage and Building Act 1974 and any by-laws made under that Act certifying that the housing accommodation has been completed and is safe and fit for occupation but does not include partial certificate of completion and compliance.”

The new amendment also conferred powers on the Controller of Housing to freeze a developer’s Housing Development Account. A new section, 7C, states that if the Controller has reason to believe that a licensed housing developer is carrying on his business “in a manner detrimental to the interest of purchasers” or has in any way contravened “any provisions of this Act”, the Controller may freeze the account and direct the bank “not to part with, deal in or otherwise permit any withdrawal of any money” from the account. Any person who fails to comply with the order is guilty of an offence and liable to a fine not exceeding RM100,000.

Under the previous law, Section 8A allowed only the housing developer to apply to the Minister for his approval to terminate an S&P if certain circumstances were to arise. Under the new amendment, this right has been extended to purchasers as well. The circumstances have also been made clearer and more equitable.

Under the previous law, Section 11 of the Act enabled the Housing Minister to issue specific directions for the purpose of protecting the interests of purchasers. Among these was the power to direct a company to “assume control and carry on the business of the housing developer” when circumstances warranted such action. This power was subject to the Housing Minister obtaining the concurrence of the Finance Minister. Under the new amendment, the Housing Minister is no longer obliged to do so.

Another marked improvement under the new law is the increased jurisdiction of the Tribunal for Homebuyer Claims. Its previous limit (claims not exceeding RM25,000) has been doubled to a new ceiling of RM50,000. The penalty for failing to comply with an award of the Tribunal has likewise been doubled from its previous limit of a RM5,000 fine.

Under the old law, the general penalty under Section 18 (for committing any offence in relation to a licence under Section 5) of the Act was a fine of not less than RM50,000 and not

more than RM500,000 or a prison term of not more than five years or both. Under the new amendment, the minimum fine has been increased to RM250,000.

Finally, apart from revamping Section 22C of the Act (which provides for the right of purchasers to initiate civil action against their developers), the new law also introduces three new provisions, the most important of which is the provision that if any architect or engineer issues a progress certificate “knowing that the works therein referred to have not been completed in accordance with the provisions of the sale and purchase agreement”, he shall be guilty of an offence and be liable to a fine of not less than RM10,000 and not more than RM100,000 or a prison term of not exceeding five years or both. Any person (including a developer) who abets, aids or procures the commission of such an offence will also be liable for a similar punishment.

The above amendments show a serious commitment on the part of the Government towards ensuring that the law adequately protects the interests of purchasers, that architects and engineers act professionally, honestly and diligently, and that the local housing industry remains credible, sustainable and viable.

III. The 2011 amendment

On 17 November 2011, then-Housing and Local Government Minister Datuk Seri Chor Chee Heung tabled an Amendment Bill to revamp the HDA for its first reading in the Dewan Rakyat. The Bill was subsequently passed by Parliament in December 2011 and the Housing Development (Control and Licensing) (Amendment) Act 2011 came into force in September 2012. The amendment focuses mostly on measures to address issues concerning abandoned housing projects.

First, the amendment provides for the criminalising of developers for abandoning projects, as provided by a new Section 18A, in which Subsection (1) states:

Any licensed housing developer who abandons or causes to be abandoned a housing development or any phase of a housing development [...] shall be guilty of an offence and shall, on conviction, be liable to a fine which shall not be less than two hundred and fifty thousand ringgit but which shall not exceed five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Subsection (2) states further that:

For the purpose of this section, “abandons” means refuses to carry out or delays or suspends or ceases work continuously for a period of six months or more or beyond the stipulated period of completion as agreed under the sale and purchase agreement.

The amendment also spelt out the rights of purchasers after a project has been abandoned. Section 8A states in Subsection (1) that:

Notwithstanding anything contained in any agreement, a purchaser shall at any time be entitled to terminate the sale and purchase agreement entered into in respect of a housing development which the licensed housing developer is engaged in, carries on, undertakes or causes to be undertaken if

- the licensed housing developer refuses to carry out or delays or suspends or ceases work for a continuous period of six months or more after the execution of the sale and purchase agreement;
- the purchaser has obtained the written consent from the end financier; and
- the Controller has certified that the licensed housing developer has refused to carry out or delayed or suspended or ceased work for a continuous period of six months or more after the execution of the sale and purchase agreement.

The same provision also states in 8A(2) that when a purchaser has invoked his right to terminate the S&P as a result of abandonment by the developer, “no end financier shall unreasonably withhold its written consent to the termination of the sale and purchase agreement.” In 8A(3), when a purchaser has invoked his right to terminate the S&P, the developer “shall within thirty days of such termination refund or cause to be refunded to such purchaser all monies received by the licensed housing developer from the purchaser free of any interest.” Finally, in 8A(4), upon receipt of the refund, the purchaser shall “immediately cause all encumbrances on the land to be removed.” The cost and expenses for such removal shall be borne by the licensed housing developer, and if the latter fails to pay, the sum can be claimed as a civil debt from the developer.

Another amendment⁶ requires developers to deposit 3% of the estimated project cost in the Housing Development Account before they can obtain a housing developer’s licence. This amendment was the Government’s response to repeated calls by several quarters to provide an effective solution to the problem of abandoned housing projects.

All three measures met with mixed reactions. On the developers’ side, the Real Estate and Housing Developers’ Association (REHDA) asked the authorities to ensure that “genuine business failures due to unforeseen circumstances” are not treated as punishable crimes and that “genuine housing developers who suffer failure are not unfairly punished” (The Sun 2011). It urged the authorities to come up with a “clearer and more structured mechanism” that would enable housebuyers to terminate their S&Ps in the event that the project is abandoned and demand a refund of all moneys paid to the developer, as the absence of such a mechanism would expose the provision to abuse. REHDA also argued that the higher mandatory deposit would form a “barrier to entry for developers” into the industry and would consequently lead to “a shrinkage in property players”, thereby bringing about a “shrinkage in the supply of housing which may result in a demand-push price increase” (The Sun 2011). On the housebuyers’ side, the National House Buyers Association (HBA) argued that while the 3% deposit would not actually prevent project abandonment, it was nevertheless “proof of commitment and financial standing,” thus indirectly reducing risk of abandonment.

OTHER ISSUES IN HOUSING

I. Implementation of the Build-Then-Sell (BTS) system

On 22 June 2006, then-Deputy Prime Minister Dato’ Sri Najib Razak said that the Government had agreed “in principle” to the implementation of BTS. This “approval in principle” would, however, be reviewed after two years. He also said that its “terms

of implementation” would have to be determined “on a case-by-case basis with state governments and the local authorities” (New Straits Times 2006).

In September 2008, then-Housing Minister Datuk Seri Ong Ka Chuan said the Government had “deferred” the BTS system. In January 2009, he told the media that the Government had “no plans” to implement the BTS fully “at the moment in view of the current global economic crisis.” He said the Housing Ministry would “closely monitor the system” to gauge the reaction of the housing industry before implementing it fully.

II. Home warranty insurance

Home warranty insurance schemes have been implemented in countries such as Australia, the UK, Canada and the US. In Australia, the applicable law is contained in various state statutes, such as the New South Wales’ Home Building Act 1989, under which a home builder is required to provide a contract of insurance insuring the person on whose behalf the work is being done against the risk of loss resulting from non-completion of the work due to insolvency, death or disappearance of the contractor, and also any risk arising from a breach of a statutory warranty in respect of the work (which extends to the person’s successors in title). The contract of insurance and the insurer must be approved by the Minister.

In the Malaysian context, several quarters (including the HBA) have urged that housing developers be required to provide insurance coverage for purchasers in the event that developers are unable to complete projects. It is unfortunate that, to date, the Government has not seen fit to give consideration to such a proposal. In its place were the provisions in the 2011 Amendment Act requiring the developer to provide a deposit of 3% of the estimated project cost.

III. Hillside developments

Building collapses such as the Highland Towers tragedy (Farisham 2007) and recent incidents of landslides in the Klang Valley have prompted the Town and Country Planning Department of Peninsular Malaysia (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia) to produce new guidelines for hillside and highland developments. These guidelines are divided into four classes according to gradient and height. In January 2013, the Housing Ministry announced that the Government would impose “stricter rules for hillside development projects.” Housing developers would be required to prepare “a complete engineering solution for development projects” on slopes with a gradient of 25° to 35° (Class 3 slopes) with immediate effect. A ban on hillside housing projects applies to Class 4 slopes (i.e. slopes with a gradient of more than 35°). Local authorities have also been instructed to carry out annual audits on houses on hillslopes to help check soil erosion (Povera 2013).

While admitting the validity of concerns about landslides, REHDA maintained that technology know-how and carefully-vetted engineering designs could mitigate these worries. REHDA found the new guidelines to be too strict, and said hillside developments could not be avoided as land that was available for development increasingly fell into the Class 3 category. But the central problem of hillside developments is that such developments

have in the past been “approved and undertaken without sufficient input on future upstream and downstream projects that may take place in the same area”. The omission of proper master planning for developments in hillside areas has resulted in pockets of developments being carried out without taking into consideration their impact on neighbouring properties.

As a long-term solution, REHDA proposed that a “dedicated Federal agency with authority over hillslope development” for the whole country be established. Such a Federal agency must be given the necessary resources to undertake research on hillside development and slope safety, and to establish a register or inventory of all major hillside lands with profiles of their topography, geological properties and stability (REHDA 2009).

IV. Objecting to a proposed development in the vicinity

The right of owners of neighbouring properties to object to proposed developments in their vicinity is contained in Section 21(6) of the Town and Country Planning Act 1976, which states:

If the proposed development is located in an area in respect of which no local plan exists for the time being, then, upon receipt of an application for planning permission [...] the local authority shall, by notice in writing served on them, inform the owners of the neighbouring lands of their right to object to the application and to state their grounds of objection within twenty-one days of the date of service of the notice.

The duty of the local planning authority to inform the owners of neighbouring lands arises only if there is no local plan for the area for the time being. If the area in question is already subjected to a duly gazetted local plan, then the aforementioned duty on the part of the local planning authority does not arise.

Section 21(8) of the same Act defines “neighbouring lands” as, *inter alia*:

- Lands adjoining the land to which an application relates.
- Lands separated from the land to which an application made under this section relate by any road, lane, drain or reserved land the width of which does not exceed 20m and which would be adjoining the land to which the application relates had they not been separated by such road, lane, drain or reserved land.
- Lands located within a distance of 200m from the boundary of the land to which an application under this section relates if the access road to the land to which the application relates is a cul-de-sac used by the owner of the lands and owners of the land to which the application relates.

Under Section 21(7), if objections have been made pursuant to the provision mentioned above, it then becomes the duty of the local planning authority to hold a hearing within 30 days so that the neighbouring owners who had made their objections may then make their submissions.

EVALUATION

The HDA, the country's principal housing law, has been in force for more than four decades. It has been amended several times. While the objective of the law (i.e. to protect purchasers) has been its constant mission (at least in theory), experience over the decades has shown that enforcement has not been up to the mark.

A law is only as good as its enforcement. Rogue developers have in the past got off lightly. While defaulting developers have been prosecuted, in most cases convictions have been followed not by custodial sentences but by imposition of fines, which developers have gladly paid, thus avoiding imprisonment.

In May 2004, then-Housing Minister Tan Sri Ong Ka Ting was quoted as saying that housing developers with bad track records would in future be denied their licences in order to protect buyers. These developers would have to resolve their previous problems before they would be issued new licences. The Minister emphasised that the aim of this new ruling was to prevent these black sheep of the industry from reentering the market (Salleh 2004).

Apart from red-flagging problematic developers, the Housing Ministry also keeps watch on all licensed housing developers through the returns (Form 7F) which they must submit to the Ministry periodically to inform the authorities of the progress of their projects.

In theory, if these returns provide accurate and comprehensive information which is subsequently scrutinised by Ministry officials, the latter will be in a position to know if and when a particular housing project is in danger of being abandoned in the not-too-distant future.

The local housing industry has contributed both to the growth of the national economy as well as to the Government's successful implementation of its homeownership programme. The old Sell-Then-Build (STB) system, however, has left in its wake thousands of victims of abandoned housing projects.

The Build-Then-Sell (BTS) system, which the HBA strongly supports, envisages the developer as having completed the building of the house according to its approved building plan, secured the CCC and the issuance of the relevant land title before the property is considered ready for sale and transfer to the purchaser. The promise by the Government in 2006 that the BTS would be implemented has so far not been fulfilled. The BTS system was finally watered down to the 10:90 formula, but despite supporting legislation being put in place, some view it as a non-starter. The Government has announced that the BTS would be implemented in 2015, and that it has arranged to meet Islamic banks and other financial institutions to determine an effective mechanism to finance housing development under the BTS, but no clear details of the implementation road map have been disclosed to the public. In the meantime, developers continue to resist the BTS, warning that it will result in a decline in housing supply and an upward movement of house prices (PropertyGuru.com.my 2012).

ABSENCE OF COMPREHENSIVE LANDLORD-TENANT LEGISLATION

The principal land law in Peninsular Malaysia (the National Land Code 1965) contains

several provisions relating to the rights and obligations of landlords and tenants,⁷ but these are hardly adequate and certainly not in keeping with the development of landlord-tenant law in other jurisdictions such as in the UK, Canada and the US.⁸

The general opinion is that our landlord-tenant law favours the tenant (Global Property Guide 2013), and this is probably because of several provisions in the Specific Relief Act 1950 which governs the right of landlords to recover their premises when their tenants default. At common law, when tenants fail to pay their rent or default on their covenants, landlords may recover the premises by way of “self-help” i.e. by re-entry on the premises and virtually forcing the tenants to vacate the premises.⁹

As a result of a 1992 amendment to Section 7 of the Specific Relief Act, such rights of “self-help” no longer exist. When tenants default, landlords may only recover their premises after they have obtained an eviction order from the courts.

In *Lee Nyan Hon & Brothers Sdn Bhd v. Metro Charm Sdn Bhd*¹⁰ the Malaysian Court of Appeal observed that “our Courts have consistently held that Section 7(2) has relegated the remedy of self-help into oblivion. The right of the landlord to recover possession of tenanted property is to be exercised only by way of a court action.”

CONCLUSION

The HDA has, to a limited extent, protected the interests of house purchasers and at the same time ensured that the local housing industry remains resilient, credible and responsible in providing the Malaysian public safe, adequate and affordable housing. But more needs to be done.

The blot on the housing landscape caused by rogue developers who have abandoned their projects (resulting in misery to thousands of helpless purchasers), remains a painful legacy of the past. Although legislative measures have been taken from time to time, such as the mandated Housing Development Account, which raise the bar for the entry of new developers into the market and make the conditions for securing developers’ licences more stringent, the spectre of abandoned housing must still be reckoned with. It is estimated that from 1990 to 2007 at least 300 projects were abandoned, involving 90,000 houses and affecting over 100,000 housebuyers (Mohd Zairul and Rahinah 2008).

Attempts by several quarters to make the BTS mandatory have been consistently resisted by REHDA, which has warned that if the system were to be implemented hastily it would adversely affect the nation’s supply of housing. A watered-down version of BTS, known as the 10:90 system, complete with newly-drafted standard Sale and Purchase Agreements, did not take off.

In short, Malaysian house purchasers still buy their dream houses as shown in glossy brochures and not the real thing. For so many unlucky buyers, their dream homes turn out to be lifelong nightmares.

Recommendations for the implementation of home warranty insurance have continued to fall on deaf ears. As the law now stands, unless the BTS is made mandatory, no house purchaser can be sure that he will get his house at the end of the day.

Endnotes

- ¹ See the Housing Development (Control and Licensing) Act 1966 and the decision of Suffian LP in *SEA Housing Corporation Sdn Bhd v Lee Poh Choo* [1982] 2 MLJ 31.
- ² Under the Strata Titles (Amendment) Act 2013, a new (Sixth) Schedule was inserted to enable the implementation of the electronic land administration system for strata titles in Peninsular Malaysia.
- ³ The Malaysian Shopping Mall Association is not in favour of the new Act, stating that “it is a step backward and would increase costs” (*The Star* 2012).
- ⁴ PU (A) 268/70, which came into force on 15 July 1970.
- ⁵ The Housing Development (Control and Licensing) (Amendment) Act 2007 (Act A1289). The new law came into force on 12 April 2007.
- ⁶ Section 6 of the HDA, as amended by this 2011 amendment, now requires developers to provide a deposit of “a sum equivalent to three per cent of the estimated cost of construction as certified by an architect in charge of the housing development.”
- ⁷ See sections 221 to 240 in Part Fifteen.
- ⁸ Examples include the Landlord and Tenant Act 1987 (UK), the Residential Landlord-Tenant Act 1973 (Washington State, USA) and the Landlord and Tenant Act 1958 (Victoria, Australia).
- ⁹ *Pasaraya Seri Sayang Sdn Bhd v MPPP* [1988] 3 MLJ 51.
- ¹⁰ [2009] 6 CLJ 626 (Rayuan Sivil No. A22-515-2007)

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II. Stratified Property Management and Housing Administration

Viola Lettice de Cruz

INTRODUCTION

The housing industry in Malaysia has evolved with time. New laws on housing have had to be passed to keep pace with the rapid development of the country. This chapter will highlight some of the changes in the law related to stratified properties and the administration of the housing industry in Malaysia. In particular, it will bring to the fore three pieces of legislation, namely the Strata Titles Act 1985, the Building and Common Property (Maintenance and Management) Act 2007 and the Strata Management Act 2013. It will also highlight the roles of the principal and judicial authorities as provided under the various statutes governing the housing industry to protect the interests of stakeholders.

HOUSING LAWS RELATED TO STRATIFIED PROPERTIES

I. The Strata Titles Act 1985

Before 1966 there was no specific law governing the construction and sale of houses and flats. It was open to developers to formulate their own agreements and to carry out construction as they chose. Where stratified properties were constructed, the transfer of individual titles in favour of purchasers became a problem as there was no legislation for the sale and transfer of such properties. In 1966 the National Land Code came into force and subsidiary titles were possible. However, with the growth of the development of high-rise buildings there was a need to enforce more comprehensive legislation to regulate the housing industry – thus the Strata Titles Act 1985 was promulgated to regulate the application and issuance of strata titles as well as to govern the management of high-rise buildings. With the introduction of this Act developers could subdivide land and buildings to give buyers individual titles to their properties.

Prior to 2007, the Act specified that an application for strata titles could only be made after the certificate of fitness for occupation (CFO) had been issued by the relevant authorities. If there was a delay on the part of the authorities in issuing the CFO, the developers could not be faulted for the delay in getting the strata titles. The Strata Titles Act 1985 was therefore amended in 2007. This, *inter alia*, allowed the developer to apply for the subdivision of high-rise buildings and land parcels within definite timelines. The amendments also brought about the computerisation of strata titles in land registries, and the issuance of certificates of completion and compliance (CCCs) could be done by a developer's architects. (The CCC replaced the CFO in 2007 following an amendment to the Housing Development (Control and Licensing) Act 1966, or HDA.) With the improvement in efficiency, there were no longer reasons for delay. Therefore, developers had to apply for strata titles within six months of issuance of the CCC, subject to a further extension of three months only.

The amendments to the Strata Titles Act 1985 also addressed situations involving developers who delayed the payment of premiums imposed by the Land Office for the issuance of strata titles. Specifically, the amendments made it an offence for a developer not to pay a premium within a month of receiving a demand to pay.

Once the strata titles had been issued, the original proprietor had to execute the transfer documents within 12 months. Purchasers had to execute the transfer documents within 12 months of the notification of transfer or purchase of the parcel (whichever was later). Failure to meet either of these conditions put the original proprietor or purchaser respectively in danger of committing an offence, and the faulty party was liable for a fine of not less than RM1,000 and not more than RM10,000.

Under the Act, the ultimate body responsible for the maintenance and management of a stratified property (until the introduction of the Building and Common Property (Maintenance and Management) Act 2007, which will be explored in further detail later) was the management corporation of the property in question. However, the management corporation would come into existence only once the developer applied for subdivision and the Land Office opened the strata book for that development.

Despite the Strata Titles Act being in force, developers were slow to apply for the subdivision of strata properties. Consequently, developers continued to manage buildings on their own or through related companies or property agents. Complaints about poor service and unjustified charges for maintenance were rampant. Dissatisfaction among parcel owners was widespread and the collection of maintenance charges was often inadequate for the maintenance of the building. The 2007 amendment made clear that the parcel owners had to pay the maintenance charges imposed by the original proprietor. If they were dissatisfied, they could apply to the Commissioner of Buildings (COB) for a review of the charges.

The Strata Titles Act was further amended in 2013. With the more recent amendment, the period of execution of the transfer documents is a month from the issuance of strata titles, compared to 12 months previously. The amendment also included provisions for limited common property and the formation of a subsidiary management corporation. These measures were intended to cater to the ingenious creation of new projects by developers in which retail, condominium and office blocks were constructed in the same development

area. As purchasers of one section of the development may use and have access to a limited common area, the law was changed to allow the purchasers of the limited area to maintain and manage that area. Also, the rules of meetings, committees and other provisions are applied equally to the subsidiary management corporation as to the management corporation, but one member of the subsidiary management corporation must also be a member of the management corporation. The division between the management corporation and subsidiary in the Strata Titles Act will be repealed once the Strata Management Act 2013, which will be covered later, comes into force.

II. The Building and Common Property (Maintenance and Management) Act 2007

As has been alluded to above, the developer would continue to manage a stratified property pending the formation of the management corporation. Even after the management corporation came into existence, the developer had to continue to manage the building until the first owners' meeting was called by the developer (when owners with one quarter of the aggregate share units had registered their names in their strata titles). Various problems arose as a result and, in response, Parliament passed the Building and Common Property (Maintenance and Management) Act 2007 to let both parcel owners and developers manage their buildings in the interim pending the formation of the management corporation. In particular, the Act allowed the formation of the "joint management body" (JMB) – a body corporate consisting of the developer and the owners of the parcels – to manage and maintain the building before the formation of the management corporation.

The purpose of the formation of the JMB, and the Act in general, is to ensure the provision of proper maintenance and management of land and buildings intended for subdivision into parcels. As such, a JMB is empowered to do whatever is necessary to properly maintain and manage the building and is also able to recover all outstanding monies from parcel owners. It is an offence for purchasers not to pay maintenance charges. The developer must call for the first meeting to form the JMB, and a committee must be formed to undertake the functions and duties of the JMB. The JMB is dissolved three months after the first meeting of the building's management corporation.

The JMB is required to open and maintain two bank accounts respectively for maintenance charges and sinking fund contributions (maintenance monies are used for the day-to-day running of the building whereas the sinking fund is used for capital expenditure), and the JMB is required to keep proper records of owners and their accounts.

While the formation of the JMB is intended to address some of the dissatisfaction regarding poor service and maintenance and unjustified maintenance charges, problems remain (particularly with regard to the collection of maintenance fees and the transfer of maintenance and management duties among the three parties – developers, JMB and the management corporation). To address this, Parliament passed another law, the Strata Management Act 2013, which has not come into force at the time of writing.

III. The Strata Management Act 2013

The Strata Management Act 2013 was passed to better regulate the maintenance and management of strata properties and to address certain procedural shortcomings. New provisions were included to stipulate the proper transfer of maintenance and management duties from the developer to the JMB, from the JMB to the management corporation, as well as from the developer to the management corporation.

The requirements for meetings and the composition of members of the JMB committee and the management corporation were also spelt out, and the respective duties and powers of the developer, the JMB and the management corporation have generally been made clearer by this Act.

The establishment of the Strata Management Tribunal, its composition, jurisdiction, powers, restrictions and awards have also been set out under this Act.

ADMINISTRATION OF HOUSING LAWS

To keep us abreast with the pace of development and to ensure that there are as few “victims” as possible in the housing industry, laws have been changed to make the government machinery responsible for housing stronger and more effective. The principal authorities in housing are the Minister, the Controller, the Inspectors and the COB. The judicial authorities apart from the Courts are the Tribunal for Homebuyer Claims and the Strata Management Tribunal. This section will describe these authorities in greater detail.

I. The Minister

Housing matters are administered by the Minister of Urban Wellbeing, Housing and Local Government. The HDA stipulates that the Minister’s decision is final and may not be questioned in any court. It also gives the Minister the authority to “appoint a Controller of Housing and such number of Deputy Controllers of Housing, Inspectors of Housing and other officers and servants as the Minister may deem fit from among members of the public service”.

The same Act also provides the Minister with absolute discretion in various aspects related to housing law, *inter alia*:

- To waive any or all of the conditions for a developer to procure a licence to carry out the business of housing development, or substitute them for other conditions as he deems fit. At the moment, a developer must have capital of not less than RM250,000 issued and paid up in cash and make a deposit with the Controller of 3% of the estimated cost of construction in cash (or in such other form as the Minister may determine if the application is made by a company).
- To approve the termination of all sale and purchase agreements entered into in respect of the housing development (or any phase of the housing development) following an application from a licensed housing developer or the purchasers, and impose such conditions as he deems fit.
- To approve the developer’s auditors and to appoint fit and proper persons as

auditors for the developer, with the remuneration of these auditors payable by the licensed housing developer.

- To direct the Controller or an Inspector of Housing to investigate “under conditions of secrecy” any offence under the Act or to look into the affairs (or the accounting or other records) of any housing developer if he has reason to believe that the developer in question is carrying on his business in a manner detrimental to the purchaser, has assets insufficient to meet his liabilities, is contravening any of the provisions of the Act, or if an application for such an investigation is made to him by at least five purchasers accompanied with evidence and any security that the Minister may require to show that the application is made in good faith, and of paying the costs of such an investigation (Section 10(2) of the HDA).
- To safeguard the interests of purchasers (Section 11(1) of the HDA) by:
 - directing the licensed housing developer in question to take such steps as he may consider necessary to rectify any matter or circumstance
 - directing that a person be appointed or himself appoint a person to advise the licensed housing developer in the conduct of his business
 - directing a company to assume control and carry on the business of the housing developer upon such terms and conditions as the Minister may determine
 - certifying that the licensed housing developer has abandoned the housing development
 - directing that the licensed housing developer present a petition to the High Court for the winding up of his business
 - taking such action as the Minister may consider necessary in the circumstances of the case for carrying into effect the provisions of the Act.

II. The Controller of Housing

The Controller and Deputy Controller of Housing may exercise any of the powers conferred on Inspectors under the HDA and may delegate powers of investigation and enforcement to public or local authority officers.

A housing developer who desires to engage in a housing development must obtain the consent of and a licence from the Controller, who has the discretion whether to grant the licence on such terms as he deems fit and on payment of the prescribed fees. These terms may be varied by the Controller. The developer will also have to keep the Controller informed of the progress of his development, which includes the application and transfer of separate and strata titles to the purchasers.

As mentioned above, a developer has to pay a deposit when applying for the developer’s licence. The Controller will hold this deposit until the expiry of the defects liability period of the housing development. He has the power to forfeit the whole or a part of the deposit if in his opinion the developer is conducting his business in a manner detrimental to the interests of the purchasers or of any member of the public, has insufficient assets to cover

his liabilities, is contravening any of the provisions of the Act, or has ceased to carry on housing development in Peninsular Malaysia.

The Controller also has the power to issue an order to freeze the developer's Housing Development Account if he has reason to believe that the developer is conducting his business in a detrimental manner, and may direct the bank or finance company (as the case may be) not to part with, deal in or otherwise permit any withdrawal of any monies from the Housing Development Account until the order is revoked or varied, or unless in accordance with any condition imposed by the Controller at his discretion during the operation of the order.

Under Section 8(1) of the Act, if a licensed housing developer intends to sell, transfer, assign, dispose of, or reconstruct his business or management relating to housing development either by amalgamation or otherwise, the developer must notify the Controller of the proposed arrangement and may not proceed with it unless approved by the Controller.

Finally, Section 13A provides that:

Where the Controller is satisfied that the conduct of an architect or engineer of a housing developer has prejudiced the interest of the purchaser of the licensed housing developer, the Controller may report such conduct of the architect or engineer to his respective professional body.

III. The Inspectors

An Inspector may exercise his powers under the HDA only with the prior written authorisation of the Controller. Section 10A(1) provides that an Inspector with a search warrant issued by a Magistrate – or without one, if the Inspector has reason to suspect that a delay in obtaining it would jeopardise his investigation, or that evidence of the commission of an offence would likely be tampered with, removed, damaged or destroyed – may at any time and with or without assistance:

- enter any premises and there search for, seize and detain any property, book or other document
- inspect, make copies of, or take extracts from, any book or other document so seized and detained
- take possession of, and remove from the premises, any property, book or other document so seized and detained
- search any person who is in, or on, such premises, and for the purpose of such search detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain any property, book or other document found on such person
- break open, examine, and search, any article, container or receptacle; or stop, detain or search any conveyance.

If necessary the Inspector may:

- break open any outer or inner door of such premises and enter such premises and every part of such premises
- remove by force any obstruction to such entry, search, seizure, detention or removal
- detain all or any persons found on any premises, or in any conveyance, searched under Subsection (1) until such premises or conveyance have been searched.

As such, an Inspector may search any person suspected to be holding any property, book or other document, or any other article that the Inspector believes is necessary for the purpose of an investigation into any offence under the Act. For the purpose of such a search, the Inspector may detain the person for the period necessary to have the search carried out – but not more than 24 hours unless authorised by a Magistrate. Persons under investigation must fully cooperate with the Inspector and furnish, if necessary, a translation of any material in a language other than Malay or English.

The Inspector may also summon a person suspected of committing any offence under the Act to be examined orally and to produce all books, documents and property and to give a statement under oath or affirmation.

Under Section 10F, the powers of investigation conferred on an Inspector may be also exercised against any past or present business associate, as well as anyone who is or was concerned in the control or management, in whole or in part, of the affairs of the person suspected of having committed an offence under the Act.

IV. The Commissioner of Buildings

The appointment of the COB is provided under Section 3 of the Building and Common Property (Maintenance and Management) Act 2007. Under this Act, the COB is appointed by the State Authority in respect of a local authority area or any other for the purposes of administering and carrying out the provisions both of the Act as well as the provisions of Parts VI and VII of the Strata Titles Act 1985. The COB may also have other duties and powers that may be conferred under the Strata Titles Act. Once the Strata Management Act 2013 comes into force, however, these legislative provisions will be repealed and the COB will be empowered solely under the Strata Management Act 2013.

For now, the COB has the power to investigate and examine orally any person believed to be acquainted with the facts and circumstances of the case, and the COB may compound any offence for a sum of money not exceeding the maximum fine prescribed for that offence, per Section 39(1) of the Building and Common Property (Maintenance and Management) Act 2007.

Section 41 of the same Act provides that any person or body aggrieved by an act or decision of the COB may lodge an appeal with the State Authority within 14 days of being notified of the action or decision. The decision of the State Authority will then be final and may not be questioned in court. However, in practice the aggrieved party can apply for a judicial review of the State Authority's decision.

Under Section 25 of the same Act, the COB has the power to appoint a managing agent to exercise the powers and discharge the duties and functions of a management corporation,

and who is empowered to collect the maintenance charges and other lawful charges by court proceedings or through warrant of attachment proceedings.

V. The Tribunal for Homebuyer Claims

Provisions establishing and regulating the Tribunal for Homebuyer Claims are provided in Part VI of the HDA. As such, the Tribunal consists of a Chairman and a Deputy Chairman and at least five other members. These are all appointed by the Minister, and while the Chairman and Deputy must be drawn from the Judicial and Legal Service, the remaining five members may be drawn from the same service or from among advocates and solicitors of the High Courts of Malaya, Sabah and Sarawak who have practised for at least seven years.

The Tribunal allows buyers or those having dealings with a developer to seek remedy or relief for late delivery and defects to their properties. No lawyers are allowed unless the Tribunal believes that the issue involves complex matters of law to the detriment of a party without legal representation. If one party is thereafter allowed legal representation, the other party will also be similarly entitled.

Buyers are allowed to file their claims within 12 months of the expiry of the defects liability period or the issuance of the CCC. The maximum claim amount allowed by the Tribunal is RM50,000, and the Tribunal will make its award (where practicable) within 60 days of the first day of the hearing. Every award made by the Tribunal is final and binding on all parties to the proceedings and is equivalent to an order of a Magistrate's or Sessions Court, as the case may be, and can be enforced accordingly by any party to the proceedings.

Accordingly, under Section 16AD(1) any person who fails to comply with an award made by the Tribunal within the specified period commits an offence and, if convicted, will be liable to a fine of at least RM5,000 and not more than RM10,000, or imprisonment for a term not exceeding two years, or both. In the case of a continuing offence, the offender will in addition be liable to a fine not exceeding RM100,000 for each day or part of a day during which the offence continues after conviction.

VI. The Strata Management Tribunal

Part IX of the new Strata Management Act 2013 provides for a Strata Management Tribunal, which consists of a Chairman and Deputy Chairman appointed by the Minister from the Judicial and Legal Service. An additional (and not less than) 20 members must be appointed from current or past members of the same service or from among advocates and solicitors of the High Courts of Malaya, Sabah and Sarawak of at least seven years' standing.

The jurisdiction of the Tribunal covers any claim specified in Part 1 of the Fourth Schedule of the new Act and which does not exceed RM250,000. It should be noted that the law of limitations (per the Limitation Act 1953) does not apply to the Tribunal's proceedings. This is to address problems faced by purchasers who did not succeed in the Tribunal for Homebuyer Claims where their claims were time-barred. However, the jurisdiction of the Tribunal does not extend to any claim in which the title to any land, or any estate or interest in land, or any franchise, is in question.

As with the Tribunal for Homebuyer Claims, the Strata Management Tribunal will make its award, if practicable, within 60 days of the first day of the hearing. Its award is final and binding on all parties to the proceedings, and is deemed to be an order of a court and can be enforced accordingly by any party to the proceedings unless it is challenged in the High Court on grounds of serious irregularity.

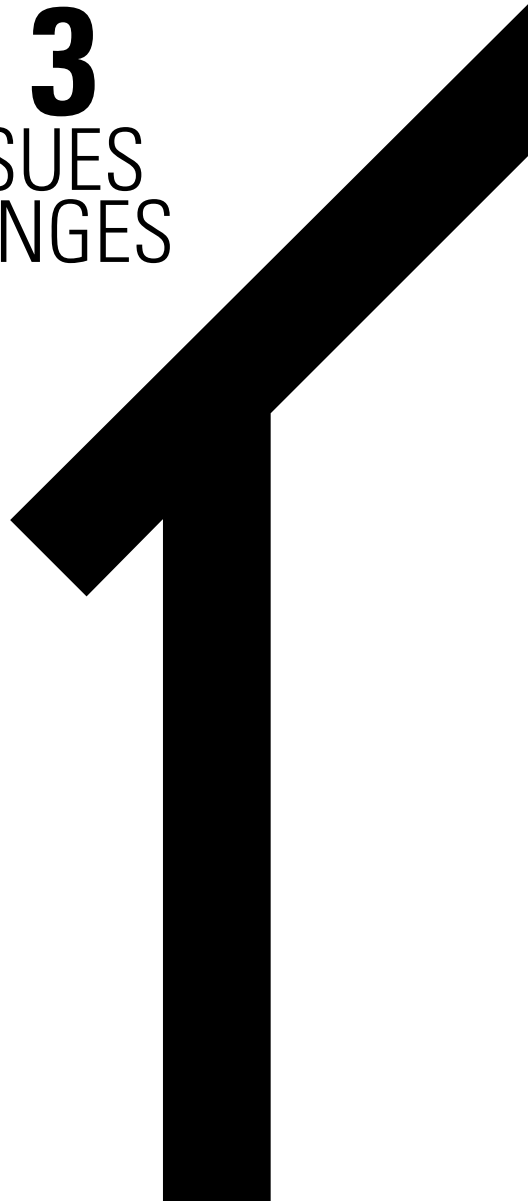
Any person who fails to comply with an award made by the Tribunal commits an offence and, if convicted, will be liable to a fine not exceeding RM250,000 or imprisonment for a term not exceeding three years, or both. In the case of a continuing offence, the offender is liable to a further fine not exceeding RM500,000 for every day or part thereof during which the offence continues after conviction.

CONCLUSION

The changes in the law have improved the housing industry in Malaysia and buyers are better protected now. They are able to seek remedies for breaches in sale and purchase agreements and the management of high-rise buildings, with fewer costs and in less time. With the tribunals, they are able to handle their cases on their own, thereby saving on legal costs. Tribunal decisions are also given speedily. Enforcement has become stronger but can be further improved to ensure a more disciplined and structured housing industry.

PART 3

TRENDS, ISSUES
AND CHALLENGES



INTRODUCTION

Land is the single most important natural resource for human habitation. Without an adequate and accepted system of land ownership, however, any kind of development, let alone housing development, is impossible. In Malaysia, land is governed by various land and housing systems, laws, policies, formal and informal rules, regulations and conventions. In order to reduce inconsistencies, Article 76(4) of the Federal Constitution provides uniformity to state land laws, particularly for Peninsular Malaysia, and Parliament has done so through the National Land Code 1965 (NLC) and the Town and Country Planning Act 1976 (TCPA). State governments have exclusive powers clearly stipulated in the Federal Constitution and the federal Government has no legal power to question any decision made by a state with regard to land within its boundaries. However, matters pertaining to planning and housing are apportioned and specified in the Concurrent (State and Federal) List of the Federal Constitution. Discussion of the distribution of power between the state and federal governments, especially as it relates to the crucial subjects of land, planning and housing, is therefore essential as issues arising from this distribution have been and may continue to be the subject of argument.

This chapter will address housing and land issues in view of the Government's policies to create vibrant and sustainable living spaces for the future. The author will endeavour to describe and analyse several aspects of the topic thus: (1) the important determinants in terms of size and types of land for housing development in Malaysia; (2) the NLC's role in governing land-use planning and housing (for example, through the conditional land title system and by providing some approaches to land development such as amalgamation, subdivision and partition, as well as a discussion of the surrender and re-alienation processes); and (3) an overview of land and housing policies and laws in Malaysia (including a detailed discussion about the consistency between *de jure* policy and *de facto* practices or the extent to which laws are observed in current practice and whether these are sustainable). Finally, the

author will examine suggestions for the provision of better housing in the future. Prior to an in-depth discussion of these three topics, an overview of the land registration process in Malaysia (via the Torrens System) is necessary, as is a discussion about the importance of proper planning and how both registration and planning are critical factors in land and housing sustainability.

LAND REGISTRATION AND HOUSING DEVELOPMENT PLANNING IN MALAYSIA

The NLC provides a comprehensive definition of land that includes all vegetation and other natural products on or below the surface (Section 5, NLC). In Peninsular Malaysia, two principles of the Torrens System, the “Mirror” and “Curtain”, are observed in all land matters. The Mirror principle provides that the registered title document must reflect accurately, completely and beyond all argument the current facts relevant to a person’s rights to the land parcel. The Curtain principle, on the other hand, requires that the registered title be the sole source of information for interested parties in ascertaining rights to the parcel (Salleh 2007). These two principles form the doctrine of “indefeasibility of title” entrenched in Section 340(1) of the NLC. Registration “is everything” and in cases of deferred indefeasibility of title, Malaysia discerns as “deferred” only that which overrules the “immediate” indefeasibility of title (see *Tan Yi Hong v Tan Sian San & Ors* [2010] 2 MLJ 1 and also the infamous case of *Adorna Properties Sdn Bhd v Boonsom Boonyanit @ Sun Yok Eng* [2000] 1 MLJ 241).¹

Apart from this, the productive use of land requires proper planning – or more precisely, proper planning guidelines as provided by the TCPA, which controls land use and development via zoning. The Malaysian town planning system consists of development plans and control procedures that bring several interrelated matters under the planning consideration, including land development and disposal (Ibrahim *et al.* 2009; Lee *et al.* 1990; Bruton 2007). The Federal Constitution sets out planning authority in the Ninth Schedule (the Concurrent List), in Figure 1.

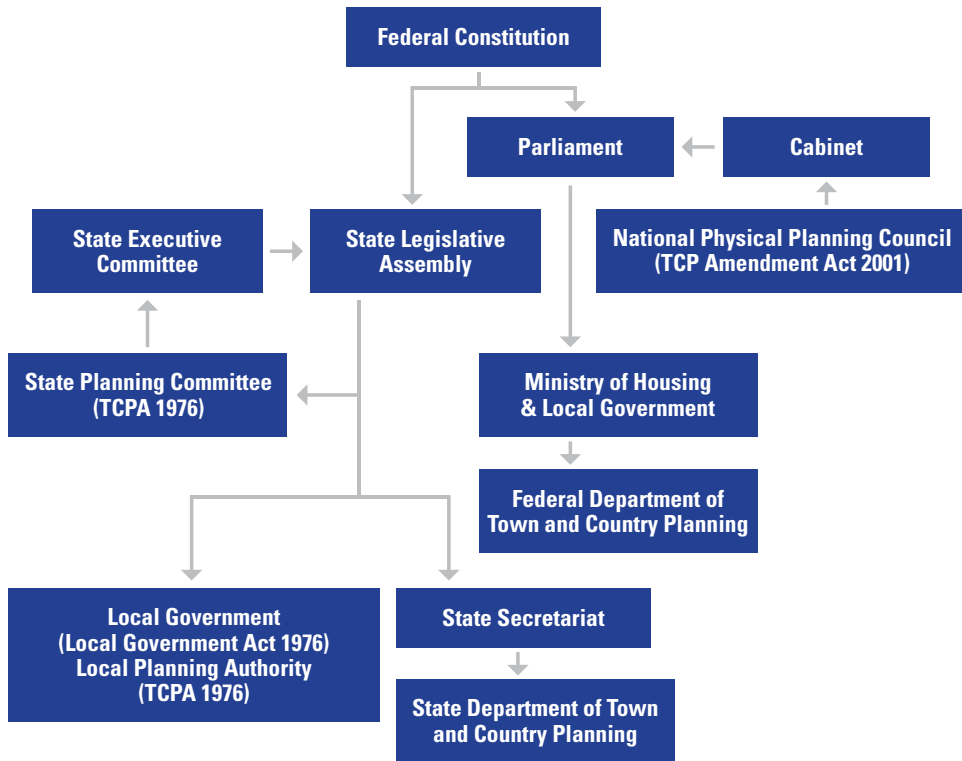
Further to this framework, Figure 2 details how sustainable housing supply is achieved through the planning system currently in use in Malaysia. This has a significant bearing on contextualising the issues discussed later in this chapter.

Planning has been widely used as a tool to manage and control important aspects of housing development such as the construction process, demand and supply, development locations, land areas to be developed and so forth (Alias *et al.* 2006). Thus, the involvement of housing and construction industry experts as well as the business community and private entrepreneurs in policy formulation is crucial to the sustainable development of the nation (Tan 2008; Abu Hassan *et al.* 2011).

FACTORS DETERMINING THE SIZE AND TYPE OF LAND FOR HOUSING DEVELOPMENT

It is important to identify the several important factors that can potentially influence the size and type of land pertaining to housing development:

Figure 1: The institutional framework for land-use planning in Malaysia



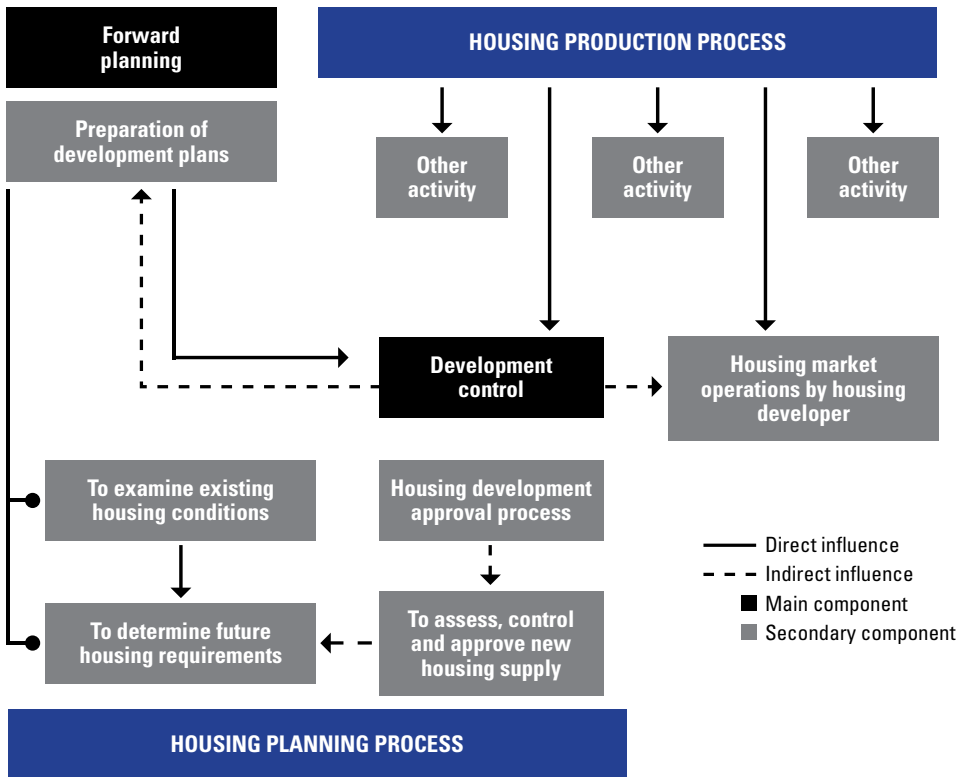
Source: Adapted from Ibrahim *et al.*, 2009.

I. Availability of land

Land is a finite natural resource. With an ever-increasing population and rapid urbanisation, its availability for development naturally decreases over time. Housing developers therefore consider land as virtual “gold”, as without it these companies would have no sales or revenue. Thus, developers are under intense pressure of competition, which induces them to look for more land for future project development. In contrast to 20 or 30 years ago, there are far fewer large land parcels available today as many of these have been fully developed, especially in the category of building-residential land use. This perhaps leaves some pockets or small-sized areas of land for housing, which may affect the feasibility of any given housing project.

Land availability affects not only the size but also type of land that may be used for housing purposes. In Peninsular Malaysia, Section 51 of the NLC specifies two classes of land: land above the shoreline, and the foreshore and seabed. In accordance with Sections 11 and 442, land above the shoreline can be subdivided into three types: town land, village land and country land. Housing developments can be on any of these three types of land provided that the land-use category (building) is fulfilled. Inasmuch as a central business district might attract more commercial-office development, the availability of town land for housing will gradually diminish, leaving only village or country land for housing development.

Figure 2: The role of planning in the housing supply process



Source: Adapted from Alias *et al.*, 2006; Alias, 2007.

Land development processes recognised under the NLC, such as conversion and amalgamation, can be undertaken to create larger parcels suitable for housing provided that such undertakings conform to other applicable requirements such as the zoning regulations of local plans. Besides the Government, private landowners play a significant role in making land available for housing. When landowners are unwilling to release their holdings, developers may be forced to change the locations of their developments. On the other hand, owners of vacant land who lack housing development knowledge and other important prerequisites (such as capital) can enter into joint-ventures under which the landowner offers up a parcel of land for development while construction, management, documentation, marketing and so forth are undertaken by the developer. These symbiotic relationships allow both parties to derive benefits from the development and, most vitally, they are considered a way to resolve the land scarcity issue for housing projects.

There are other methods of acquiring land for housing development, notably compulsory land acquisition under the Land Acquisition Act 1960 as well as the privatisation of state land. These, of course, must involve the State Authority.

II. Prevailing economic conditions

The demand for housing is influenced by economic fundamentals: real-income growth affects a household's purchasing power and borrowing capacity; interest rates affect cost of capital and payback capacity; stock prices affect a household's wealth and investment alternatives; housing supply affects availability and choice; population growth and household formation exert demand pressure, while related economic activities affect general consumption as well as subsectors related directly to the housing market, such as furniture and household accessories (Flavin and Yamashita 2002).

Prevailing economic conditions also affect the decisions of buyers and developers in determining the type, location and area of land for housing. They affect decisions about individual types of housing, for example strata units such as flats and condominiums or landed properties such as detached, semi-detached or link-units. It is therefore of critical importance that developers perform sufficiently thorough market analyses (for example, of interest rates, the Base Lending Rate, the rate of inflation, the relative purchasing power of the consumer, as well as general economic growth trends) because these studies will be valuable when making decisions to reduce financial risk and to minimise supply and demand mismatches.

When the value of land increases, it undeniably pushes up house prices, which may subsequently decrease affordability for consumers. Homeownership will become a serious problem, more so if the situation is aggravated by shorter loan durations at higher interest rates as well as any slowdown or stagnation of real-income growth. As such, the residential property market in Malaysia has experienced significant price expansion over the past 40 years. Prices began rising in the 1970s, accelerating in the mid-1990s and well into the new millennium – this is particularly so in the more developed states of the Federation. In 2012, housing was most expensive in Kuala Lumpur where the average house price was RM497,535 followed by Sabah and Selangor with average prices of RM382,414 and RM372,499 respectively (Global Property Guide 2013).

III. Consumer housing preferences

Homebuyer behaviour and attitudes interact with other key variables such as economic conditions and government policies in many complex ways (Tan 2012). Housing suppliers must therefore anticipate and adapt to homebuyer needs, preferences and tastes via thorough market (demand) feasibility studies and by using a scientific method (such as institutional analysis and development) to investigate the preferences or variables that affect consumers most (Ostrom *et al.* 1994). Such evaluations provide information necessary for improving the design and development of future housing projects in order to meet consumer preferences (Preiser 1989).

The size of households also needs to be taken into account. The bigger the household, the larger the built-up area required. By carrying out in-depth market studies, developers can determine the size and type of houses that should be made available (Nordvik 2006). For example, for a family of four to five members, a 20ft x 70ft link-house or a minimum of 70sq m may be sufficient. As the household and its income grow, however, preferences may shift towards a larger dwelling unit. This also applies to stratified properties such as

high-rise residential buildings (apartments, flats and condominiums). Of course, size is not the only factor in determining housing preferences. Developers must also be able to meet buyers' expectations with respect to accessory parcels such as parking lots and shared or common areas such as gyms and swimming pools, the provision of adequate security and other intangible or sociocultural factors such as *feng shui*.

Location is another very important factor contributing to housing satisfaction, especially for those living in public (i.e. low- and medium-cost) housing (Baker 2002). Access to the city centre, educational facilities such as schools and universities, shops, entertainment and sports centres, hospitals, transport hubs and other public amenities and opportunities for employment and social interaction are seen as favourable locational attributes (GCG 2010; Potter and Cantarero 2006; Tan 2012; Williams *et al.* 2008). Broadly speaking, houses located closer to towns are more likely to meet consumer preferences and satisfaction because of the distinct time and cost advantages in commuting to work and attending to daily life.

IV. Regulatory and non-regulatory Government intervention

Public policy in the form of rules and constraints is considered a prime mover that influences other substantial factors (e.g. the economy – Przeworski and Limongi (1997) argue strongly that the state permeates the entire economy). State intervention usually takes varied forms and in Malaysia it involves various regulatory controls via land use policy or through legislation such as the NLC, the TCPA and the Land Acquisition Act. It can also take non-regulatory forms through subsidies and taxes (Pigou 1932) or the direct involvement of the Government in housing development. All of these governmental “treatments” can respond to or influence housing developers as well as the feasibility and cost of projects.

V. The role of the National Land Code in governing spatial planning in relation to housing development issues

Besides ensuring the consistency and uniformity of laws and policies with regard to land administration in Peninsular Malaysia, the NLC plays a vital role in controlling and managing land use and development. To understand the role of the NLC in governing spatial planning in relation to housing development issues, four considerations must be taken into account: categories, conditions and restrictions in interest; land conversion; surrender and re-alienation; and subdivision, amalgamation and partition of land.

1. Categories, conditions and restrictions in interest

All conditions and categories of land use and restrictions in interest recognised by the NLC and previous land law must uniformly be employed by the relevant authorities in all the Peninsular states. Regarding categories of land use, under Section 52(2) of the NLC, the State Authority can prescribe a category of land in a certain area by specifying this in the State Gazette, and this fact will be endorsed in the document of title. In general, three categories of land are recognised: agricultural land, building land and industrial land as stipulated under Section 52(1) of the NLC. For housing projects, the category of land use is “building land”. However, merely imposing a land category is uninformative to the owner in terms of how the land can be used. Thus, the endorsement of express and implied

conditions is necessary to clarify an owner's rights and obligations. The general power of a State Authority with respect to conditions and restrictions in interest is provided under Section 120 of the NLC. The term "condition" pertains to the manner in which the land is to be utilised – for example, the State Authority may impose conditions on building land, requiring that the land be used for residential purposes (e.g. Section 116(4) of the NLC details provisions for single-storey houses). It does not include any restriction in interest or condition in any agreement in which the State Authority is not a party (Section 103, NLC).

"Restriction in interest" is defined in Section 5 of the NLC and refers to any limitation imposed by the State Authority on the powers of the registered land proprietor to subdivide, partition or amalgamate his or her land. Thus, a housing developer may not subdivide land, stratify an apartment building, transfer, lease, charge to a bank, or offer tenancy and so forth, if the developer is restricted by the State Authority.

The decision of the State Authority when imposing conditions and restrictions in interest is specified under Section 120(1) of the NLC thus: "The State Authority may alienate land under this Act subject to such express conditions and restrictions in interest conformable to law as it may think fit". For instance, in *Kin Nam Development Sdn Bhd v Khau Daw Yau* [1984] 1 MLJ 256, Tun Salleh Abbas (then Chief Justice of Malaya) argued that:

...the booking was done and accepted before the land was sub-divided. There is no basis for the appellant to assume that its application for subdivision and conversion would be approved without conditions or even approved at all. It should have first waited for the decision of the Pahang State Government on the fate of its application before venturing to advertise and accept booking fees for the proposed subdivided lots. It is no defence for it to say that the special conditions were completely unexpected, because under the law the State Government could even refuse the application altogether, if it was so minded. The appellant had no good reason to expect that its application would be approved at all. As it took great risk so it must pay for it.

The key message here is that spatial planning may be altered by the State Authority at variance with any decision made by a developer because the State Authority possesses the constitutional right to impose any condition and restriction in interest on land it thinks fit, provided such imposition conforms to the law. So, before embarking on any project development, the developer should ensure that full approval has been secured in order to avoid complications.

However, there is a method to regularise the planning of land use provided under Sections 124 and 124A of the NLC. This method is familiarly known as "variation of conditions, restrictions and categories". A landowner may apply to the State Authority for an alteration to the imposition of the category of land use, to remove from the land title the expression to which the land is subject or for the rescission or amendment of any express condition or restriction in interest to enable the landowner to use or develop his or her land accordingly and for purposes other than that allowed at present (Section 124(1) of the NLC).

2. Land conversion

Consider the example of an owner of a piece of land originally alienated for planting rubber (agricultural land) who now wishes it to be used for a housing project. In such a case, the owner may apply for an imposition of a "building" category (i.e. land conversion)

to change the land use. The State Authority may, at its discretion, impose any condition it thinks fit, in addition to the payment of a further premium and the revision of land rent (Section 124(5) of the NLC). The land tenure, however, cannot be altered: after conversion (in this case from agricultural to building), the land tenure must remain as it did under the former title, i.e. a 99-year leasehold remains the same and a freehold remains a freehold. This was demonstrated in *Pengaruh Tanah dan Galian Wilayah Persekutuan v Sri Lempah Enterprise Sdn Bhd* [1979] 1 MLJ 135; and the Federal Court held that the State Authority had no power to direct that the approval of applications for the conversion of land use category and subdivision was conditional upon the registered proprietor surrendering a title in perpetuity in exchange for a 99-year leasehold (i.e. the State could not convert a freehold into a leasehold).

3. Surrender and re-alienation

Surrender and re-alienation of land is a special provision under Section 204A of the NLC and it provides another way for land to be subdivided and the subdivided portions to be used for various purposes. It therefore serves the same purpose as Section 124A. This means not only that simultaneous land developments (subdivision and conversion of land) can be executed, but that the main aim is to provide a solid assurance or guarantee that the surrendered land will be reverted to the owners who will face no risk of losing their land. This of course expedites the process of application as whatever conditions and restrictions in interest attached to the original land ceases. It is easier for the authorities to impose new terms and conditions on the re-alienated land.

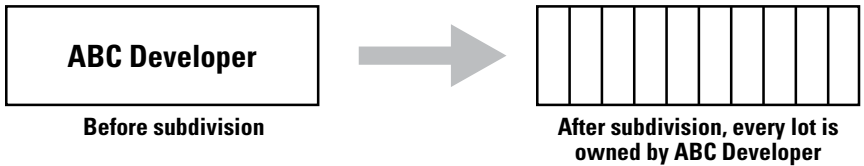
However, it must be noted that in respect of certain kinds of land, Section 204A cannot be invoked. This is the case with regard to land held by a non-Malay within a Malay Reservation (i.e. a restriction in interest applies). According to the Manual on the National Land Code (KPPPTMB 2002), once such land is surrendered, it cannot subsequently be re-alienated to a non-Malay because the restriction in interest under the Malay Reservation laws prohibits alienation of state land within a Malay Reservation to a non-Malay. Therefore, housing developers who surrender a parcel of Malay Reserve Land (thus turning it into state land), thinking that such a restriction will cease and enable them to sell the re-alienated subdivided lots to non-Malay purchasers, are under a misconception. They should be aware of this in order to avert future problems.

4. Subdivision, amalgamation and partition of land

Typically, in order to carry out a housing development in a particular land area, a developer may require that the land be subdivided, partitioned or amalgamated or even converted. Regarding subdivision, Section 135(1) of the NLC states that, "the proprietor of any alienated land held under Registry or Land Office title may, [with approval ...] subdivide the land into two or more portions to be held by him under separate titles."

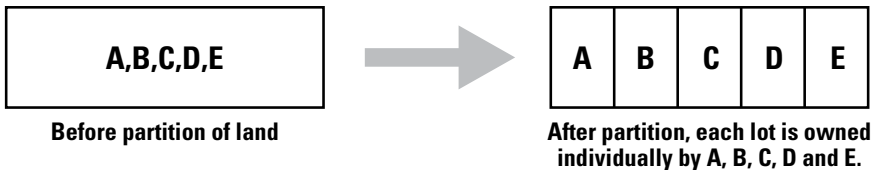
Under Section 140 of the NLC, partition of land means that any alienated land held under a Registry or Land Office title by two or more persons (as co-proprietors) may be partitioned by an agreement between them and with the approval of the relevant authorities. Each co-proprietor would then possess a separate title to a portion of the land proportionate to the

Figure 3: A typical subdivision



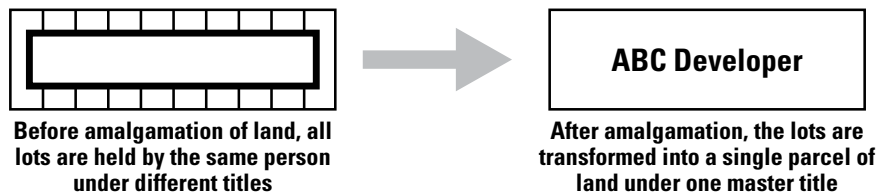
share in the original undivided whole. Often, however, not all co-proprietors unanimously agree to such a partition, so an objection or refusal from some parties is usually expected. This is dealt with under Section 141A of the NLC where co-proprietors (or a single co-proprietor who holds the majority share in the land) may apply for approval to partition it. Some help is also afforded by Section 145(1), under which the court may intervene in particularly complex cases such as that in *Ku Yan bt Ku Abdullah v Ku Idris b Ku Ahmad* [1991] 3 MLJ 439. In many cases, issues relating to partition arise when a state government mandatorily imposes the provision of open spaces, as well as low-cost housing zones, amenities and infrastructure requirements on housing developments.

Figure 4: A typical partition



Amalgamation is governed by Section 146(1) of the NLC, which states that any person in whom two or more contiguous lots of alienated land are vested under separate Registry or Land Office titles may with the approval of the relevant authorities amalgamate those lots into one. The new lot will be held by that same person under a single title provided that the lots are situated in the same *mukim*, town or village. For instance, a developer may own many subdivided plots of land under different titles. If the developer wishes to build a large housing development or high-rise building, the subdivided land must first be amalgamated to form a large piece of land, which may then be subdivided or stratified as appropriate.

Figure 5: A typical amalgamation



In essence, the NLC affects spatial planning and housing development via the imposition of categories of land use, restrictions in interest, express and implied conditions, and statutory variations of impositions by the states, as well as conversion, surrender and re-

alienation, subdivision, partition and amalgamation. In view of this, progressive institutional change and a reassessment of provisions are required, especially with regard to the state's approval in the imposition of conditions, restriction in interest, alienation of land, and any land development applications that may be biased towards particular political or socioeconomic interests. Therefore, a proper monitoring system in spatial governance via the establishment of a Land Court, with the assistance of a National Land Council, as well as an adaptive review of land use policies and the NLC are required to ensure that a fair and just institution exists to safeguard the interests of all stakeholders, including developers and landowners.

INCONSISTENCIES BETWEEN LAW AND PRACTICE IN LAND AND HOUSING

The complexity of housing development in Malaysia is due to mandatory compliance with various land, planning and housing laws that are not all completely synchronised and integrated. Housing development projects must be in line with housing policies and the requirements of state and federal authorities, such as the provision of Bumiputera quotas, price controls and standard built-up areas for low-cost housing. However, one may ask to what extent the key players engaged (directly or indirectly) in housing development conform to legislation and policy. This section will discuss the degree of consistency and conformity between the implementation of legislation and policy, especially in the matter of land acquisition and transfer-restriction with regard to Malay Reserve Land and Native or Aboriginal land, as well as in planning guidelines pertaining to housing and land development. These issues are crucially important to housing sustainability and efficiency.

I. Malay Reservations

“Malay Reservations” or more commonly “Malay Reserve Land”, detailed under the Malay Reservation Enactment or ERM (FMS Cap 142), refers to a special category of land situated within the territorial boundaries of a state, which can be owned and dealt over only by Malays or the natives of the state. This is provided under Article 89(6) of the Federal Constitution. All dealings in such land, including transfers, leases, charges and easements, can only be transacted by and among Malays and other natives. The law also prescribes for a revocation of this status (normally via compulsory land acquisition), provided that the affected parcel of land is substituted with an alternative of comparable features and size.

Malay Reserve Land in Peninsular Malaysia covered 4,087,268.47ha in 2009 and 4,013,677.48ha in 2005 (see Figure 6). There was a slight increase of 73,590.99ha in this period, although a few states claimed that the sizes of their Malay Reservations had decreased (Nor Asiah and Bashiran Begum 2009). The question arises as to why this is so, and any explanation must deal with the possibility of failure in the provision of comparable replacements and sufficient compensation for Malay Reserve Land acquired by the State Authority.

Figure 6: Total area of Malay Reserve Land in 2005 and 2009

State	Malay Reserve Land (Hectares)		Change (Hectares)
	2005 ^a	2009 ^b	
Johor	273,096.68	195,262.42	(-)77,834.26
Kedah	868,996.16	868,836.09	(-)160.07
Kelantan	1,306,205.03	1,307,153.40	(+)948.38
Melaka	no data	187,378.34	-
Negeri Sembilan	244,014.05	161,982.75	(-)82,031.30
Pahang	242,743.83	438,491.68	(+)195,747.85
Perak	880,158.23	763,666.28	(-)116,491.96
Perlis	37,516.95	37,348.53	(-)168.42
Selangor	160,024.90	126,227.34	(-)33,797.56
Terengganu	118.21	118.21	No change
WP Kuala Lumpur	803.43	803.43	No change
Total	4,013,677.48	4,087,268.47	(+)73,590.99

The portions of Malay Reserve Land in a few states have decreased greatly. This is especially so in Johor, Negeri Sembilan, Perak and Selangor.

Sources: a. Bashiran Begum and Nor Asiah, 2007.

b. Jabatan Ketua Pengarah Tanah Galian/Bahagian Tanah, Ukur dan Pemetaan, 2009.

The main challenges and problems in the management of Malay Reserve Land are centred on the effectiveness of transaction restrictions and the power of the individual states in the disposal and acquisition of land. Although there are numerous restrictions provided for in state enactments, many titles to Malay Reserve Land have been effectively extinguished or illegally revoked for some self-interested activity. According to Salleh (2007), the Malay Reserve Land parcels of several states (Selangor, Kedah, Johor, Melaka and Terengganu) have been “lost” through compulsory land acquisition under the Land Acquisition Act 1960. Salleh argued further that although dealing restrictions are imposed on Malay Reserve Land, this does not safeguard these properties from diminution through the convenient mechanism of land acquisition. After land acquisition is performed, Malay Reserve Land no longer possesses its original nature (it has become state land instead), which thus opens the door for these properties to fall into the hands of wealthy non-Malay developers. Salleh posed another question: “Having depleted such an extensive amount of Malay reserve land, why did not these State Authorities take immediate steps to replace the lost quantum?” In short, legal provisions such as adequate compensation, replacement of land and restrictions on transfers to non-Malays are not being observed.

II. Native or Orang Asli land

Another issue of land acquisition relates to native land, primarily with respect to acquisition and compensation (Noor ‘Ashikin *et al.* 2011). The rights of natives to land are not formally enacted in the laws of Malaysia and there is no provision for native land to

be transmitted from one generation to the next, thus creating possibilities for dispute. The interest in the land is granted to individuals only when they register the land at the Land Registry. Natives are regarded as mere tenants on ancestral land and no legal title is given to them. The right to land by native people may be revoked at any time by the Government. Hence, the state government has the authority under the Land Acquisition Act 1960 to take any land, including land occupied by native peoples, and dispose of it at its discretion.

In the landmark case of *Kerajaan Negeri Johor & Anor v Adong bin Kuwau & 51 Ors* [1998] 2 MLJ 158, the Court of Appeal rejected the appellants' arguments and dismissed the appeal while sustaining the High Court's decision on the issue of customary rights and compensation. The High Court had held that the rights of indigenous people must complementarily exist and consist of both common law rights and rights under the *Orang Asli Act 1954*. Besides, "adequate compensation" must be paid "for the trees but not for the land" and for "loss of livelihood and hunting ground". Following the precedent set in this case, both the Court of Appeal and the Federal Court in *Kerajaan Negeri Selangor & Ors v Sagong Bin Tasi & Ors* [2005] 6 MLJ 289 unanimously agreed and held that *Orang Asli* not only have the right over the land but also an interest in the land. However, these rights are limited only to the area that forms their settlement and does not extend to the jungle at large where the community forages for its livelihood in accordance with its traditions. With regard to rights to compensation, any compensation paid must be "adequate" in accordance with Article 13(2) of the Federal Constitution (namely, that "no law shall provide for the compulsory acquisition or use of property without adequate compensation"). This means that compensation must take into account provisions of the *Aboriginal Peoples Act 1954* (particularly in reference to the value of crops or trees) as well as common law principles (deprivation of livelihood, etc.).

Interestingly, in the cases alluded to above, both state authorities tried to argue for the exclusive jurisdiction of the *Aboriginal Peoples Act 1954*. In the *Adong* case, the State Legal Adviser contended that the rights of *Orang Asli* and the manner of their enforcement "are exclusively governed" by the 1954 Act. He further argued that there was "no room for coexistence of common rights" with statutory rights. In short, the two cases conveyed a reluctance by the state governments involved when complying with Article 13(2) of the Federal Constitution and the *Land Acquisition Act 1960*. Such arguments – which, it must be noted, did not carry in court – give the impression that native lands may be vulnerable to insufficient compensation in cases of compulsory acquisition.

HOUSING DEVELOPMENT GUIDELINES

In Malaysia, housing developers are required to comply with guidelines prepared by the relevant authorities (mostly local government). This is to ensure the safety and wellbeing of communities as well as the environment. The guidelines are especially relevant to developments on hillsides and slopes where many problems involving landslides have occurred. Thus, apart from the uniform bylaws and planning standards, there are three guidelines associated with housing development:

- Development Planning Guidelines for hills and slopes in the Federal Territory of Kuala Lumpur²
- Green Neighbourhood Guidelines³
- Guidelines for Housing Planning.⁴

Prior to any housing development, a developer has to wait for approvals from departments such as the Planning Department, the Building Department and the One-Stop Centre. Aspects of planning include site suitability, accessibility, preservation of topography and orientation. Importantly, if the steepness of the slope is more than the stipulated requirement, the application will probably be turned down. Referring to the Guidelines for Housing Planning issued by the Town and Country Planning Department under Section 7.5.3, housing developments are generally not allowed on hillsides and highlands. Nevertheless, with the satisfaction of the requirements in Figure 7, which presents and classifies the altitude and geological features of the land, some housing developments are viable.

Housing developments on hillsides have many attractions such as impressive views, good ventilation and better natural lighting. These make for interesting and exclusive areas. Another reason why hillsides are developed is the scarcity of flat land. However, some developers do not comply with the conditions prescribed by local authorities. A number of landslide disasters have occurred and the Public Works Department has estimated that 58 housing estates situated in the hilly areas of Selangor and Kuala Lumpur face the risk of landslides (New Straits Times 2011).

Landslides can occur due to other factors. Non-adherence or failure to enforce the Guidelines and the absence of site-monitoring are among the chief factors. This is further supported by the assertion that landslides are most often due to human actions. Russ (2002) identified seven major factors contributing to landslides and it can be noted that the issue of compliance and conformity to the planning and construction Guidelines is important (Farisham 2007):

- Overloading the slope (by the weight of building or road)
- Increasing fill on the slope without adequate drainage
- Removal of vegetation
- Increasing the slope rate
- Increasing the slope length by cutting at the bottom of slopes
- Changing surface drainage routes
- Changing subsurface drainage routes.

Based on the discussion above relating to the acquisition of Malay Reserve Land and native land, as well as adherence to planning and construction guidelines, we may conclude that some inconsistency exists between law and practice in housing and land development to the detriment of stakeholders. Better enforcement, monitoring as well as systems for evaluation must be established and maintained for the sake of complying with legal principles as well as in pursuit of sustainability in housing development.

Figure 7: Highland and hillside housing development guidelines

Height of land ^a	Consideration of development ^b	Development Planning Guidelines (hills and slopes, Kuala Lumpur) ^b
<p>a. Highlands (300m to 1,000m) and mountains (>1,000m) in Class I. <i>In-situ</i> terrain with slopes <15° and cut slope gradient <15°.</p> <p>b. Highlands (300m to 1,000m) and mountains (> 1,000m) in Class II.</p> <p>Areas with moderate geotechnical limitations</p> <ul style="list-style-type: none"> • <i>in-situ</i> terrain with slopes ≥15° to <25° and no signs of erosion and slope instability • <i>in-situ</i> terrain with slopes <15° and signs of erosion and slope instability • <i>in-situ</i> terrain with slopes <15° consisting of colluvium or sensitive material • flood threat 	<p>Can be considered for all types of development which are subject to the Development Plan.</p>	<ol style="list-style-type: none"> i. Report of geotechnical investigation and slope stability analysis (soil structure) provided by a qualified geotechnical engineer or equivalent. ii. Mapping of geology and geomorphology report prepared by a geological surveyor registered with the Board of Geologists. iii. Drainage and irrigation reports provided by a hydrological engineer registered with the Department of Irrigation and Drainage (Hydrology). iv. Environmental Impact Assessment (EIA) report/Environmental Management Plan (EMP) including rainfall erosivity mapping report prepared by consultants registered with the Department of Environment, or v. Real Work Plan prepared by a registered engineer with the Board of Engineers Malaysia.
<p>c. Highlands (300m to 1,000m) and mountains (> 1,000m) in Class III.</p> <p>Areas with high geotechnical limitations</p> <ul style="list-style-type: none"> • <i>in-situ</i> terrain with slopes ≥15° to <25° and moderate to severe erosion and slope instability • <i>in-situ</i> terrain with slopes ≥15° to <25° consisting of colluvium or sensitive 	<p>Developments to be considered:</p> <ol style="list-style-type: none"> a. housing b. commercial terrace c. office (free standing) d. tourism (hotel, chalet) e. training institution 	

Figure 7: Highland and hillside housing development guidelines (cont.)

Height of land ^a	Consideration of development ^b	Development Planning Guidelines (hills and slopes, Kuala Lumpur) ^b
<p>material and signs of slope instability</p> <ul style="list-style-type: none"> • area consists of limestone, swamps, peat and old mines, and mud • flood threat 		
<p>d. The lowlands (<150m), hilly land (150m to 300m), highlands (300m to 1,000m) and mountain areas (>1,000m) in Class IV.</p> <p>Geotechnical areas with extreme limitations</p> <ul style="list-style-type: none"> • <i>in-situ</i> terrain with slopes $\geq 35^\circ$ and erosion and slope instability • <i>in-situ</i> terrain with slopes $\geq 25^\circ$ to $<35^\circ$ degrees and signs of erosion and slope instability • <i>in-situ</i> terrain with slopes $\geq 15^\circ$ to $<25^\circ$ consisting of colluvium or sensitive material with signs of slope instability • the threat of flood debris (debris flow), top of the hill or ridge 	<p>Development needs to be considered and methods of engineering solutions identified.</p>	<ul style="list-style-type: none"> i. Report of geotechnical investigation and slope stability analysis (soil structure) provided by a qualified geotechnical engineer or equivalent. ii. Mapping of geology and geomorphology report prepared by a geological surveyor registered with the Board of Geologists. iii. Drainage and Irrigation reports provided by a hydrological engineer registered with the Department of Irrigation and Drainage (Hydrology). iv. EIA report/EMP including rainfall erosivity mapping report prepared by consultants registered with the Department of Environment. v. Real Work Plan prepared by an engineer registered with the Board of Engineers Malaysia. vi. Details in the EIA report for >1,000m and Class IV for the development of related infrastructure provided by consultants with the approval of the Department of Environment. All technical reports must be checked by the relevant Technical Department.

Sources: a. Adapted from Jabatan Perancangan Bandar dan Desa, *Garis Panduan Perancangan Perumahan*, 2013.

b. Adapted from Dewan Bandaraya Kuala Lumpur, *Garis Panduan Perancangan Pembangunan Kawasan Bukit dan Cerun bagi Wilayah Persekutuan Kuala Lumpur*, 2010.

CONCLUSION

There are many problems that must be addressed before sustainable housing can be assured in Malaysia. Housing policies and programmes must be economically viable, socially acceptable and technically feasible (Tan 2012), and the Government should urgently make effective and pragmatic changes to meet the housing needs of all by engaging housing experts and stakeholders in the resolution of outstanding problems. To be more resilient and adaptable, the interests of housebuyers must be given serious consideration via frequent public consultation. In this respect, the Government must work bottom-up rather than top-down as the latter approach may cause it to overlook many crucial issues in aiding sustainable housing development. While housing developers are privileged to walk the corridors of power, housebuyers have comparatively less influence. As such, the Government should work towards the betterment of the housing delivery system by redrafting and reviewing existing land and planning laws and the National Housing Policy. Last but not least, there should be full enforcement of laws to ensure congruence between the practices of developers and the needs and wellbeing of present and future generations of Malaysians.

Endnotes

¹ In short, the concept of indefeasibility protects a registered proprietor from any attack or adverse claim to the title, provided there is no fraud or other relevant circumstance in law. There are two theories of indefeasibility: immediate and deferred. Immediate indefeasibility gives protection to the proprietor and immediate transferee in the case of, for example, A who sells a plot of land to B who acts in good faith and gives valuable consideration for the title. Deferred indefeasibility, on the other hand, provides protection only to a subsequent transferee beyond B. So, if an unscrupulous individual forges A's signature and transfers the title to B, who buys in good faith and pays good money, B will hold only a defeasible title. If B were to sell the plot to C (likewise in good faith and for valuable consideration), indefeasibility will attach only to C's title – i.e. the subsequent proprietor or transferee will enjoy an indefeasible title even if A had been defrauded. Until the judgment in *Tan Yi Hong v Tan Sian San & Ors* [2010] 2 MLJ1, the courts were bound to observe deferred indefeasibility as established in the Federal Court's *Adorna* decision, which generated much controversy as it was believed to aid fraudulent land transactions.

² The Guidelines are provided to plan and control development activities on the hills and slopes of the Federal Territory of Kuala Lumpur. These guidelines can be used by implementing agencies, developers and the public as a guide in planning, developing and maintaining the sites on hills, slopes and surrounding areas. Section 4 of the Guidelines forbids development in: an area declared as hill land under Part II, Section 3 of the Land Conservation Act 1960; areas of geological interest identified or gazetted for study or research; hills of historic value or which have tourist attractions such as limestone or natural geomorphological features; areas containing mineral resources; and areas that are in the watershed.

³ The Green Neighbourhoods Planning Guidelines assist the state government, local authorities, developers and non-government bodies in the planning, design and control of green neighbourhood development. Green neighbourhoods are defined as planned neighbourhoods with special emphasis on the protection and use of natural resources, green technology, green practices and recycling, and which aim to preserve the environment, improve public health, safety and the general welfare of the urban population.

⁴ The Guidelines for Housing Planning assist state authorities, local authorities and technical agencies in the planning and control of all types of housing development during the preparation of development plans and the planning approval process.

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I. Luxury Housing in the Klang Valley

Nur Adila Lim Lay Ying Abdullah

WHAT DEFINES A LUXURY HOME?

Most people find themselves struggling to define the top category of residential real estate in any housing market. Like beauty, luxury lies in the eye of the beholder. What may be perceived as a castle by one person may be deemed to be a simple home by another (and vice versa).

Since “luxury” is an extremely subjective term – one that has been overused in the real estate market – no clear definition of luxury housing exists, at least not one that can be used objectively as a benchmark by which others are measured. Complicating the analysis further is the fact that the characteristics of luxury housing have continued to evolve over the years as people’s lifestyles and expectations have changed.

What was deemed to be a luxury a decade ago is now commonplace. Back then, the swimming pool in a condominium development was seen as a symbol of luxurious living. Today, splash pools, plunge pools and Jacuzzis are the benchmarks of luxury in residential schemes, while private lap pools have become a lifestyle statement for the elite. Developers are breaking new ground to deliver the luxury lifestyle for these discerning consumers, who will settle for nothing but the most exclusive features.

But what truly defines luxury housing? Since the majority of us equate luxury with price, the unanimous answer would be that such properties do not come cheaply. But does price alone earn a property the coveted title of “luxury home”? The price of a home may touch six or seven figures, but does this truly qualify it to be classed in the luxury housing category if its interior is dated or tacky, and lacks both luxe finishes and designer clout? What if it were a supersized McMansion but lacks modern opulence and a superior location? And what if it were a compact unit situated in a desirable location with spectacular views?

In Malaysia, luxury real estate is often assumed to be real property that has an appraised value of over RM1 million. Yet this varies greatly depending on location. In the Klang Valley, for instance, million-ringgit sales of homes are common, but without the markings of true luxury – such as a choice location – even these million-ringgit homes clearly do not belong to the luxury housing category. Therefore, the term “million ringgit and up” is not an appropriate definition of luxury housing in the region.

Instead of using a fixed value, another option for defining luxury properties is to simply classify those in the top 10% of any market. But this manner of definition similarly does not account for the uniqueness of the luxury category of housing. Luxury properties are anything but average. Some have even suggested including only homes that are priced two to three times the average price of all homes in a particular geographic market. This is to ensure that the homes possess the requisite qualities – such as physical proximity to urban centres, a spectacular view, a large land plot and/or floor area, outstanding architectural design, quality of construction, finishings and fittings, etc. – which elevate them to the top of the market.

It is indeed a tough task to define a truly luxury home. Price comparison may be one of the defining criteria but the tag alone does not by definition make a home luxurious, nor does it give it that distinguished status. For example, shoebox-sized apartments measuring less than 500sq ft that are priced at more than RM1 million (owing to their higher ringgit per square foot prices) cannot be considered luxury homes, even if they are located in a choice location.

LOCATION, LOCATION, LOCATION

At the top of the list of defining criteria would clearly be location. When asked to name the Manhattan or the Mayfair of Kuala Lumpur, prime areas like KLCC and Jalan Sultan Ismail would appear top-of-mind. If the same question were asked with reference to a prestigious neighbourhood, Kenny Hills (Bukit Tunku), Taman Duta, Federal Hill (Bukit Persekutuan), Damansara Heights and Bangsar might feature more prominently. Homes in these locations have been the most expensive in the Klang Valley for the past 40 years and they are likely to remain so for the coming decades. Any rival locations will merely serve to push the premiums of these neighbourhoods higher.

The KLCC precinct and the Jalan Sultan Ismail belt represent the Golden Triangle of Kuala Lumpur. It is the priciest area in the country when it comes to real estate, and homes in this location fulfill all the necessary prerequisites of luxury housing. The highest price per square foot on record was achieved by Four Seasons Place, a truly luxurious residential project, in mid-April 2013 when its two penthouses were sold at RM3,026 per square foot. But the record for the highest absolute price per unit belongs to The Binjai On The Park, where the 14,300sq ft penthouse on the 42nd floor was sold for RM38 million in June 2009.

These penthouses command unobstructed and stunning views of the iconic Petronas Twin Towers in KLCC. Aside from Malaysians who made up the majority of the buyers, there were also foreign investors from countries such as Japan, Hong Kong and Taiwan. For them, star-powered brands like the Four Seasons possess obvious appeal in terms of opulence, grandeur and top-class luxury.

While these record-breaking transactions represent the tip of the luxury iceberg, it is general accepted that buyers must be prepared to pay over RM2,000 per square foot for an upmarket home in the KLCC locality today, which is double the rate some five years ago. But residential properties sharing this coveted address can vary dramatically in price, as it is possible to have shoebox-sized condominium units, which cannot be considered luxury housing, placed near a luxurious development.

Truly luxury homes are those overlooking the KLCC park because the view premium has been factored into the price. To complete the package, these homes have large floor areas, exquisite finishings and interior décor, pristine landscaping, as well as a certain panache that makes a home stand out.

Much of the driving force behind the prices of luxury homes in KLCC stems from the uniqueness of the precinct, which boasts the 88-storey Petronas Twin Towers and a 50-acre public park integrated with supporting infrastructure. The catalyst for the rise in property prices in the area was Phase 1 of the mixed-use project, which broke ground in 1992. The multi-billion ringgit development began with the Twin Towers and continued with office towers of two large multinational companies, a high-end shopping centre and a five-star hotel. This heralded the emergence of the new Golden Triangle of Kuala Lumpur, which at one time was the triangular-shaped zone bounded by the city's three major arterial roads: Jalan Sultan Ismail, Jalan Ampang and Jalan Tun Razak.

Traditionally, Kuala Lumpur's luxury residential addresses also extended to areas on the city's fringes, such as those mentioned earlier in this article, i.e. Kenny Hills (Bukit Tunku), Damansara Heights and Bangsar. All these locations have been reporting surges in prices too. Tijani in Kenny Hills, for example, is one of the most exclusive neighbourhoods in the city and is highly sought after because of its low density and the dense foliage of its surroundings. The exclusive residential enclave features custom-designed bungalows and low-rise strata residences in the form of duplex apartments and condominium units. Prices of the homes have generally increased by at least 30% since their launch (at RM650 per square foot) before the onset of the Global Financial Crisis in 2007–2008.

Credit should be given to the Government, which has made a conscious effort to restrict commercial projects and developments in order to maintain the exclusivity of these areas, particularly Kenny Hills and Taman Duta. These initiatives have helped to maintain these areas' appeal among top CEOs, foreign diplomats and government ministers. Coupled with the limited supply of houses here, properties for sale or rent are few and far between.

Newer upmarket locations outside of the city, such as Bandar Utama in Petaling Jaya, have emerged as choice residential addresses in recent years, and homes there are currently at par with those in older estates in terms of pricing and quality. The latest Build-Then-Sell project by the township's developer, Bandar Utama Development Sdn Bhd, named The Effingham, offers luxury homes in the form of three-storey bungalows priced as high as RM7.6 million. The cheapest unit in the first phase of this 32-acre freehold gated and guarded community of 210 units (when built out) starts at RM4.8 million. The key difference between the cheapest and the most expensive units in the project lies in land size, built-up area and the presence of a private pool. Homes in the second phase, also three-storey units, will feature lifts, which will be duly reflected in the price tag.

CHEAP BY INTERNATIONAL STANDARDS

Prices of luxury homes in Kuala Lumpur may appear to have skyrocketed but they are still considered to cost a pittance when compared to similar homes in other Asian cities such as Hong Kong, Tokyo and Singapore. In its World Cities Review report released in early 2013, global real estate firm Savills revealed that Hong Kong had the most expensive luxury property in the world in 2012, with an average price of US\$11,000 (RM35,000) per square foot. It was followed by Tokyo at US\$7,600 (RM24,200) per square foot. The report added that since 2005, luxury properties in emerging markets like Singapore and Mumbai have registered phenomenal price appreciations of as much as 232% and 176% respectively.

Savills highlighted that real estate values worldwide have doubled over the past seven years, with dramatic increases seen in China and the Asia-Pacific where new wealthy classes have emerged. In areas like Singapore's prime Orchard Road, which has remained popular with foreign investors, prices of luxury apartments have risen by 49% since the end of the Global Financial Crisis in 2009. Savills noted that activity in these markets reflects the creation of global wealth and the economic success of particular regions and cities, especially those in newly-emerged economies.

The number of homes in this category of housing will only double and triple over time because of the new wealth that has been created. According to Capgemini and RBC Wealth Management's 2013 World Wealth Report, wealth growth in 2012 was the strongest in the Asia-Pacific at 12.2%, thanks to strong economic development in many of the region's countries. Today there are more millionaires than before the Global Financial Crisis. Their numbers have jumped by one million (a rate of 9.2%) to reach 12 million in 2012, according to the report.

In Malaysia, the affluence of the population has similarly moved up. Per capita income in the country jumped from RM12,855 to RM31,156 between 2001 and 2012. The rise in the level of affluence was most seen among people working and residing in the Klang Valley, specifically Kuala Lumpur, which registered the largest increase in average house price from RM269,559 in 2001 to RM509,246 in 2012.

Higher disposable incomes are spurring demand for luxury homes and, along with that, the desire to live in houses that match lifestyle aspirations and expectations. New tax measures and real estate-related policies by the Government to curb real estate spending have therefore not been effective in lowering prices because demand for high-end housing remains strong. Take-up rates are still registering between 65% to almost 90% in the Klang Valley's luxury housing market, depending on the project's location and products available.

For their part, developers have been quick to adapt to rising land and development costs. Instead of being deterred by high land costs, developers have realised that building luxury and premium housing can fetch superior returns. They understand that price is not the key deciding factor for high-end homebuyers, whose dynamics are radically different from the rest of the homebuyer segments.

For this high-income segment of the market, the higher the price tag, the more exclusive the property is perceived to be, which in turn makes it less accessible to the masses. Incentives like easy payment schemes or developer interest-bearing schemes mean little to them. Many

prefer to pay in cash for their purchases and are thus not bothered about traditional mortgage terms. For them, real estate investments provide a safe haven for their money.

NEW AND EMERGING TRENDS IN LUXURY HOUSING

Those with high-income profiles either opt for a luxury home near or in central business district (CBD) areas such as KLCC and its surroundings where the price per square foot is high, or choose to live in the suburbs in a large villa within a gated and guarded community, complete with amenities and facilities that accord them a sense of exclusivity. Those who prefer inner-city living are drawn to an urban locale's ability to offer distinctive, 24/7 lifestyle attractions as well as physical proximity to financial centres. Coupled with a breathtaking view, the price factor becomes secondary.

This has encouraged developers to take multi-storey luxury residential buildings to staggering new heights in their quest to deliver the stunning views sought by these niche buyers. They have realised that people want to be at the top of buildings for the view and are willing to pay more in order to live in lofty seclusion. Living above the rest of the city's population is perceived as a status symbol, delivering a feeling of triumph and superiority. It is nevertheless a win-win situation as developers can capitalise on land (which is getting increasingly scarce in prime locations) and generate higher profits along the way.

Those who prefer to live in the suburbs seek developments with fewer units and have larger lot sizes that can offer them privacy as well as the physical and visual space they desire. These are usually limited-edition homes, where the built living space transcends trends. Designer homes are usually few in number and are further set apart because they are stylish and unique. They bear the stamp of a designer's unique aesthetic and break new ground in architecture, design and styling. Materials used throughout the home are of the highest quality. Topping it all off is a gamut of five-star lifestyle amenities and services.

With the supply of new luxury homes and development land growing increasingly scarce in traditional luxury areas, new locations in Kuala Lumpur and the Klang Valley are emerging to accommodate the rising demand for such housing.

One is the ambitious RM15 billion KL Metropolis development located in the Jalan Duta area, spanning 30.5ha with mature, high-income residential neighbourhoods such as Damansara Heights, Sri Hartamas, Mont Kiara and Bangsar surrounding it. Anchoring the project, which includes a regional retail centre, offices, hotel and residential towers, will be the new Matrade Exhibition Centre that is scheduled to be completed in 2015. When fully completed by 2025, KL Metropolis is expected to be Kuala Lumpur's international trade and exhibition district.

Another mega undertaking is the RM26 billion Tun Razak Exchange (formerly the Kuala Lumpur International Financial District) project off Jalan Tun Razak. A sprawling 34.4ha mixed-development, the Tun Razak Exchange will feature office towers for finance and banking, residences and retail space. The Government has laid out a clutch of incentives such as 100% income tax exemption for 10 years in a bid to transform the nation's capital into a regional financial hub. The public-private partnership project is a joint effort between 1Malaysia Development Bhd (1MDB) and the Mubadala Development Company.

The 184ha Royal Malaysian Air Base in Sungai Besi, situated to the south of Kuala Lumpur's city centre, will also be redeveloped. Named the City of Malaysia, the mixed development project is envisioned to be an international destination for cultural facilities and public venues, and is set to offer a range of commercial and lifestyle options besides residential properties.

Many of the homes in these incoming developments are expected to be priced at more than RM1 million as residential prices continue to escalate. As such, luxury housing developments in the coming years will be identified on a development rather than location basis. With the ongoing transformations in the location of luxury housing areas made possible by both private and public initiatives and supported by efficient modern transport networks, the definition of luxury will soon be based on the individual development project and not just the fact that the property bears a particular postcode.

One example of this is a newly-launched development in Seri Kembangan, a housing area located to the south of Kuala Lumpur which has traditionally been synonymous with mass housing. The development is marketed as a "private lakeside estate" which sprawls across 47 acres of leasehold land. A total of 278 residences comprising three-storey luxury superlinks, semi-detached homes, villas and bungalows will be built around a three-acre lake that is further complemented by a resort clubhouse, seven landscaped recreational parks and a 1.7 acre forest park. The entire development will be fully gated and guarded.

With landed strata titles, the 62 superlinks with built-up areas starting from 3,600sq ft are tagged at between RM2.73 million and RM3.05 million, while the 24 semi-detached homes range between RM4.29 million and RM4.66 million. The 26 villas are priced between RM4.81 million and RM5.29 million. The priciest of all, not surprisingly, are the two bungalow units, at RM6.79 million and RM7.31 million respectively.

CONCLUSION

Property developers are well aware that there will always be demand for luxury real estate, particularly in the urban centres of Malaysia. With global investable wealth of high-net worth individuals (HNWIs) expected to grow to US\$55.8 trillion (or RM177.6 trillion) by 2015 and with the wealth of Asia-Pacific HNWIs likely to touch US\$15.9 trillion (or RM50.6 trillion), the luxury homes market must be taken to an entirely new level. There will soon be a need to use words such as "ultra luxury", "mid-tier luxury" and "basic luxury" to distinguish the various categories of luxury housing.

As such, luxury properties remain a highly attractive investment option for international buyers and will continue to serve the lifestyle and status aspirations of Malaysia's burgeoning high-income population. Given the better returns on land costs for these properties, and in tandem with Malaysia's aspirations to be a high-income nation, more property developers can be expected to focus on the development of the Malaysian luxury real estate market in the future. The latest mega-developments in the heart of Kuala Lumpur will continue to spur interest in these properties for the global as well as local elites.

II. PR1MA: Catalyst in Affordable Housing

Abdul Mutalib Alias

URBANISATION IN MALAYSIA

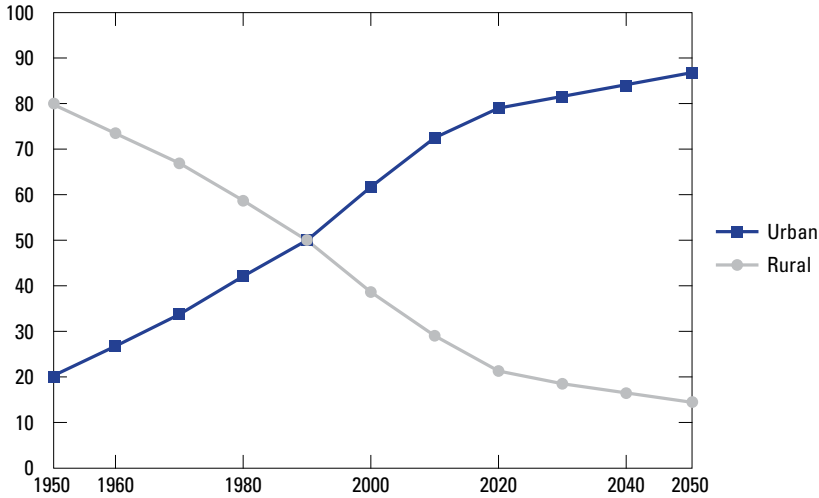
Malaysia's population was approximately 6.3 million when the nation became independent in 1957. At that time, only 11% of the population lived in the country's urban areas. This included Kuala Lumpur – then a part of Selangor and the capital of Persekutuan Tanah Melayu (later Persekutuan Malaysia) – as well as state capitals like Johor Bahru, Ipoh and several other towns.

As a result of rapid development brought about by bustling business activities and the placement of government offices in these towns, they turned into cities in short order. Only 23 years later in 1980, 34% of Malaysia's estimated population of 13.8 million were urban dwellers. This number continued to rise as more and more economic opportunities presented themselves. Small urban areas expanded and more towns sprouted across the nation, following migration trends which saw Malaysians leaving rural communities to seek better living conditions and a better social status elsewhere.

These rapid changes saw the number of Malaysia's urban residents reaching 50% of the national population by 1990, which fit the United Nations' definition of a country reaching urbanised status. By 2010, data collected by the Department of Statistics Malaysia showed that 72% of Malaysian residents were urbanites, with the total population estimated at 28.6 million. One projection estimates that by 2050, urban dwellers in Malaysia will make up 87% of the nation's population, which is expected to be 37 million residents (DESA 2012) (see Figure 1).

A housing survey by the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) for 2010 showed that out of 11.1 million income earners in Malaysia, only 1.7 million earned taxable income. The other 9.4 million earned below RM3,000 per month and out of this number, 6.6 million income earners lived in urban areas. The survey also revealed that some 4.6 million or 70% of these urban-dwelling income earners were in

Figure 1: Proportion of urban and rural populations in Malaysia (%) (1950–2050)



Source: United Nations, *World Urbanization Prospects: The 2011 Revision*; International Federation of Surveyors, *Rapid Urbanization and Mega Cities*, 2010.

financial distress. This group of income earners struggled to pay for daily living expenses, with almost every sen of their income being spent on basic necessities. Of these, according to the survey, it was estimated that food was the biggest expenditure (35% of their monthly income), followed by housing (30%) and transportation (20%). The remaining 15% was spent on childcare, healthcare and recreational activities.

The rising costs of housing, household goods, food and petrol have left this group of urban-dwelling income earners spending far more than they can reasonably afford, with little discretionary income to pay for other essentials such as healthcare, or for savings and investments that are essential for a more secure future. Unable to cover the cost of these basic necessities with their monthly income, these urban dwellers resort to using credit cards and obtaining personal loans to cover any shortfalls, causing them to go deeper into financial distress.

While rapid urbanisation is a positive sign of the country's economic development, especially in light of the goal of becoming a developed nation by 2020, the population increase has posed challenges in managing growth in a sustainable way. With over 70% of the population today residing in crowded, major urban centres, one of the biggest challenges has been providing adequate affordable housing.

ADEQUATE AFFORDABLE HOUSING

According to the Ministry of Urban Wellbeing, Housing and Local Government, from 2006 to 2010, 82% of 449,000 units of housing built by the private sector were medium-cost and upwards, while 91% of 111,000 units of housing built by the Government were low-cost.

Amid the rising cost of living and inflated property prices, middle-income earners were caught in the proverbial "middle-income squeeze". While the Government has undertaken

various affordable housing programmes for the nation's poor (i.e. those below the RM2,500 monthly income bracket), there were no provisions for middle-income earners (i.e. those earning between RM2,500 and RM7,500 a month). With the real estate market focused on higher-end properties, there was a large gap between the supply and demand of affordable housing in urban areas for the middle-income group.

THE RATIONALE FOR SETTING UP PR1MA

Government-assisted housing has focused more on addressing the needs of the low-income group whereas the middle-income group must look to market players to meet their housing needs. The underlying perception is that the middle- and high-income groups are able to care for themselves and can afford to pay free-market prices.

The reality, however, is that soaring house prices have made it almost impossible for the middle-income group to afford a home. Unable to pay for property in the free market but also ineligible for most of the existing public housing programmes, this urban middle-income group has become underserved. PR1MA's primary focus is on those in the "sandwich group" (also known as the Middle 50 or M50, i.e. households with monthly incomes in the range of RM2,500 to RM7,500), who require the Government's assistance to close their affordability gap (see Figure 2).

The Government has recognised how the middle-income group, which mainly consists of members of the younger generation who have just started their careers, struggles to have a good and healthy quality of life in urban areas. Those in this group are forced to make difficult choices when spending their meagre incomes on necessities such as healthy food, good living conditions in proper houses located in safe neighbourhoods and convenient modes of transportation, among others. While the Government is working on several fronts to increase urban dwellers' livelihoods, it recognises that housing is one of the major issues that contribute to the middle-income group's problems.

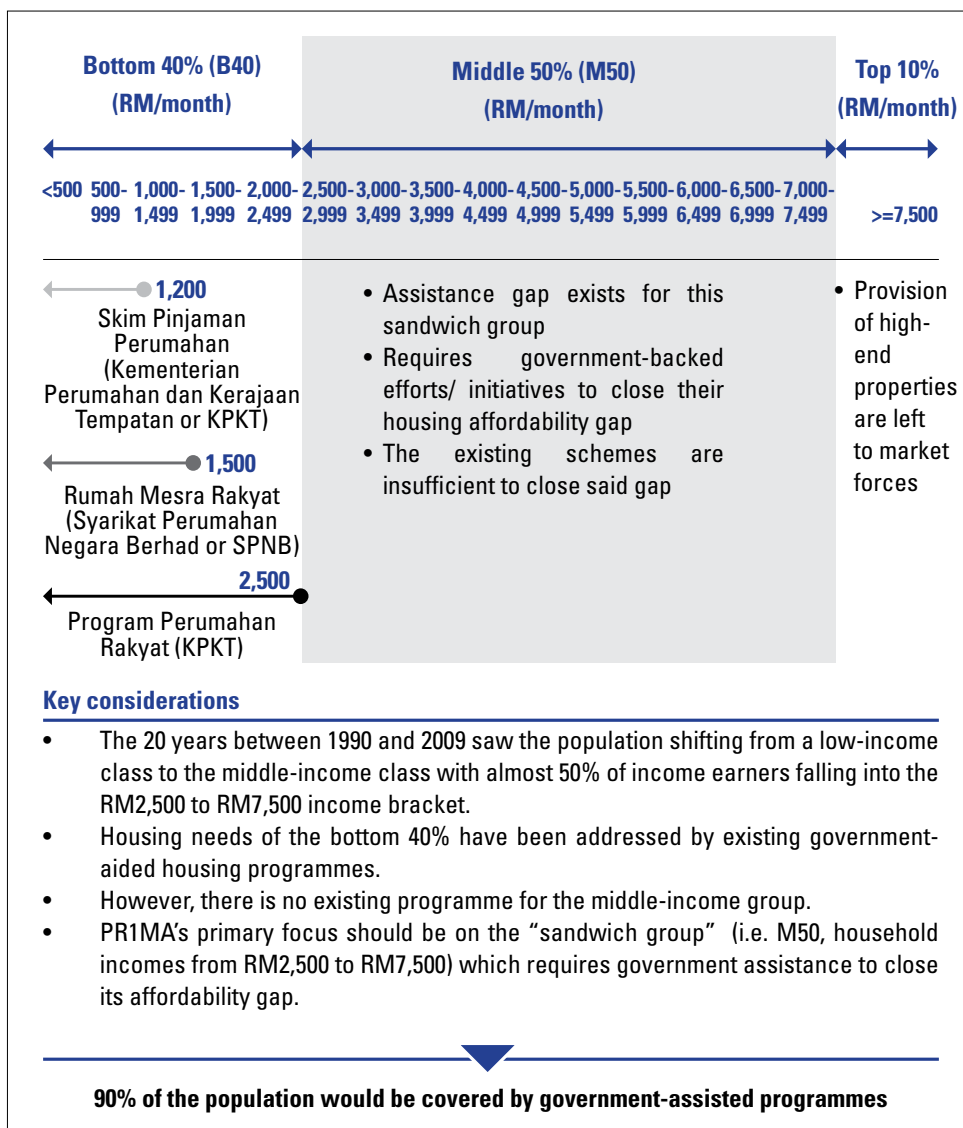
Studies have shown that the demand for medium-cost houses in major cities has far outstripped current supply, which has contributed to sky-high property prices. Paired with the housing developers' current focus on building high-end homes – due in large part to the high cost of acquiring land in cities and better profit opportunities – this has meant that middle-income urban dwellers are left with few options when it comes to residential properties.

The best example of this is Kuala Lumpur – according to a National Property Information Centre report, average house prices in the capital city in the last quarter of 2011 were the highest in Malaysia at RM487,219, followed by Selangor at RM327,237 and Sabah at RM327,205.

Housing prices continue to rise above annual growth in Gross Domestic Product and inflation, to worrying levels. Realising that immediate government intervention was required to "rebalance" one of the basic necessities for this income stratum, Prime Minister Dato' Sri Najib Razak tabled the Perumahan Rakyat 1Malaysia Bill in the Dewan Rakyat in November 2011. At the second reading of the Bill, Najib said:

Figure 2: Distribution of Malaysian households by income class (RM/month) (1990 and 2009)

Income level (RM)	1990	2009
< 1,000	60.6%	7.3%
< 2,500	91.4%	44.1%
2,500–7,500	8.4%	49.9%



Source: Economic Planning Unit, 10MP; Department of Statistics Malaysia, Household Income and Basic Amenities Survey (HISBA).

It is now time for the Government to rebalance one of society's basic needs, that is to own a house, not only for the low-income and low-middle-income group but also for the middle-income group who are clearly unable to afford a house in the free market in urban areas, while they are not eligible to apply for low-cost and community-friendly houses being offered. This is also one of the Government's efforts to rebalance the lack of supply of affordable housing to ensure the "My First Home" programme and financing scheme that was launched achieves its objectives. The country needs to inject a new dimension in matters related to housing for the middle-income group in urban areas. Just as the Government's integrated approach in handling poverty in rural areas has considered the physical development and socioeconomic factors, so would its approach in dealing with life's pressures in urban areas.

PR1MA ACT 2012

PR1MA is a programme dedicated to providing affordable quality housing for the urban middle-income group. It was established under the PR1MA Act 2012, which was passed by Parliament on 29 November 2011 and gazetted on 9 February 2012 to plan, develop, construct and maintain affordable housing for middle-income households in key urban centres.

The key elements in the PR1MA Act are:

- PR1MA is a statutory corporation formed by way of an Act of Parliament to provide affordable quality housing and integrated communities to eligible target groups.
- PR1MA as a developer will supervise, plan and execute the design, construction, maintenance and operations of PR1MA communities.
- PR1MA will undertake demand analysis to identify present needs in order to monitor and manage the quality, supply and demand of PR1MA homes.
- The brand of PR1MA homes will be protected by way of setting standards for developments and undertaking and/or enforcing implementation of such standards and developments.
- Selling prices will be set and PR1MA homes will be allocated to eligible buyers who will be offered targeted buyer programmes to assist with financing, in consultation with the Government.
- PR1MA will also undertake a cooperative role with the private sector, i.e. in public-private partnerships.

Essentially, it aims to promote greater homeownership, especially among middle-income earners, by providing more affordable residential properties in the country's major cities. PR1MA is the sole authority to develop, manage and maintain townships built under the programme. PR1MA aims to develop townships that offer its residents a quality of life that would be conducive to promoting sustainable, vibrant and active communities. It also works with private-sector developers to meet the demand for affordable homes in the country.

PR1MA's scope and functions are illustrated in Figure 3. As shown, PR1MA plays primary roles in sector planning and growth, developing housing projects and managing buyer allocation. In other areas along the value chain, it plays a coordinating role in working with the rest of the government machinery.

The proposed governance structure of PR1MA is illustrated in Figure 4. Apart from the Board of PR1MA, the PR1MA Advisory Council (PAC) and the Approvals and Implementation Committee (AICO) will be set up for policy and implementation. PR1MA reports to the Prime Minister, who is Minister-in-Charge of PR1MA. Given the urgent need to address the issue in an efficient and swift manner, attention from the Prime Minister is necessary to provide focus and direction for the affordable housing sector and to facilitate policies, plans and regulations. The PAC provides guidance on sector-level matters such as policies and master plans and the AICO is tasked with managing project-level approvals and execution.

HOW PR1MA WORKS

Filling the demand for quality housing does not just mean building more affordable housing, but building more affordable housing where it is needed. As such, PR1MA will conduct a rigorous demand analysis to determine and prioritise housing requirements on a nationwide basis. The data for this analysis is collected from PR1MA's online registration at its website. From this database, PR1MA is able to identify changing demands based on the needs of the people, and identify and propose locations and the types of homes to be developed.

For PR1MA to sustainably provide quality homes at affordable prices, a three-pronged strategy is required: to reduce the cost of housing, to increase buyers' access to cheaper or innovative financing and to increase buyers' residual income.

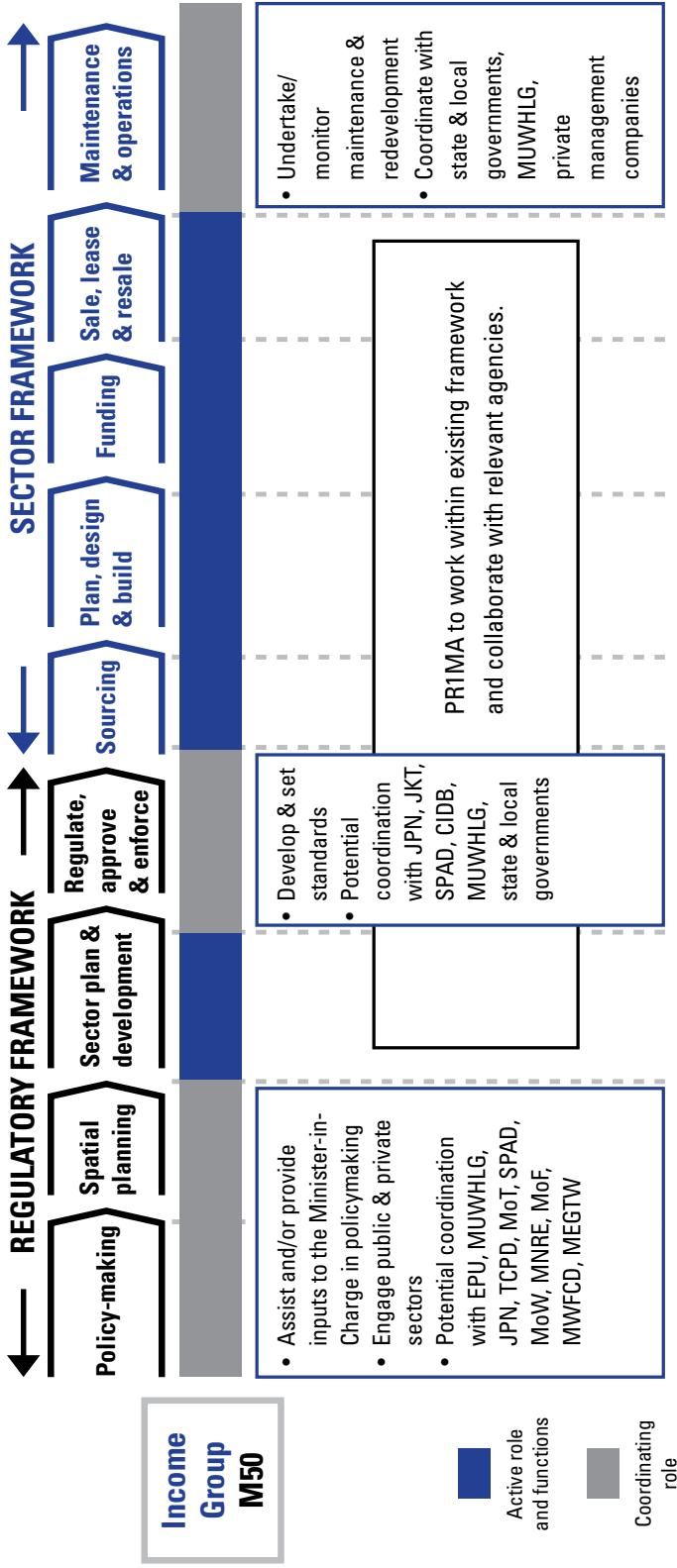
I. Reducing house prices

PR1MA is non-profit in nature. Unlike its commercially-driven counterparts, PR1MA's developments are not priced with high margins but with sufficient margins to fund its overheads and working capital. Innovative cost reduction strategies and diligent financial management are key to its long-term financial sustainability. PR1MA adopts a holistic approach to reduce cost along the entire delivery value chain of development, as illustrated in Figure 5.

To reduce the cost of housing, PR1MA employs sustainable cost management strategies and optimises costs throughout its value chain, i.e. in the sourcing of land and materials, standardisation of design and planning, and building as well as funding activities. In sourcing for land, its strategy is to obtain land at nominal cost where possible. PR1MA identifies suitable land, including government land earmarked for residential purposes and idle land belonging to the Government, state governments, government agencies, government-linked companies and private owners.

In sourcing for building materials, bulk purchases or centralised procurement lead to economies of scale. Standardised design and planning also help reduce the costs of design for both PR1MA's own direct developments and partner developments. To reduce overall construction costs, PR1MA looks to innovative and efficient building and construction technologies such as Industrialised Building Systems (IBS) and the cutting-edge Building System Technology. As an incentive, a facilitation fund is also provided by the Government

Figure 3: PR1MA's scope of powers and functions



Abbreviations:

EPU - Economic Planning Unit, **MUWHLG** - Ministry of Urban Wellbeing, Housing and Local Government, **JPN** - Jabatan Perumahan Negara/National Housing Department, **TCPD** - Town and Country Planning Division, **MoT** - Ministry of Transport, **SPAD** - Suruhanjaya Pengangkutan Awam Darat/Land Public Transport Commission, **MoW** - Ministry of Works, **MNRE** - Ministry of Natural Resources and Environment, **MoF** - Ministry of Finance, **MWFCF** - Ministry of Women, Family and Community Development, **MEGTW** - Ministry of Energy, Green Technology and Water, **JKT** - Jabatan Kerajaan Tempatan, **CIDB** - Construction Industry Development Board

Source: Roland Berger analysis.

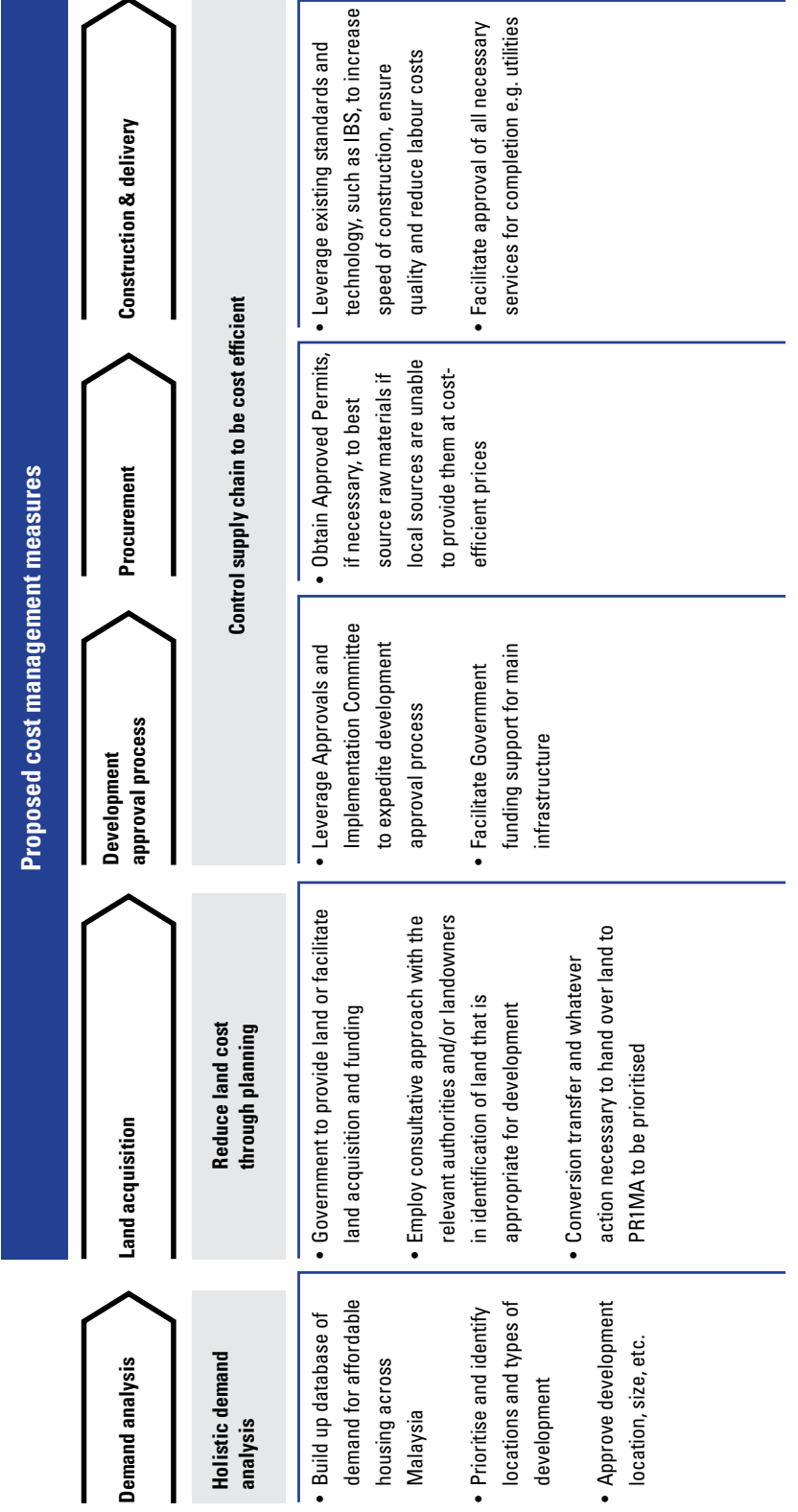
Figure 4: Proposed governance structure

	Key representation	Purpose
Minister -in-Charge	<ul style="list-style-type: none"> • Prime Minister (PM) • Certain functions can be delegated 	<ul style="list-style-type: none"> • Approval of affordable quality homes policies • Prescribes regulations relating to affordable quality homes, based on recommendations by PR1MA Corp
PR1MA Advisory Council	<ul style="list-style-type: none"> • Chaired by PM comprising representatives of relevant Federal Ministers and Chief Ministers/Menteri Besar 	<ul style="list-style-type: none"> • To provide guidance on policy formulation based on housing needs and pricing policy determined from demand analysis and PR1MA buyer database • To set priorities on location and type of PR1MA development based on national agenda • To review impact of existing/current developments undertaken by PR1MA • Any other related policy matters determined by the council
Approvals and Implementation Committee	<ul style="list-style-type: none"> • Chaired by KSN¹ comprising sufficient representation from approving authorities including State Planning Directors 	<ul style="list-style-type: none"> • To identify and approve all land-related matters, i.e. conversion, premiums, titles and land use • To approve master plan layout and planning criteria, i.e. density, plot ratio, composition, facilities • To approve supply and timeline/schedule on all utilities and services, i.e. electricity, water, telecommunications, sewerage, including all related contribution charges • To coordinate and resolve all implementation issues, including: <ul style="list-style-type: none"> - Development order (if necessary) - Building - Infrastructure (roads and drains, earthworks, utilities and services)
Board of PR1MA²	<ul style="list-style-type: none"> • Non-executive Chairman, CEO, representation from Federal Ministries and industry practitioners 	<ul style="list-style-type: none"> • Oversee the operation of the Corporation in the performance of its functions and powers

Consultation and guidance from Economic Council, National Physical Planning Council and other related agencies when necessary

- 1) Ketua Setiausaha Negara or Chief Secretary to the Government.
- 2) Known as Members of the Corporation in the PR1MA Bill.

Figure 5: Optimising costs throughout the value chain: cost management measures and delivery models



Source: Roland Berger analysis.

through PR1MA directly as well as via Unit Kerjasama Awam Swasta (UKAS) to developers that PR1MA collaborates with. These cost-reduction strategies ensure that PR1MA homes will be 20% below the market price for similar units in surrounding areas, without any compromise on quality.

II. Increasing buyers' ability to pay for homes

Conventional housing finance mechanisms are, in general, inaccessible and unaffordable to many middle-income households. To increase this target group's affordability, they must be able to access home financing in the form of either cheaper or more innovative funding mechanisms. This translates into lower or zero entry cost to the housing market. Although PR1MA's financing assistance programmes for buyers (including a Rent-To-Own scheme) have not yet been finalised, PR1MA plans to customise them according to the different groups of buyers, and the particular project development or location.

III. Initiatives to increase residual income

Initiatives to increase residual income can be administered through various avenues such as through housing communities. Initiatives include the provision of basic physical amenities for quality living and various social needs such as education, community living, sports and recreation, leisure and places of worship, all of which are included within PR1MA's housing communities to enhance the quality of life of homebuyers. These initiatives to build a distinctive PR1MA community are also a key part of PR1MA's value proposition in providing affordable, quality-integrated communities.

DELIVERY MODELS AND INCENTIVES

PR1MA's development projects are carried out either on their own or through public-private partnerships. PR1MA employs several broad models to deliver affordable quality housing in a proficient and timely manner, as illustrated in Figure 6. PR1MA chooses the appropriate delivery model depending on the project and location. Each delivery model defines the different roles and responsibilities of PR1MA and the private sector. Each model also gives rise to different risks, rewards, financial obligations and other contributions for PR1MA and the private sector.

- Delivery model I essentially entails PR1MA undertaking a development project entirely on its own. PR1MA assumes all roles across the affordable housing sector value chain.
- Delivery model II entails PR1MA assuming all roles across the affordable housing sector value chain and acting as a quasi-regulator via contractual agreements for maintenance and after-sales services.
- Delivery model III entails PR1MA assuming the responsibility for sourcing project components, including land and raw materials for building, and for the sales and allocation process. PR1MA contracts a private-sector partner to design and build either single or multiple development projects in accordance with standards and

guidelines set by PR1MA. As in delivery model II, PR1MA acts as a quasi-regulator via contractual agreements for maintenance and after-sales services.

- Delivery model IV entails PR1MA undertaking only the sales and allocation processes and assisting private partners with sourcing, designing, planning and maintenance subject to PR1MA's standards, terms and conditions.

PR1MA asserts control over the sales and allocation process across all delivery models in order to ensure that affordable quality housing reaches the target group efficiently and equitably.

OPEN BALLOTING FOR TRANSPARENT AND EQUITABLE ALLOCATION

At the core of the success of the affordable quality housing sector is the buyer allocation process. It affects the circumstances and wellbeing of households, the composition of communities, and the overall quality of life as a result of affordable housing.

PR1MA's homes, which must be owner-occupied, are allocated through an open balloting system. It allows for a targeted yet equitable buyer allocation of affordable homes because every applicant has an equal chance of being selected to purchase an affordable home without the involvement of any strategic manipulation. Open balloting avoids discriminatory effects as there is no human judgment involved in the selection of prospective homebuyers. The selection of house units by the successful balloted owner is based on the balloting sequence, and ballot results are posted on PR1MA's website. A 10-year moratorium is imposed, during which the property cannot be sold or transferred to another party without prior approval from PR1MA.

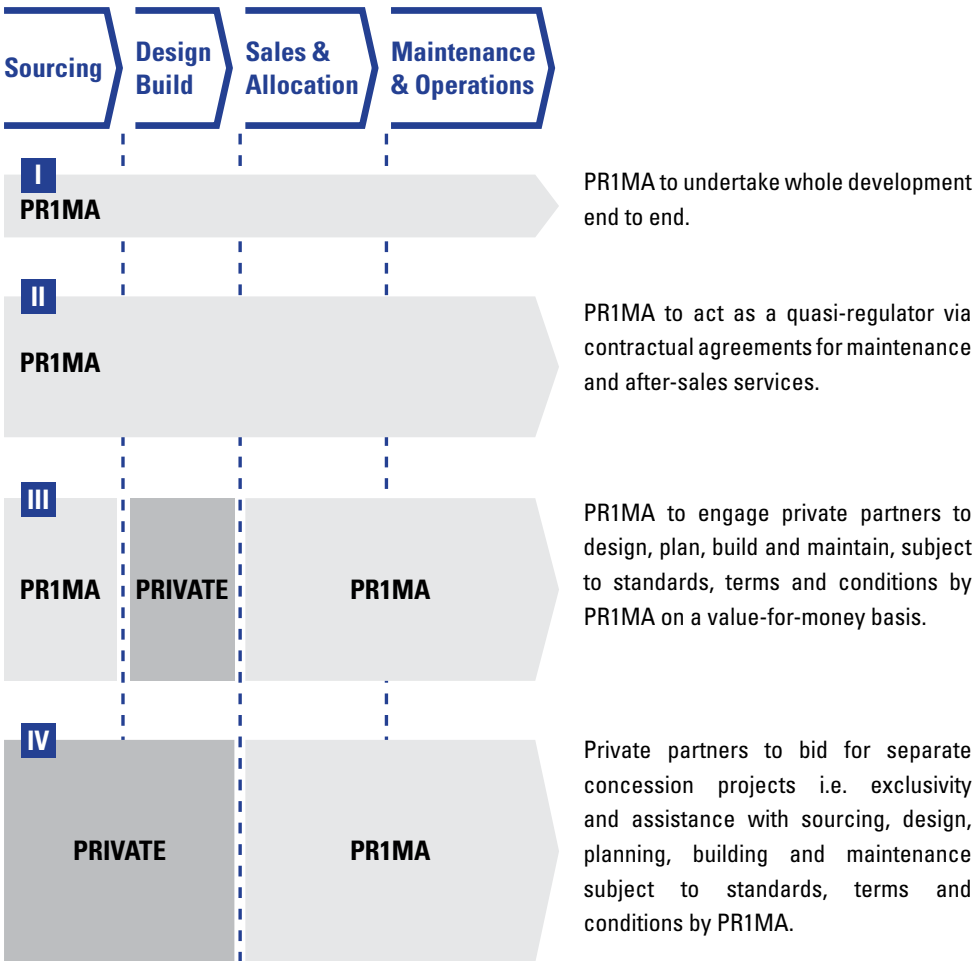
PR1MA's eligibility criteria for housebuyers are:

- Applicants must be Malaysian citizens.
- Applicants must be at least 21 years old at the time of the application.
- Applicants must be individuals or families (husband and wife) with a monthly household income of between RM2,500 and RM7,500.
- Applicants must not currently own more than one property.
- Applicants must also comply with additional guidelines set forth by PR1MA, where relevant and applicable.

PR1MA IN PROGRESS

In identifying land suitable for its development, PR1MA looked at where there was an acute need for affordable housing and whether the locations were convenient and strategic, i.e. with good connectivity to transportation facilities and accessibility to workplaces and economic centres. As of 28 August 2013, PR1MA has identified more than 50 locations in key urban areas around the country (see Figure 7), sourced from the federal Government, state governments, government-linked companies and private landbanks.

Figure 6: Delivery models



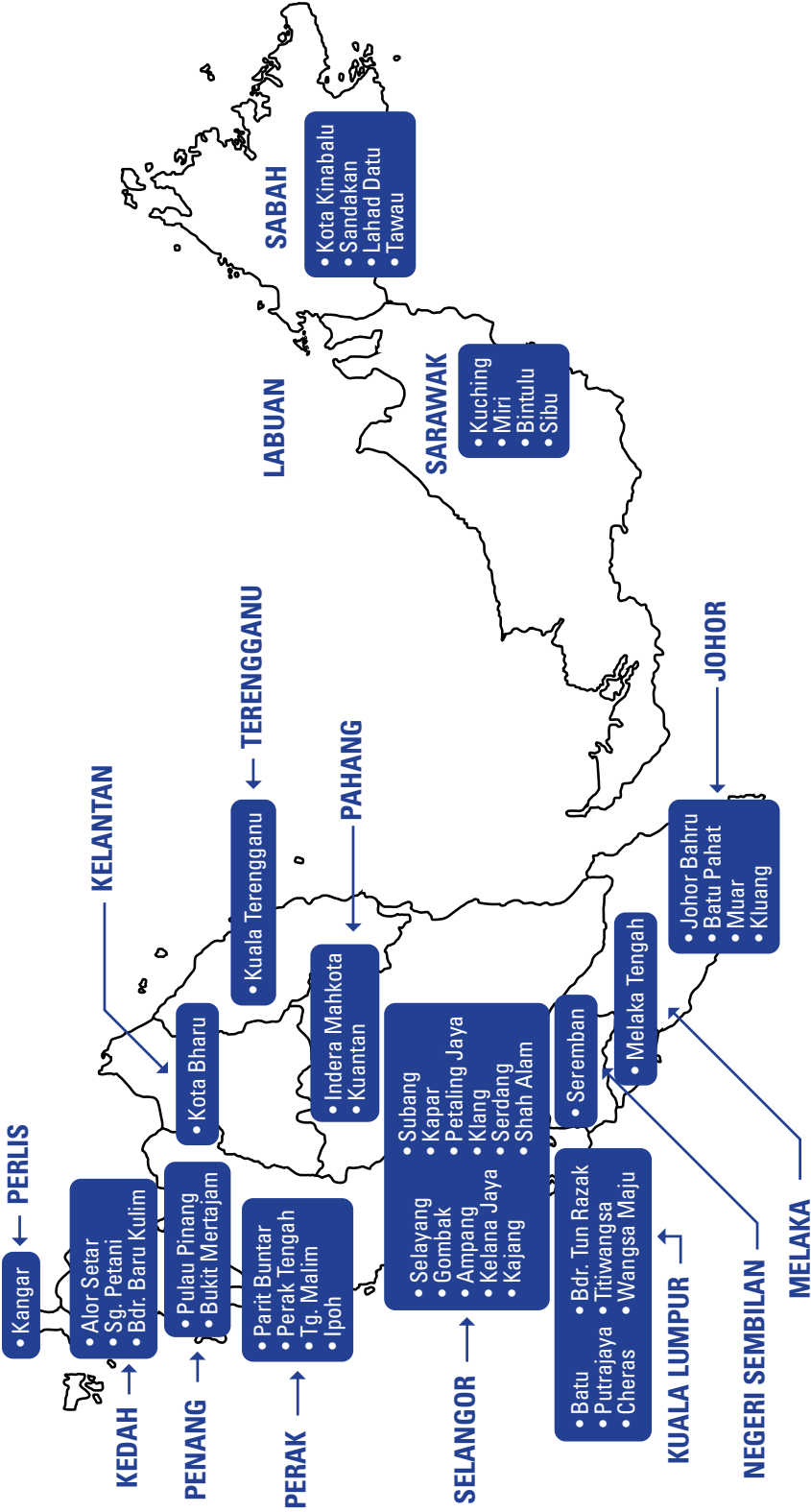
Of the more than 50 locations, PR1MA has identified 15 affordable housing projects to be developed in the Klang Valley, Johor, Penang, Sabah and Sarawak. These 15 new developments, which are expected to provide 20,000 PR1MA homes for middle-income earners living in these urban areas, are under Phase I of the PR1MA programme.

These projects meet the guidelines stipulated under the PR1MA Act 2012 and this first phase has been approved by PR1MA's Members of Corporation. Only projects that meet PR1MA's development guidelines will be part of the PR1MA programme.

The identified projects are in various phases of development. Some have already received the necessary approvals from the local councils and authorities, and as such will be launched within the next few months. Several other projects are still in the planning stage.

Upon receiving all planning, development and building approvals from the authorities, buyers should be able to take ownership of their PR1MA homes within 24 months (for landed property) and 36 months (for high-rise buildings) from the signing of the Sale and Purchase Agreement. The building timeframe for PR1MA homes is similar to industry standards.

Figure 7: Key strategic urban areas based on current demand and location



By the end of the year, PR1MA will have more units rolled out to meet the target of 80,000 PR1MA homes as announced in the 2013 Budget. These units are part of the 500,000 units of affordable homes to be rolled out by PR1MA by 2018.

PR1MA plans to launch several new projects within the next few months. In Kuala Lumpur, PR1MA had identified two sites – Setapak and Jalan Jubilee, off Jalan Loke Yew – while in Penang the identified location is Bayan Lepas. Other projects to be launched include two in Johor Bahru, and one each in Sabah and Sarawak. The response to these projects is expected to be positive as the locations are strategic.

PR1MA's objective has always been and will continue to be to reduce the country's affordability gap by developing affordable homes which are at least 20% lower than the market price of surrounding developments.

The units would also be comparable to those offered by private developers in terms of size and quality, with units ranging from 1,400sq ft and 1,700sq ft for landed properties and between 670sq ft and 1,300sq ft for high-rise properties.

PR1MA's home pricing strategy will be applicable for all its developments and is made possible through PR1MA's employment of sustainable cost management strategies and through optimising costs throughout its value chain, i.e. in the sourcing of land and materials, designing, planning, building as well as funding activities.

The provision of quality affordable housing on a large scale is a challenging task but with strong and consistent political will and the Government's financial support, adequate affordable housing is achievable. The establishment of PR1MA is an example of a proactive and timely government initiative to integrate cross-functional policies and address regulatory changes, management and governance in the interest of the *rakyat*.

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INTRODUCTION

Public housing, which refers to houses built by the Government either for sale or rent through conventional methods (Drakakis-Smith 1981), is an important source of housing for the urban poor. While the administration of public housing in Malaysia is usually the responsibility of the respective state governments, in Kuala Lumpur it has been under the aegis of the Kuala Lumpur City Hall or Dewan Bandaraya Kuala Lumpur (DBKL) since 1972, making it the federal Government's responsibility.

PUBLIC HOUSING IN KUALA LUMPUR

The provision of public housing in Kuala Lumpur began before Independence when the Kuala Lumpur Municipal Council built the high-rise flats Suleiman Courts on Batu Road and Melati Flats on Jalan Loke Yew in 1956 to address the housing shortage and squatter problems of the time (Kamarul Afizi *et al.* 2008). The Melati Flats had 220 units of houses and 12 units of shops. From these humble beginnings, the total number of public housing units in Kuala Lumpur under DBKL increased to 71,031 by end-2012, making it the largest stock of public housing in a Malaysian city. Until 2009, these public housing units were generally managed by DBKL for rental purposes and were divided into four categories: DBKL's Public Housing, long houses (*rumah panjang*), DBKL's People's Housing Programme (Program Perumahan Rakyat or PPR) and the National Economic Action Council's People's Housing Programme (PPR-MTEN) targeted at the urban poor (see Figure 1). However, in October 2009 the Government decided to sell 44,146 units or 62% of Kuala Lumpur public housing units to sitting tenants. This was increased to 45,358 units by November 2012 (DBKL 2012). Through DBKL, the Government intended to sell all 29,562 units under PPR-MTEN and 14,584 units under DBKL's Public Housing with a ceiling price of RM35,000 per unit.

Figure 1: Public housing units in Kuala Lumpur (2012)

Category	Units	Areas
Public housing for rental		
Public housing	20,614	33
Long houses	2,180	7
PPR DBKL	5,297	6
PPR-MTEN	28,970	25
Sub-total	57,061	71
Public housing sold as at 30 November 2012*	13,970	28
Total	71,031	99

*Based on the number of tenants who accepted the offer and signed the Sale and Purchase Agreement.

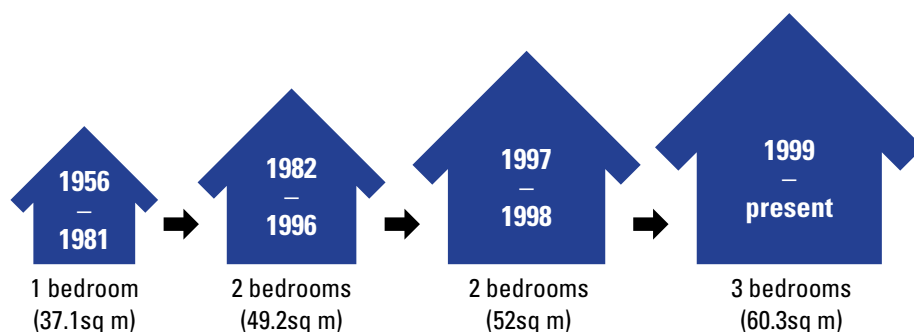
Source: Dewan Bandaraya Kuala Lumpur.

Priority was given to long-term tenants and those whose household incomes did not exceed RM2,500 per month. Eligible prospective buyers were also offered accessible financing packages by the Federal Territories Foundation (Yayasan Wilayah Persekutuan) to purchase the houses through the Federal Territories Housing Company (Syarikat Perumahan Wilayah Persekutuan). These packages offered 100% loans with monthly repayments of as low as RM160 for up to 25 years (DBKL 2012). Although only 13,970 tenants confirmed their purchases as at 30 November 2012 (DBKL 2013), sales were expected to increase in 2013 based on the number of tenants who had agreed to buy their houses (DBKL 2012).

The design and size of public housing units in Kuala Lumpur have been largely determined by the Government's financial capability, available construction technology and the Ministry of Housing and Local Government's (MHLG's) design guidelines and requirements (in May 2013 the MHLG was renamed the Ministry of Urban Wellbeing, Housing and Local Government). With the city's high land value and limited space, most public housing units were built as high-rise flats of up to 25 storeys or as five-storey walk-up flats, depending on location. The long house was originally planned as transit housing during the 1980s and 1990s for squatters before they were relocated to permanent public housing. However, some long house units are still available in selected areas.

From 1956 to 1981, most public housing units in Kuala Lumpur had one bedroom with a floor space of 37.1sq m. Since 1998, under the Ministry's new design guidelines, low-cost housing units in Malaysia have had to consist of three bedrooms with a minimum floor space of 60.3sq m (see Figure 2). This is in line with the Government's efforts to improve the quality of life for those in the low-income bracket. However, floor space in Kuala Lumpur's public housing does not correspond to the occupant's household size, which means that bigger families still need to occupy the same space as smaller families.

Figure 2: Public housing design requirements in Kuala Lumpur (1956–present)



Source: Dewan Bandaraya Kuala Lumpur.

THE ADMINISTRATION OF PUBLIC HOUSING IN KUALA LUMPUR

To relocate squatters around Kuala Lumpur under its Zero Squatters strategy, the Government has invested more than RM3 billion to build PPR units since 1998. The target was to reduce the number of residents in Kuala Lumpur’s squatter areas from 134,345 in 1996 to only 15,580 in 2012 (MHLG 2006, 2012).

The Ministry provided the capital expenditure to construct public housing in Kuala Lumpur while DBKL identified suitable sites, selected tenants or buyers and administered units under the PPR programme. Most PPR schemes in Kuala Lumpur were constructed on land previously occupied by squatters under an *in-situ* redevelopment strategy, or on government land. The Government allocated RM231 million to construct 5,297 public housing units under PPR-DBKL and RM1.5 billion to construct 33,952 units under PPR-MTEN in Kuala Lumpur (MHLG 2006).

The administration of public housing in Kuala Lumpur is the responsibility of DBKL’s Housing Management and Community Development Department (HMCDD). Its objectives are to ensure that the occupants of DBKL’s public housing enjoy comfortable, healthy and safe living conditions through efficient and quality management and maintenance. The Department also aims to create a caring and harmonious society that is imbued with the spirit of cooperation and responsibility. The HMCDD manages and maintains DBKL’s public housing, the registration of applicants for public housing (for rent and sale) and rent collection.

I. Public housing for rent

As of November 2012, there were 57,061 public housing units for rent in Kuala Lumpur. This is expected to be significantly reduced after the sale of units to sitting tenants takes place in 2013. The majority of public housing units for rent in Kuala Lumpur are located in Bandar Tun Razak, Batu, Lembah Pantai and Wangsa Maju (see Figure 3). The distribution reflects the need for housing and squatter resettlement for the particular area and the availability of land. Prospective tenants must register with DBKL online or by filling in a form at the HMCDD office. An officer will then propose a location and a unit according to the applicants’ preferences before their names are forwarded to DBKL’s housing selection committee for approval (see Figure 4).

Figure 3: Distribution of public housing for rent, according to area, in Kuala Lumpur (2012)

Category	BTR	BAT	BB	CHE	KEP	LP	SEG	SEP	STW	TTW	WM	Total
Public housing	8,307	3,161	3,121	-	-	1,112	-	100	155	868	3,790	20,614
Long house	252	-	-	-	1,675	-	253	-	-	-	-	2,180
PPR-DBKL	2,736	-	-	-	-	936	-	-	-	441	1,184	5,297
PPR-MTEN	6,004	7,442	-	2,708	948	4,740	-	-	4,740	2,388	-	28,970
Sub-total	17,299	10,603	3,121	2,708	2,623	6,788	253	100	4,895	3,697	4,974	57,061

BTR : Bandar Tun Razak

KEP : Kepong

STW : Setiawangsa

BAT : Batu

LP : Lembah Pantai

TTW : Titiwangsa

BB : Bukit Bintang

SEG : Segambut

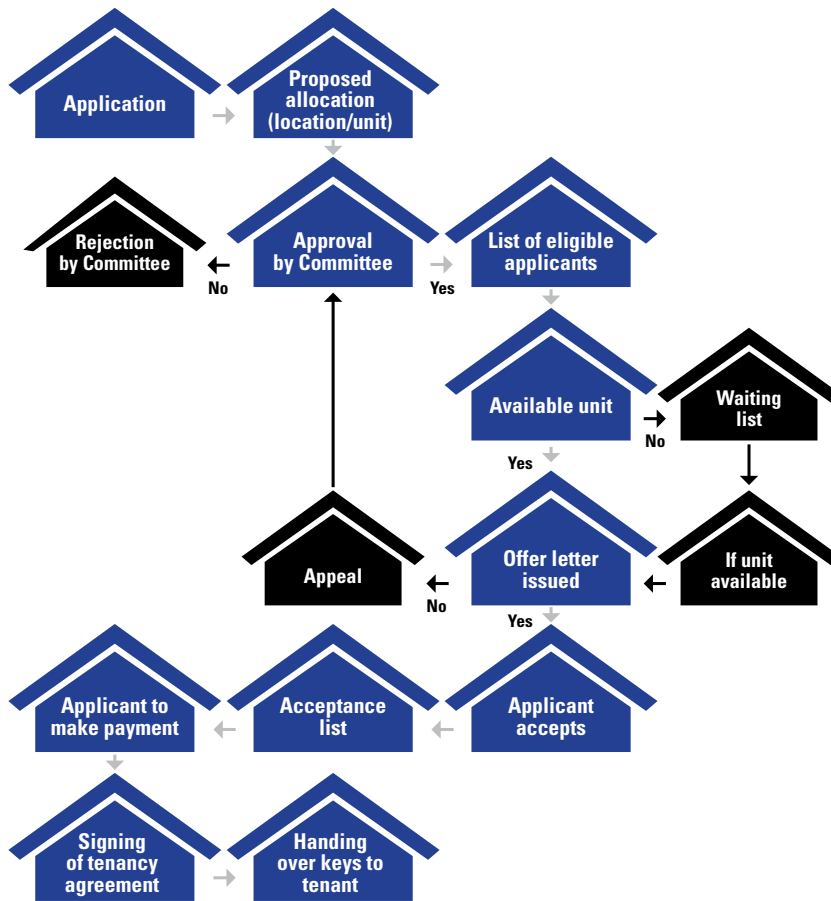
WM : Wangsa Maju

CHE : Cheras

SEP : Seputeh

Source: Dewan Bandaraya Kuala Lumpur.

Figure 4: Application process for public housing for rent in Kuala Lumpur



Source: Dewan Bandaraya Kuala Lumpur.

According to DBKL's eligibility requirements, applicants and their spouses must be Malaysian citizens with combined incomes not exceeding RM2,000 per month. Priority is also given to applicants who live or work in Kuala Lumpur (see Figure 5 for full list of eligibility requirements).

The online system allows the processing of applications to be more efficient and transparent. Having the system's data accessible via the Ministry's Open Registration System database also reduces any concerns about abuse of power in allocating public housing.

An applicant is required to provide several categories of information regarding his or her spouse, background, current address, household and current residence or property (see Figure 6), along with supporting documents such as copies of identity cards, marriage certificate, latest salary slip and children's birth certificates. Once the information is uploaded into the system the applicant is given a reference number, which can be used

Figure 5: Conditions for rent of public housing in Kuala Lumpur

1. Applicant and spouse must be Malaysian citizens.
2. Couples must be married.
3. Combined income of both spouses must not exceed RM2,000 per month for low-cost housing and RM3,500 per month for low-medium-cost housing.
4. Applicant must live or work in Kuala Lumpur.
5. Applicant cannot own a house or any land within 35km of the Kuala Lumpur city centre.
6. Applicant must register with the HMCDD, DBKL.

Source: Dewan Bandaraya Kuala Lumpur.

online to check the status of the application. Successful applicants will be informed via mail, with waiting times subject to the availability of units in the preferred locations.

Priority given to applications is calculated using nine main eligibility criteria, with the critical ones being the applicant's number of dependents (graded on a scale of up to 20 points) followed by marital status, health condition and per capita income (up to 15 points each – see Figure 7). Priority is therefore given to married couples from the low-income group with more dependents as well as applicants with disabilities and who are in poor health, who are allocated units on the ground floor.

From 1998 to the first quarter of 2013, 117,925 applicants registered with DBKL to apply for public housing in Kuala Lumpur. Of these, 114,037 were eligible, including those successful in obtaining rental housing units and who were placed on the waiting list (see Figure 8). There have been an average of 1,000 to 8,000 applications per year, except in 2002 and 2009 when there were more than 20,000 and 30,000 applicants respectively, likely because of the Government's announcement about the sale of houses to sitting tenants.

Once approved, an application is placed on the eligibility list. Applicants are offered a unit immediately if one is available or are put on a waiting list for a maximum of three years, after which they must resubmit their applications.

Once a unit is available the Department issues an offer letter, and if it is accepted, applicants make their deposit payments, sign tenancy agreements and receive their house keys. The tenancy agreement includes the length of tenancy, which is usually up to three years. However, in practice tenants are allowed to renew their tenancies before expiry by submitting a new application to DBKL. Successful applicants are allowed to continue living in the house but there is as yet no clear policy or guideline on the total length of tenancy in DBKL's public housing.

In 2009 DBKL managed to rent 99% of its public housing as well as 98.7% of houses built under the PPR programme to relocate existing squatters (The Star 2010). Although data on the number of applicants and the duration of the waiting list are not available for further analysis, the huge demand for public housing in Kuala Lumpur is clearly due to strategic locations and rents that are below market rates.

Figure 6: Information required for public housing for rent in Kuala Lumpur

Applicant's Background	Spouse's information	Current address	Dependents' information	Other information	Other property	Applicant's information
<ul style="list-style-type: none"> • Name • New IC/Police /Army no. • Old IC no. • Date of birth • Nationality • Gender • Race • Income (RM) • Workplace address • Postcode • State • Town • Tel. no. • Photo • Type of house applied • Preferred area 1 • Preferred area 2 • Preferred area 3 	<ul style="list-style-type: none"> • Name • New IC/Police/ Army no. • Date of birth • Nationality • Gender • Race • Income (RM) • Total income (RM) • Workplace address • Postcode • State • Town • Office tel. no. 	<ul style="list-style-type: none"> • Current house address • Postcode • State • Town • Tel. no. 	<ul style="list-style-type: none"> • Name • Birth certificate/ IC no. • Gender • Relationship with applicant • Occupation/post • Income (RM) 	<ul style="list-style-type: none"> • Marital status • Status of current house • Occupation • Monthly rent 	<ul style="list-style-type: none"> • Any house within 35km of city centre and Klang Valley • Address of the house • No. of houses • Price (RM) • Any land within 35km of city centre and Klang Valley • Address of the land • Area • Value (RM) 	<ul style="list-style-type: none"> • Disability • Other dependents • Age • Reason for loss of home • Place of birth <p>Supporting documents</p> <ul style="list-style-type: none"> • Copy of IC • Spouse's IC • Marriage/divorce/ death certificate • Latest salary slip • Latest utility bill • Children's birth certificate(s)

Source: Dewan Bandaraya Kuala Lumpur.

Figure 7: Maximum points for each eligibility criterion for public housing in Kuala Lumpur

No	Criterion	Maximum points
1.	Number of dependents	20
2.	Marital status	15
3.	Health condition	15
4.	Per capita income	15
5.	Status of current house	10
6.	Length of registration	10
7.	Household income	5
8.	Occupation sector	5
9.	Age of applicant	5
	Total	100

Source: Dewan Bandaraya Kuala Lumpur.

Rental rates for DBKL's public housing units range between RM55 and RM218 per month for one-bedroom to three-bedroom units (see Figure 9). PPR houses have mostly been rented at RM124 per month since 1998. A discounted rental rate of between RM80 to RM115 per month is also given to people with disabilities, and there are also limited numbers of medium-cost public housing with a rental range of between RM250 to RM320 per month.

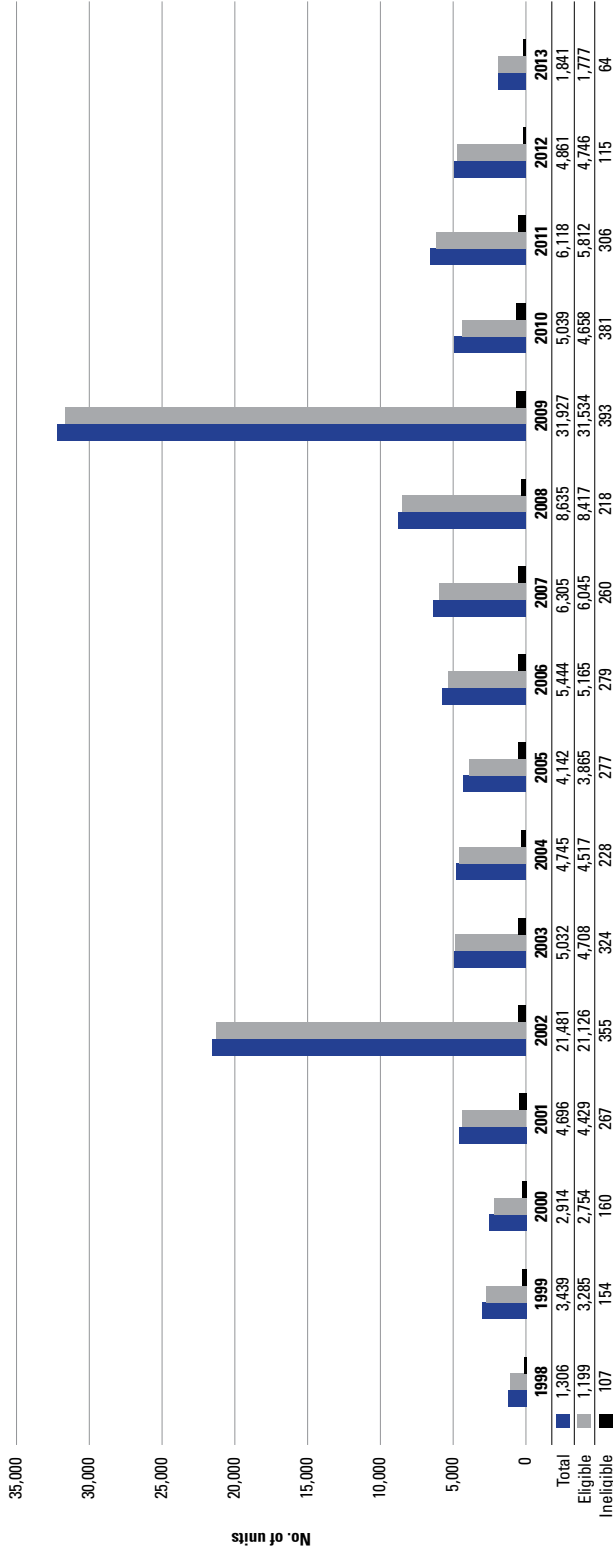
II. Public housing for sale

Out of 45,358 units of public housing identified for sale in Kuala Lumpur, 38,205 units have been offered to sitting tenants and are at various stages of being sold. However, as at 30 November 2012, only 13,970 tenants have accepted the offer (see Figure 10). Another 26,260 have shown an interest in purchasing, although a significant number of tenants have decided to continue renting.

Even though most of these units were located in strategic areas in Kuala Lumpur, the Government's selling price was only RM35,000 per unit (Bernama 2009), reflecting its aim to increase homeownership among the urban poor. The total cumulative sales value based on signed S&Ps was RM195.6 million as at 30 November 2012 (DBKL 2012), and Syarikat Perumahan Wilayah Persekutuan has offered financing packages worth RM111.6 million to 3,137 first-batch buyers. The process of selling public housing in Kuala Lumpur is shown in Figure 11.

Eligibility conditions in the application for purchasing public housing units are generally similar to rental requirements (see Figure 12). However, buyers must ensure they are eligible to obtain a loan from a bank, their employer or the Government for the purchase.

Figure 8: Applications for public housing for rent in Kuala Lumpur (1998–2013)



Source: Dewan Bandaraya Kuala Lumpur.

Figure 9: Rental rates for public housing in Kuala Lumpur

Type of unit	Monthly rent (RM)
Public Housing	
Studio unit	55
1 bedroom	94
2 bedrooms	124
3 bedrooms	163
3 bedrooms (renovated)	218
Long house	
1-storey	45
2-storey	55
PPR (DBKL/MTEN)	
3 bedrooms	124
Medium-low-cost	
Gombak 2	320
Kuang and Kenari	250
Seri Pangkor	250
Seri Tioman 1	300
Youth complex	
1 bedroom: 4 people	90
1 bedroom: 2 people	180
Male-female apartment	
1 bedroom: 2 people	120

Source: Dewan Bandaraya Kuala Lumpur.

PROBLEMS OF PUBLIC HOUSING IN KUALA LUMPUR

I. Increasing cost of maintenance

In 2009 alone, RM103.5 million was allocated for maintenance while total rent collection that year was only RM56.6 million. At the current rate, the Government provides subsidies of almost RM50 million a year to maintain public housing in Kuala Lumpur. This is financially unsustainable in the long term, especially if rents remain at current rates. In the private housing market, the rent for a three-bedroom unit can reach RM574 per month, compared to the RM124 monthly rate that the majority of public housing tenants have enjoyed since 1998 (Baharuddin 2007).

In other words, the Government subsidises more than RM450 per unit per month – more if the cost of maintenance is taken into account. It is clear that the Government's decision to sell 64% of its public housing stock was made to ensure the sustainability of public housing in Kuala Lumpur.

Figure 10: Sale of public housing in Kuala Lumpur as at 30 November 2012

No.	Status	No. of units
1.	DBKL Public Housing and PPR MTEN identified for sale	45,358
2.	Total number of units offered to tenants	38,205
3.	Tenants interested to purchase	26,260
4.	Tenants who decided to remain as tenants (form not returned)	11,945
5.	Tenants eligible to purchase, and were issued and handed offer letters	24,338
6.	Tenants eligible to purchase with conditions	787
7.	Tenants who accepted the offer	13,970
8.	Tenants who signed S&P	7,337
9.	Letter handing over vacant possession issued	5,922
10.	Tenants who still have not completed the sale	6,763

Source: Dewan Bandaraya Kuala Lumpur.

II. Damage and vandalism

Despite DBKL's efforts to promote a culture of protecting and maintaining public housing amenities, the amount spent on repairing and replacing equipment and facilities has increased over the years to more than RM32 million from 2005 to 2009 (see Figure 13). The most commonly-affected facilities are lifts followed by electrical and mechanical equipment.

III. Rental arrears

According to the 2009 Auditor-General's Report, arrears increased from RM29.4 million in 2008 to RM37.7 million in 2009 (The Star 2010) despite various efforts to counter the problem, including issuing warning notices, blocking water supplies and even sealing and locking the relevant unit. For the period of the report, the DBKL Inspectorate took action against 1,219 tenants, including sealing and locking 197 units. With such a large number of public housing units to manage and with limited manpower, DBKL faces great difficulty in taking effective action against errant tenants even now.

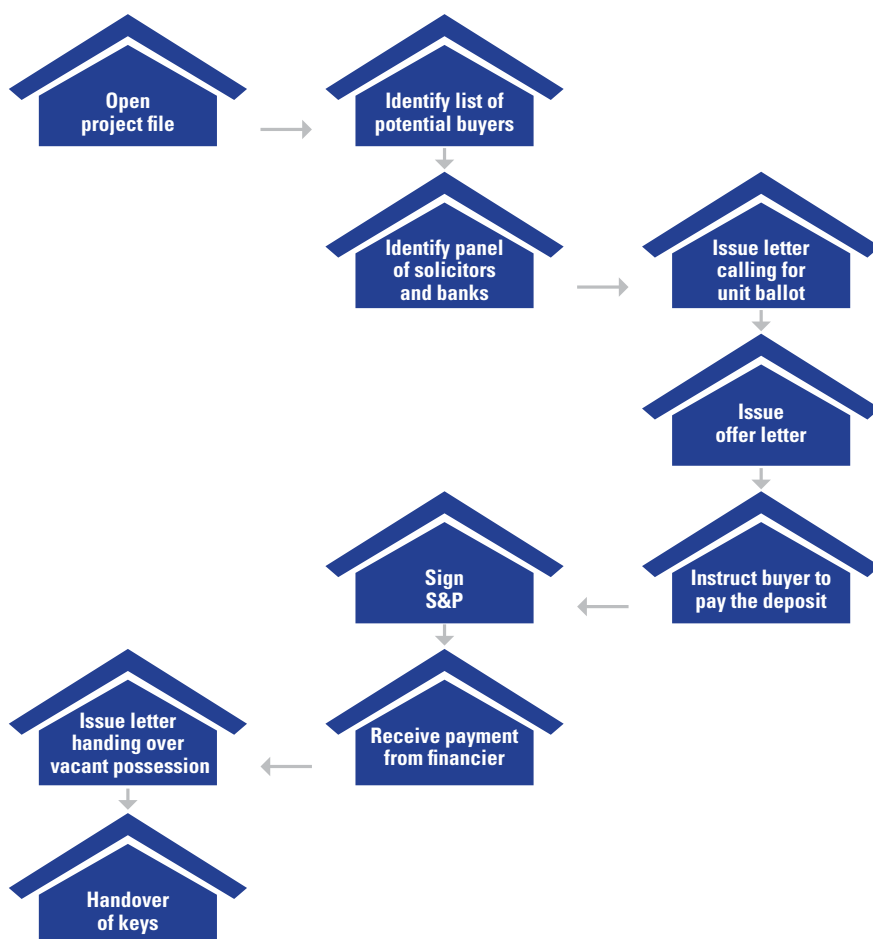
IV. Period of tenancy

Comparatively lower rental rates in public housing and the continued rise of property prices, coupled with the lack of a clearly-defined permissible tenancy period, have resulted in some tenants remaining in their units for an extended period of time. This leaves new applicants languishing on the waiting list before units become available. Although the online selection process has shortened the application process and reduced the incidence of unit misallocation, without a clear policy on the period of tenancy (and renewal conditions) the problem of access to public housing remains unresolved.

PUBLIC HOUSING PROSPECTS IN KUALA LUMPUR

The move to sell a large portion of units is generally in line with the global trend towards reducing government expenditure on public housing. However, the process must be done

Figure 11: Process of placing public housing for sale in Kuala Lumpur



Source: Dewan Bandaraya Kuala Lumpur.

Figure 12: Conditions for the sale of public housing in Kuala Lumpur

1. Applicant and spouse must be Malaysian citizens.
2. Couples must be married.
3. Combined income of both spouses must not exceed RM2,500 per month for low-cost housing.
4. Applicant must live or work in Kuala Lumpur.
5. Applicant cannot own a house or any land within 35km of the Kuala Lumpur city centre.
6. Applicant must register with the HMCDD, DBKL.
7. Applicant must be eligible to obtain a loan from bank/employer/Government.

Source: Dewan Bandaraya Kuala Lumpur.

Figure 13: Public housing repair costs (damage and vandalism) in Kuala Lumpur (2005–2009)

Type	2005 (RM million)	2006 (RM million)	2007 (RM million)	2008 (RM million)	2009 (RM million)
Lifts	1.07	2.64	3.54	4.74	2.55
Electrical	0.12	1.16	2.93	2.65	4.32
Mechanical	0.06	0.52	0.76	0.82	0.52
Public facilities	0.20	1.79	0.63	0.69	0.55
Total	1.45	6.11	7.86	8.9	7.94

Source: Dewan Bandaraya Kuala Lumpur.

carefully to ensure that only eligible candidates have the opportunity to buy this type of house. This strategy will increase homeownership among the urban poor and transfer much of the responsibility of maintaining public housing to homeowners. After the sale, a joint management body (JMB) is set up under the Building and Common Property (Maintenance and Management) Act 2007 with the assistance of DBKL to manage and maintain the property, thus reducing the burden on DBKL. The amount saved from maintaining public housing can instead be used for upgrading and improving the remaining stock of units. However, in Kuala Lumpur most if not all public housing units are in better condition than private low-cost housing, despite the existence of JMBs. Residents may have grown dependent on DBKL to maintain their housing areas and they generally have a lackadaisical attitude towards maintenance and care.

In addition, DBKL needs to maintain small and manageable tracts of public housing to ensure that city newcomers and newlyweds can gain access to housing. These will be the new target groups for public housing, as most squatter settlements will disappear from Kuala Lumpur in the near future. DBKL will need a clear and transparent policy to guide the selection of tenants and to determine their length of stay in public housing. Ensuring that the process and policy of tenant-selection is transparent will boost public confidence in the administration of public housing in Kuala Lumpur.

It is also important for DBKL to maintain public housing for rent in Kuala Lumpur's strategic locations near public transportation links. This is so that low-income groups can still have access to housing in the city centre, where job opportunities are in abundance. This will help targeted groups cut their travel times to and from work and reduce their transportation expenses. As the trend of building luxury and high-cost condominiums in the city centre continues, the Government must ensure that low-income groups still have a place to stay in the city. At the same time, the Government must continue to build low-cost and affordable housing in Kuala Lumpur to ensure that public housing tenants, upon expiry of their tenancies, have the opportunity to own their own homes. The Government should also continue to plan for new public housing for rent and sale based on public demand. DBKL can use the database of public housing applications, population growth, migration trends and number of squatters in the city for planning new public housing.

CONCLUSION

Since the 1980s, the provision of public housing in Kuala Lumpur has focused on relocating squatters to rental units, which has succeeded in reducing the number of squatter settlements in the city. Since 2009, however, the Government has begun selling public housing units to tenants in Kuala Lumpur to reduce public expenditure on housing and to increase homeownership among the urban poor.

With plans for a Greater Kuala Lumpur/Klang Valley development in the Economic Transformation Programme, as well as the recent sale of existing public housing and land scarcity in Kuala Lumpur, DBKL's ability to meet increasing demand for public housing will depend on its ability to provide the urban poor with adequate access to proper and quality housing that is either within the city or is well connected, and to manage the financial requirements of developing and maintaining public housing. A clearer policy and a more transparent process to select tenants and housebuyers will help to ensure that DBKL achieves these aims.

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INTRODUCTION

Housing is a basic need. Although Malaysia's capitalistic economic system has enabled many Malaysians to have adequate houses, even luxurious condominiums and bungalows, it has also resulted in a sizable portion of Malaysian society being unable to afford houses on the open market.

The need for public housing has become much more serious in the past few years as property prices have gone up drastically. In Penang, it is very difficult to find double-storey link-houses in middle-class areas selling for less than RM900,000 per unit. As a result, families with combined household incomes of less than RM9,000 a month have found it very difficult to obtain properties within their financial reach.

Malaysians have adopted a caring attitude towards their fellow citizens. As such, there are policies at all levels of government to ensure that all Malaysians are adequately housed. Both the federal Government and the Penang state government have responded by promising to build "affordable" houses, meaning those selling for no more than RM400,000 per unit, besides low-cost (LC) and low-medium-cost (LMC) houses.

ROLE OF THE FEDERAL GOVERNMENT

The federal Government plays an important role in public housing in all states, including Penang. For example, the criteria for eligibility and sizes of public housing are set by the federal Government. Even after the change of the state government from Barisan Nasional (BN) to Pakatan Rakyat (PR), the prices of public housing and the conditions of eligibility set by the federal Government are still being adhered to.

In December 2012, about five months before the 2013 General Election, Prime Minister Dato' Sri Najib Razak proposed to build "not less than 20,000 units of affordable housing"

in Penang if BN were to regain control of the state government (Mok 2012). In April 2013, during the campaign period, Najib announced a plan to build 9,999 new affordable homes in Air Puteh, Air Itam and Paya Terubong (The Malaysian Insider 2013). Now that BN has failed to recapture the state, it is fair to believe that the houses promised will not be built.

This does not mean that the federal Government plays no role in the building of public housing in Penang. It has contributed to the development of housing projects for the hardcore poor with the People's Housing Programme (Program Perumahan Rakyat or PPR). According to data supplied by the Penang State Housing Department, there are at least four such projects in Penang with a total of 2,374 units. In at least two projects, the land was provided by the two local authorities.

ROLE OF THE PENANG STATE GOVERNMENT

The Penang state government has played a very big role in building public housing even though there is no formal rule requiring state governments to do so. However, the Town and Country Planning Act 1976 requires state governments to prepare Structure Plans. Housing, including public housing, is an important matter in these plans.

I. Penang housing policy

The Penang Structure Plan 2020, which has a chapter on housing, was gazetted in 2007. Both the Penang Structure Plan 2020 and Second Penang Strategic Development Plan 2001-2010, which will be elaborated on later in this chapter, were prepared when BN was the state government. At the time of writing, the Penang state government is undertaking a comprehensive assessment (under the ongoing Penang Structure Plan 2020 Review) of its housing policies. As such, the Penang Structure Plan 2020 remains a legal document and all the statements in the plan are still valid. The housing policies in the plan (see Figures 1 to 3) can be taken as the state government's policies.

Generally, the prices of LC and LMC houses are determined by the federal Government, and these are adopted by all the state governments in Peninsular Malaysia, including Penang. The Penang Structure Plan 2020 has no provision for LC houses in the Northeast District of Penang Island, which includes George Town, Ayer Itam, Tanjung Tokong and Glugor (see Figure 4). Only LMC houses are provided in this district and the size of each unit ranges from 570sq ft to 650sq ft. The prices of these houses range from RM58,000 to RM72,000 per unit (see Figure 5).

There are provisions for both LC and LMC houses in the rest of the state, namely the Southwest District of Penang Island, Seberang Perai North, Seberang Perai Central and Seberang Perai South. The size of LC housing ranges from 650sq ft to 753sq ft while prices for these units range from RM25,000 to RM42,000 depending on size, subzone and type of building. For LMC houses, sizes range from 650sq ft to 753sq ft while prices range from RM40,000 to RM80,000 depending on size, location and type of building. These requirements are imposed by local councils when developers apply for planning permission to build more than 100 or 150 housing units, depending on the locations of the projects (see Figure 5).

Figure 1: Penang – guidelines for LC and LMC housing

-
- Establish quotas for LC and LMC housing to achieve the target of one house per family and ensure that the size of the house is adequate for the household.
-
- Establish quotas for the distribution of LC houses – at least 50% for Bumiputera and 15% for Indians.
-
- Establish quotas for the distribution of LMC houses – at least 30% for Bumiputera and 15% for Indians.
-
- Housing quotas must be flexible and take into account the composition of ethnic groups in specific locations so as to facilitate integration.
-
- Ensure that the price of LC housing is between RM25,000 and RM42,000 depending on location, type and size of the house.

Conditions for private developers are not stated here.

Source: Rancangan Struktur Negeri Pulau Pinang, 2007 (translated by the author).

Figure 2: Application criteria for PPR houses

-
- Malaysian citizen (applicant and spouse)
-
- Resident in Penang
-
- More than 18 years old on date of application
-
- Income of either spouse does not exceed RM750 per month
-
- Income of household does not exceed RM1,500 per month
-
- Has never owned a house previously
-
- At least five family members (spouses and children)
-
- Special consideration to be given to disabled applicants, widows or widowers of armed forces personnel, and squatters on Government project sites

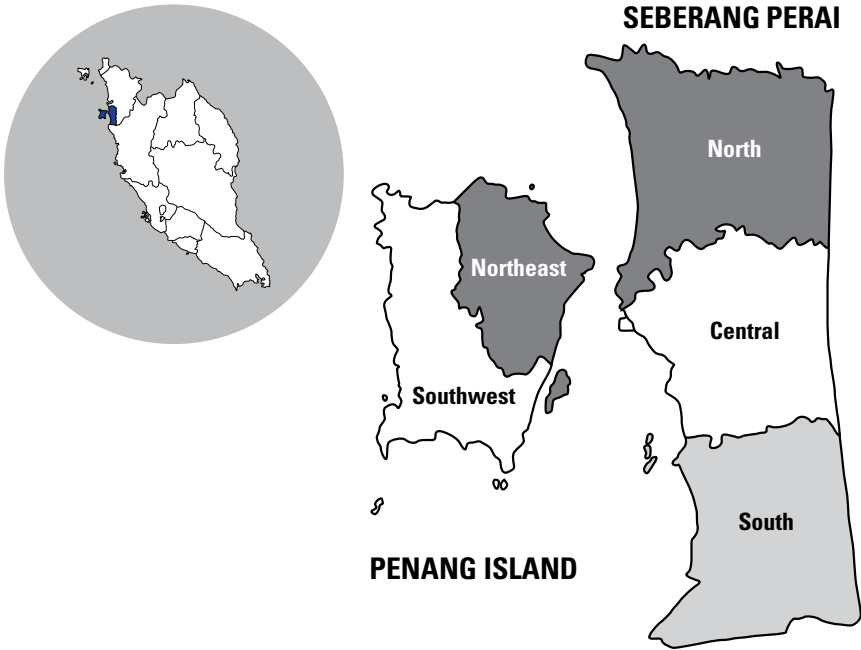
Source: Rancangan Struktur Negeri Pulau Pinang, 2007 (translated by the author).

Figure 3: Conditions for applications for LC and LMC houses

-
- Malaysian citizen
-
- More than 18 years old on date of application
-
- Income of either spouse does not exceed RM2,500 (for an LC unit)
-
- Income of either spouse does not exceed RM3,500 (for an LMC unit)
-
- Has never owned a house previously

Source: Rancangan Struktur Negeri Pulau Pinang, 2007 (translated by the author).

Figure 4: Penang – district boundaries



In the history of ensuring adequate housing for the poor, the eligibility criteria have changed substantially. In the 1980s, those who were eligible for LC houses were households earning less than RM750 per month. There were no LMC houses at the time. According to the Penang Structure Plan 2020, households earning less than RM2,500 per month are eligible for LC housing and those earning not more than RM3,500 per month are eligible for LMC housing.

Like all state governments, the Penang state government also prepares master plans that invariably contain a chapter or section on housing. The latest such plan for Penang is the Second Penang Strategic Development Plan 2001–2010. In this plan, one of the strategies is to increase “the supply of low-cost and low-medium-cost housing by offering better incentives for developers to build low-cost units through a Planned Unit Development scheme which provides for adjustment of standard housing regulations to ensure maintenance of housing quality while at the same time providing more attractive returns to the developers” (Penang State Government 2001). Unfortunately, no further information regarding the Planned Unit Development scheme was available at the time of writing.

As of 4 March 2013, the state government has also imposed other conditions upon private developers who want to use the newly-created, 87-unit-per-acre density to build affordable houses or small office/ home office (SOHO) projects. Apart from the requirements for LC and LMC housing units, the developer must also sell 5% of the houses at below RM200,000, 15% below RM300,000 and 5% below RM400,000. The houses must be sold through the State Housing Department.

Figure 5: Penang – floor space and cost of LC and LMC houses

LC houses: Southwest District Penang Island, Seberang Perai North, Seberang Perai Central, Seberang Perai South

House type	Minimum floor space	Maximum price		
		Primary zone	Secondary zone	Tertiary zone
Link-house	650sq ft	RM 42,000	RM 40,000	RM 35,000
Cluster		RM 42,000	RM 38,000	RM 33,000
Flats (5-storey)		RM 25,000	RM 25,000	RM 25,000

LMC houses: Northeast District Penang Island

House type	Minimum floor space	Primary zone	Secondary zone
5-storey flat	650sq ft	RM72,000	RM67,500
5-storey flat	570sq ft	RM63,000	RM58,000

LMC houses: Southwest District Penang Island, Seberang Perai North, Seberang Perai Central, Seberang Perai South

House type	Minimum floor space	Maximum house price		
		Primary zone	Secondary zone	Tertiary zone
Landed: link-house	650sq ft	RM 70,000	RM 65,000	RM 55,000
	700sq ft	RM 75,000	RM 70,000	RM 60,000
	753sq ft	RM 80,000	RM 75,000	RM 65,000
Landed: cluster	650sq ft	RM 65,000	RM 60,000	RM 45,000
	700sq ft	RM 70,000	RM 65,000	RM 50,000
	753sq ft	RM 75,000	RM 70,000	RM 55,000
High-rise flat	650sq ft	RM 60,000	RM50,000	RM 40,000
	700sq ft	RM 65,000	RM 55,000	RM 45,000
	753sq ft	RM 70,000	RM 60,000	RM 50,000

Source: *Rancangan Struktur Negeri Pulau Pinang, 2007* (translated by the author).

The state government is also expected to add a new clause to the eligibility criteria for public housing. Any applicant found making a false declaration will stand to lose the unit allocated. Furthermore, in the near future, the list of names of those allocated public housing will be displayed not only in KOMTAR, where the offices of the state government and Majlis Perbandaran Pulau Pinang (MPPP) are located, but also at centres run by state assemblymen and Members of Parliament (Singh Deo 2013).

II. Houses built by the Penang state government

Since 1957, the Penang state government has built 14,583 housing units (see Figure 6). Almost half of these were in the Northeast District of Penang Island where George Town, the state capital, is located.

Figure 6: Number of public housing units in Penang by district

Penang Island Northeast District	7,904
Penang Island Southwest District	569
Seberang Perai North	3,917
Seberang Perai Central	1,445
Seberang Perai South	748
Total	14,583

Source: Penang State Housing Department.

Figure 7: Number of public housing units built in Penang by period

Year	No. of houses	%
1957–1969	4,555	31.2
1970–1990	6,100	41.9
1991–2007	3,920	26.9
Total	14,575	100

Source: Penang State Housing Department.

Figure 7 shows the number of public housing units built by period. Technically, according to public housing records in the State Housing Department, the Penang state government under PR has not built any public housing since it came to power in March 2008. This issue was raised by critics of the state government during the 2013 General Election campaign. According to Penang Chief Minister Lim Guan Eng, the state government did not build any LC housing directly but did so through the Penang Development Corporation (PDC) in a process that accorded with the federal Government’s own practice of not building public housing directly but through its agency Syarikat Perumahan Negara Berhad (SPNB). Lim maintained that “this dispels baseless attacks by certain irresponsible parties that the state government does not build a single low-cost house” (Lim 2013).

The federal Government has set up a fund called the 1Malaysia Maintenance Fund (Tabung Penyelenggaraan 1Malaysia) to pay 90% or 70% of the costs of maintaining public housing in the country, depending on the type of house. Likewise, the Penang state government set up a state Housing Assistance Programme – “Yes! (HAPPY)” – in September 2012. The fund assists committees managing the flats through assistance in paying the remaining maintenance costs of 10% or 30% (depending on the type of house) if the need arises (Singh Deo 2013). As will be discussed later, the money is part of the RM500 million fund allocated to ensure that Penangites are adequately housed.

III. The role of the PDC and PDCP

The PDC, an agency of the state government, has been building houses for sale for several decades. From 1975 to 2007, it built 12,129 housing units of various categories and

prices. Of these, 10,916 were high-rise apartments, single-storey link-houses, double-storey link-houses and cluster houses (Goh *et al.* 2012). In addition, PDC Properties (PDCP), a subsidiary of the PDC established in 2005, built 2,196 housing units from 2005 to 2011. Although the bulk of these houses were priced at between RM75,000 and RM300,000, it has also built houses for sale above RM1.5 million per unit.

The most recent housing units built by PDCP are the LMC and LC houses in Halaman Kenanga, which is located along Jalan Yeap Chor Ee on Penang Island. The 714 units are housed in two 22-storey buildings and are made up of 510 units of LMC housing at 700sq ft each and 204 units of LC housing at 680sq ft each. The former were sold at RM72,000 per unit while the latter at RM42,000.

In early 2013, Chief Minister Lim, who is also PDC chairman, set up a RM500 million affordable housing fund for the statutory body. The money came from selling a piece of coastal land near Queensbay Mall, located between the two bridges to the mainland. The fund is to be used by the PDC to build affordable housing.

According to the PDC's plans, two areas have been identified for these houses. About 12,000 units will be built in Bandar Cassia in Batu Kawan, Seberang Perai. LMC units will be priced at RM72,500 per unit while medium-cost units will be priced within a range from RM72,500 to RM220,000 per unit (The Star 2013). Another housing scheme in Jalan S. P. Chelliah on Penang Island will involve the building of 770 LMC units to be sold at RM72,500 per unit. The plan includes building 550 medium-cost units in the same area, which will be sold at between RM200,000 and RM400,000 per unit. The registration of potential buyers began on 7 February 2013.

Furthermore, it should be noted that the PDC and the state government have spent a considerable amount of money to maintain existing public housing, including repainting works, even though most of these houses have already been sold to individual buyers. The PDC continues to bear almost all the maintenance costs of these houses and, similarly, the Penang state government continues to pay for repair and maintenance charges.

Although it is possible for the relevant residents' associations to seek financial assistance from the state or federal governments to repaint their buildings, chances of getting assistance from these sources are uncertain. That said, the Penang state government has been rather generous. Since 2009, it has allocated a relatively larger sum of money for repairs and maintenance work than in the past. Specifically, the allocation for 2010 was RM11 million and for 2011 it was RM13.5 million. For 2012, the amount increased to RM17.6 million and for 2013 it was RM12.5 million.

In 2012, several blocks of LC buildings in several areas were repainted. The state government paid 80% of the costs while the remaining 20% was paid by residents. However, residents of the LC houses in the Rifle Range area did not pay anything as two generous individuals came forward to pay the remaining 20%.

It is important to reiterate that many LC and LMC housing units built by the state government have been paid for and that the titles of the units have been transferred to the owners. In fact, those built in the 1970s have undergone numerous instances of resale, and yet the Penang state government continues to maintain the apartments. For example,

when lifts break down, residents expect the state government to foot the bill for repairs. As a result, owners of LC and LMC houses built by the government pay relatively lower maintenance fees than those buying from private developers.

IV. Administrative matters related to housing

Like all state governments, the Penang state government has a State Executive Councillor in charge of housing. Jagdeep Singh Deo was appointed to this post in May 2013. He is supported by a committee of state assemblymen and senior officers of the state government.

There is a housing department in the Penang state government. Among its responsibilities is the registration of applicants for LC and LMC houses and PPR housing, including those built by private developers. It is responsible for the overall management of public housing built by the state government and, until June 2013, it was also responsible for allocating LC and LMC houses to applicants irrespective of whether the houses were built by the state government or private developers.

There have been criticisms of the workings of this department, especially in the allocation of houses. For example, in the 2010 Auditor-General's Report, it was found that the Penang state government was negligent in distributing 141,497 housing units as at 31 December 2010. It also found that 87,737 applicants for LC housing had been on the waiting list for more than 15 years.

The Auditor-General's Report also stated that 402 applicants earned above the qualifying income for public housing and 816 applicants who already owned houses were allocated LC or LMC houses by the department.

The state government is aware of the problems and criticisms. A special committee to take over the responsibilities of the State Housing Department in allocating houses to the applicants was formed in July 2013. The chairman is the Executive Councillor in charge of housing and its five members are made up of Members of Parliament and state assemblymen (all from PR). It is known as the Selection Process Enhancement Committee (SPEC) or by its official title Jawatankuasa Pembersihan dan Peningkatan Mutu Proses Pemilihan Perumahan (JPPPP). The motion to establish the committee was introduced and passed by the State Assembly sitting in July 2013.

ROLE OF LOCAL COUNCILS IN PUBLIC HOUSING

The two local councils, especially MPPP, have been playing significant roles in public housing. From the late 1950s to mid-1960s, the then-George Town City Council under the Socialist Front did a very good job in building houses for those who could not afford accommodation built by private developers. Prime examples of good housing for the lower-income group can be seen in the Kampung Selut houses, the People's Court in Cintra Street in the heart of George Town and the Terengganu Road flats. In fact, the flats in People's Court are only about 250sq ft each, yet they are a sought-after place to stay.

Since most of the houses were built for rental, MPPP still has 1,528 residential units of various sizes for rent to those who qualify under the conditions set by the state government. The amount of rent charged ranges from RM62 a month for a one-room flat in People's Court

to RM250 a month for a two-room Malay-style link-house in Kampung Selut. The council has another 238 housing units of various sizes for rent. These are not “control units” and are rented at market value ranging from RM210 to RM640 per month. MPPP also has 42 housing units that are rented to council staff.

The second of Penang’s municipal councils, Majlis Perbandaran Seberang Perai (MPSP), plays a comparatively smaller role in public housing. The Butterworth Town Council, which is now part of MPSP, did build some LC houses in Jalan Mohd Saad for sale, but the number was rather small. However, it should be noted that, in 2006, MPSP with assistance from the federal Government built 260 units of PPR for rent at RM100 per month.

GENERAL OBSERVATIONS

It was and still is a bad idea to sell LC houses to the poor. There have been too many cases of inability to repay housing loans, leading to repossession and auction by the lending financial institutions. Housing for the poor should be available only for rent, and the amount of rent charged should be adjusted to the income of the individual family. Residents who are no longer poor should not qualify for further assistance and should move to houses not subsidised by public funds. Their former lodgings should then be rented to those who remain within the threshold of poverty.

In terms of number, there are adequate LC and LMC houses for the poor in Penang. Of the state’s five districts, only the Northeast District of Penang Island is short of such houses. As mentioned, good examples of housing for the poor are those provided by the George Town City Council, now part of MPPP. The council has largely maintained ownership of all properties built with public funds to house the poor.

The houses are rented at discounted rates. For example, the Terengganu Road flats are rented at between RM90 and RM110 per month – a small increase over the RM40-RM50 monthly rents charged about 20 years ago. In comparison, rents for similar units owned by private individuals are currently between RM400 and RM600 per month.

There is little doubt that some families staying in council or state government flats are no longer eligible to remain in these flats. Unfortunately, politicians appear to lack the will to address the issue.

So far, there have been no known studies on the question of stigma attached to the residents of public housing. It is fair to believe that this is not an issue. However, an absence of evidence does not constitute evidence of absence. That said, many who have been brought up in LC or LMC housing, even in dilapidated areas, have done very well in terms of levels of education or income and success in life.

If there is stigma attached to living in public housing areas, perhaps Malaysia should follow the practices of Australia. State governments in that country facilitate non-governmental associations in the establishment of Housing Associations that buy houses all over town for the purpose of renting them according to the needs of tenants. Rents charged depend on the financial ability of individual households and outside observers are normally not able to identify families living in rental houses provided by Housing Associations.

CONCLUSION

Despite the very rapid rise of house prices in the past three years or so, the Penang state government, like that of Selangor as well as the Kuala Lumpur City Hall (Dewan Bandaraya Kuala Lumpur), has been caught in a very difficult position. It has no power to dictate the price of houses built by private developers except those of LC and LMC houses, and recently “affordable” houses. Neither can it influence housing loan interest rates, although these have been low in the past few years.

Clearly, based on the continuously large number of applicants waiting for LC and public housing, the present system of helping the poor to gain adequate housing is not working well. The Government, be it local councils, state governments, state development corporations or the special vehicles set up by the federal Government, must be responsible for providing adequate housing for the poor.

Housing developers should not be forced to do a job that rightfully belongs to the Government, and it is wrong to believe that the Government is not good at ensuring adequate housing for the poor. However, if those in government cannot do the job, then they are not qualified to be government leaders or to work in it.

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INTRODUCTION

Selangor is Malaysia's most developed state and is also regarded as one of the richest in the country. It is the biggest contributor to the national Gross Domestic Product (GDP), generating RM128.8 billion or 23% of the national GDP in 2010.

Selangor is divided into nine administrative districts (see Figure 1) with Petaling (see Figure 2) being the most populous. The state has 5.46 million people, representing 19.6% – the largest share – of the country's population (Department of Statistics Malaysia 2011). Its population growth was about 3.17% over the 2000–2010 period, and it is the fifth most densely populated state in Malaysia with 674 persons per square kilometre. Selangor's 91.4% rate of urbanisation is exceeded only by the federal territories of Kuala Lumpur and Putrajaya, which both have a 100% level of urbanisation.

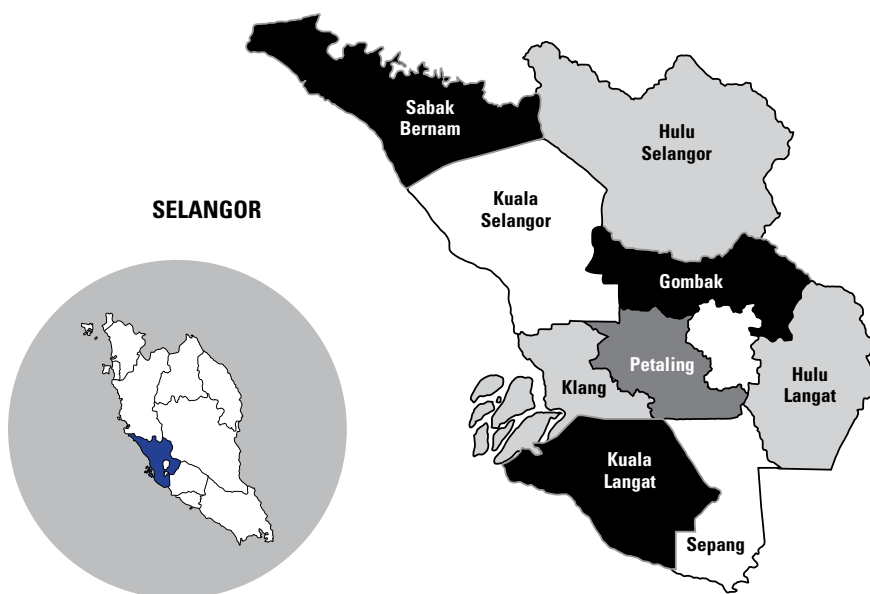
The average household size in Malaysia declined from 5.22 in 1980 to 4.31 in 2010 (Department of Statistics Malaysia 2011). Selangor is following this declining trend with an average household size of only 3.93 in 2010 (see Figure 3).

Selangor also has the second-highest average and third-highest median household income in Malaysia at RM5,962 and RM5,450 respectively.

HOUSING NEEDS IN SELANGOR

One of the three key social development objectives in the Selangor Structure Plan 2020 is to enhance the provision of adequate housing, meet the needs of all segments of the population, increase homeownership and prevent the growth of squatter populations. The other two objectives are to provide fair, adequate and balanced social and community facilities that use the latest technology, and to improve the quality of life and development in harmony with the environment. Indeed, meeting the need for quality and affordable housing is a challenge for the state government.

Figure 1: Districts in Selangor



Source: State Economic Planning Unit, Selangor.

Figure 2: Population of Selangor by district in 2010

Rank	District	Population
1	Petaling	1,782,375
2	Hulu Langat	1,141,880
3	Klang	848,149
4	Gombak	682,996
5	Kuala Langat	222,261
6	Sepang	212,050
7	Kuala Selangor	210,406
8	Hulu Selangor	205,049
9	Sabak Bernam	106,158

Source: State Economic Planning Unit, Selangor.

In 2010, Selangor’s projected housing needs were 1,224,968 units (see Figure 4). The districts of Petaling, Hulu Langat, Gombak and Klang, which form part of the Klang Valley, accounted for about 80% of the state’s total housing needs. At the end of that year, total housing stock in the state was 1,278,561, which would appear sufficient to meet housing needs. However, in a state where land is scarce and expensive, particularly in the Klang Valley, affordability issues pose a real challenge for the state government. The house price index jumped from 119.2 in the first quarter of 2009 to 171.4 in the first quarter of 2013 – an annual increase of 9.5%. In addition to affordability issues, population growth – either through net migration or natural increase – will have an impact on housing demand and exert even more pressure on the supply of affordable housing to the lowest 40% of households (by income) in the community.

Figure 3: Average household size by state (1980–2010)

State	Average household size			
	1980	1991	2000	2010
MALAYSIA	5.22	4.92	4.62	4.31
Sabah	5.37	5.15	5.16	5.88
Kelantan	4.83	5.10	5.03	4.86
Terengganu	4.89	5.30	5.06	4.78
FT Labuan	5.54	5.03	4.94	4.72
Pahang	5.08	4.96	4.52	4.59
Sarawak	5.45	4.98	4.76	4.47
Kedah	5.00	4.80	4.60	4.29
Perlis	4.52	4.60	4.42	4.26
Negeri Sembilan	5.24	4.80	4.47	4.20
Johor	5.50	4.89	4.51	4.17
Melaka	5.51	4.96	4.48	4.05
Perak	5.23	4.71	4.35	4.04
Penang	5.48	5.00	4.38	3.94
Selangor	5.33	4.93	4.59	3.93
FT Kuala Lumpur	4.87	4.69	4.24	3.72
FT Putrajaya	-	5.61	5.34	3.45

Source: Department of Statistics Malaysia.

Figure 4: Projected housing needs by district, Selangor (2005–2020)

District	Number of houses			
	2005	2010	2015	2020
Gombak	128,512	170,298	192,787	216,317
Klang	149,557	201,140	263,839	344,457
Kuala Langat	43,355	55,694	74,998	98,643
Kuala Selangor	38,576	56,027	81,080	105,809
Petaling	280,756	362,399	434,948	496,747
Sabak Bernam	24,843	32,266	41,300	53,600
Sepang	28,594	43,886	69,318	92,257
Hulu Langat	208,897	247,728	293,375	326,448
Hulu Selangor	36,548	55,530	68,033	79,952
Total	939,638	1,224,968	1,519,678	1,814,230

Source: State Economic Planning Unit, Selangor.

PUBLIC HOUSING POLICY

The state government has acknowledged the affordability problem and has identified affordable housing as a top priority. A range of housing policies has been designed and implemented to meet housing needs. The state, through various local authorities and state bodies, has actively designed and constructed a range of housing units, particularly to meet demand from the low-income group. The state has to a certain degree striven to meet housing demand from all levels of income. Figure 5 shows the number of housing units according to type and local-authority jurisdiction.

Supplying housing to the bottom 40% of households is undertaken by the state through its investment arm, the Selangor State Development Corporation (Perbadanan Kemajuan Negeri Selangor or PKNS). The state developer, which was incorporated in 1964, is known for providing housing – including in new townships – for the low-income group in Selangor since the 1970s. However, PKNS' latest policy developments have seen it shift from being a builder of low-cost housing to focusing more on affordable housing (Lam 2012). Nevertheless, low-cost housing continues to be provided by other state agencies under the Selangor Housing and Property Board (Lembaga Perumahan dan Hartanah Selangor or LPHS). The Board was set up in the early 2000s to ensure that every family in the state owned a home and to eradicate all squatter settlements by 2005. Modelled along the lines of Singapore's Housing and Development Board, the LPHS has been actively involved in constructing low-cost flats since its establishment. The Board also has the responsibility of allocating low-cost houses to eligible buyers. This system is centralised so it is more transparent and efficient.

Apart from low-cost housing provided by both PKNS and LPHS for homeownership, two other types of public housing have been made available to the market through the construction of the People's Housing Programme (Program Perumahan Rakyat or PPR) and Council Homes (CHs).

The PPR is a low-cost housing project built and fully funded by the Ministry of Urban Wellbeing, Housing and Local Government and the Housing for the Poor Foundation (Yayasan Perumahan Untuk Termiskin or YPUT) on state land. Their aims are to provide accommodation to those in the Klang Valley who cannot afford a home and to provide units as temporary transit residences for squatters before they are moved to their permanent homes.

In contrast, CHs are low-cost housing projects bought from private developers by local authorities to accommodate the need for rental homes in areas that do not have PPRs. The function of CHs is similar to a PPR, i.e. to provide housing for those who cannot afford low-cost housing. They also serve as temporary shelters for eligible candidates before they are transferred to permanent homes. The large-scale movement of squatters to permanent homes in the mid-2000s resulted in huge vacancies in the CHs. This led to the introduction of a new policy in June 2007, which stated that the renting of council homes would not be limited only to squatters, but could be extended to members of the public who fulfilled the requirements.

Compared to other types of public housing, the total number of CHs built in Selangor has been relatively small, accounting for only about 10% of all government housing projects. Only

Figure 5: Housing supply by local jurisdiction, Selangor (2007–September 2012)

Local authority	Type of public housing				Total
	Low-cost housing	Low-medium-cost housing	Medium-cost housing	High-cost housing	
Majlis Bandaraya Shah Alam	452	421	483	8,198	9,554
Majlis Bandaraya Petaling Jaya	1,172	0	0	40	1,212
Majlis Perbandaran Klang	1,164	2,396	362	7,310	11,232
Majlis Perbandaran Subang Jaya	1,436	0	937	3,816	6,189
Majlis Perbandaran Ampang Jaya	1,392	0	66	2,344	3,802
Majlis Perbandaran Selayang	839	938	642	4,683	7,102
Majlis Perbandaran Kajang	268	204	604	2,436	3,512
Majlis Perbandaran Sepang	880	0	484	9,013	10,377
Majlis Daerah Kuala Selangor	191	45	557	3,146	3,939
Majlis Daerah Kuala Langat	0	0	377	5,488	5,865
Majlis Daerah Hulu Selangor	0	0	0	54	54
Majlis Daerah Sabak Bernam	0	0	0	167	167
Total	7,794	4,004	4,512	46,695	63,005

Source: Selangor Housing and Property Board.

a few local authorities are involved in the implementation of the CHs: Majlis Perbandaran Subang Jaya (MPSJ), Majlis Perbandaran Ampang Jaya (MPAJ), Majlis Perbandaran Selayang (MPS), Majlis Perbandaran Kajang (MPKj) and Majlis Perbandaran Klang (MPK). Details of the number of units of CHs and PPRs are provided in Figure 6.

The low-income group is given special attention in the state government's housing policy to ensure that they have opportunities to enter into homeownership and become part of the homeownership democracy. The 10 key policies and requirements that shape low-cost housing in the state are:

1. To ensure an ideal house for each family.
2. Terms and conditions to purchase public housing: applicants must be Malaysian citizens who live in Selangor. Each family is restricted to one application. The applicant (husband and wife) must not already own a house purchased either from the Government or from private projects. The applicants' joint monthly household income must not exceed RM2,500.
3. Terms for low-cost housing provision for the local authorities, state investment companies and private developers: 100% of public housing is provided for squatters to meet the policy to eradicate squatter settlements in the state. Local authorities are given the responsibility to handle units that are vacant and unoccupied. The State Secretary will decide on the 50% of public housing constructed in areas that do not face squatter problems while the remaining 50% can be made available to the market.
4. Applicants for public housing must register online using the state's central computerised system.

Figure 6: Number of units of CHs and PPR in Selangor

Type of house	No.	Name/ Location	No. of units	Local authority
COUNCIL HOMES	1	Taman Samudera, Selayang	71	MPS
	2	Apartment Seri Cempaka, Bangi	200	MPKj
	3	Bandar Kinrara, Puchong	238	MPSJ
	4	Pangsapuri Seri Kayan	50	
	5	Jalan Jelai, Klang	32	MPK
	6	Bukit Tinggi 1, Klang	98	
	7	Desa Lembah Permai, Ampang	30	
PROGRAM PERUMAHAN RAKYAT	8	PPR Tmn Putra Damai, Lembah Subang 1	3,004	MBPJ
	9	PPR Tmn Putra Damai, Lembah Subang 2	1,580	
	10	PPR Kota Damansara, Subang	1,152	
	11	PPR Kg Baru HICOM, Shah Alam	980	LPHS*
	12	PPR Tmn Tasik Serendah, Hulu Selangor	300	
		TOTAL UNITS	7,735	

*The responsible agency here is not a local authority but the Selangor Housing and Property Board or LPHS.

5. Selling prices for low-cost housing are controlled by the state. Ceiling prices vary according to the location of the housing units (see Figure 7).
6. Design specifications for low-cost housing are as outlined in Figure 8.
7. Developers are required to construct the low-cost units in their development projects before constructing other types of houses.
8. Developers are required to construct 20% low-cost housing in any development with a site area of 10 acres and above. The state has issued guidelines to all housing developments in Selangor to adhere to the requirements listed in Figure 9.
9. Developers are allowed to advertise their projects for marketing purposes.
10. The 2005 zero-squatter policy remains significant.

Figure 7: Controlled prices of low-cost housing

Area	Prices
Local authority	RM42,000
District council	RM35,000
Outside area of local authority or district council	RM30,000

Source: Selangor Housing and Property Board.

Figure 8: Design specifications for low-cost housing

Space	Specifications
Floor space	Minimum size of 60.5sq m
Bedroom	
i. Minimum no. of rooms	3
ii. Minimum size	
Bedroom 1	11.7sq m
Bedroom 2	9.9sq m
Bedroom 3	7.2sq m
Kitchen	Minimum of 4.5sq m
Living rooms and dining rooms	Provided either separately or attached with appropriate and sufficient size and according to internal layout
Bathrooms and toilets (separately)	Minimum of 1.8sq m (each)
Store and foyer	Sufficiently provided

Source: Selangor Housing and Property Board.

The state has also formulated additional policies for low-cost housebuyers so that any transfer of the property can only be done five years after the date of acquiring the property.

This is also subject to the approval of the State Authority. As of 2012, the state has received 53,632 applications to buy low-cost housing units provided in Selangor. About 80% of these applications were for units located within the Klang Valley. A relatively small percentage (0.05%) was rejected for not meeting the conditions outlined by the state (Alinah 2012).

Figure 9: Components of housing development for site areas exceeding 10 acres

Type of residential unit	Within Klang Valley	Outside Klang Valley
Low-cost house	20%	20%
Low-medium-cost house	20%	10%
Medium-cost house	10%	10%
Other type of house	50%	60%

Source: Selangor Housing and Property Board.

The state has aggressively provided low-cost housing units to those eligible throughout the nine districts. Data from the Selangor Housing and Property Board, which monitors the supply and demand of low-cost housing in Selangor, showed that a total of 125,783 units were planned for delivery from 2000 to May 2012. However, only 77% or 97,365 units have been successfully completed and provided to the market (see Figure 10).

Figure 10: Low-cost housing projects according to district (2000–31 May 2012)

District	Completed	Under construction	In planning	Abandoned	Total units
Petaling	34,453	4,242	1,540	885	41,120
Gombak	10,020	3,871	1,278	498	15,667
Klang	14,623	0	5,059	351	20,033
Hulu Langat	19,270	923	1,300	2,670	24,163
Sepang	5,996	0	280	400	6,676
Kuala Langat	5,783	0	176	0	5,959
Hulu Selangor	5,212	0	0	913	6,125
Kuala Selangor	1,933	3,423	357	230	5,943
Sabak Bernam	75	22	0	0	97
Total	97,365	12,481	9,990	5,947	125,783

Source: Selangor Housing and Property Board.

The eligibility criteria for those applying to rent public housing projects and council homes in Selangor are clearly outlined. Applicants must be Malaysian citizens aged 18 and above. They must have dependents and their monthly household incomes must not exceed RM2,000, although this ceiling on monthly household incomes has been reviewed by the state to reflect the economic situation (see Figure 11).

Applicants must also register with the Selangor Housing and Property Board or a related local planning authority. They (husband or wife) must live or work in Selangor and must not

own land or property in any district where public housing or council homes are constructed. Target groups are squatters (if there are new squatter settlements); single mothers with dependents; households categorised as hardcore poor; the disabled; applicants with many dependents; government pensioners (army, police and civil service); households affected by natural disasters and factory workers.

A monthly rent of RM250 is charged inclusive of maintenance fees. A reduction of RM124 is given to all applicants whose household income is RM1,500 or below, regardless of the number of household members. Tenants with monthly household incomes exceeding RM1,500 per month are considered for rent reduction based upon the number of children in the household (see Figure 11).

Figure 11: Rent reduction based on number of children

Income (RM)	Number of children
1,500–2,100	4 to 7
2,101–2,550	8 to 10
2,551–3,300	11 to 15

Source: Selangor Housing and Property Board.

The other important policy pertaining to the renting of public housing is that public housing or council units cannot be used as workers' hostels. Tenants are not allowed to sub-let public housing or council units. They risk having the units withdrawn and the rental agreement cancelled if they are found to be in breach of this condition. The rental period for public housing or council homes is two years, which will be extended if tenants have a good payment record and are yet to own a permanent home. Additionally, they must not have criminal records.

PROBLEMS OF PUBLIC HOUSING

Selangor has actively designed and delivered public housing to meet the housing needs of the low-income group in the state. A wide range of policies has been formulated not only to help them enter into homeownership but, most importantly, to allow them to rent before they are able to become homeowners. Private developers have been enjoined to assist through various development policies. The outcome demonstrates that, to a certain degree, the state and developers have successfully met this challenge.

The key issue has always been providing more houses for the poor. Recently, however, the state has also taken into account the interests of middle-income families who are having difficulty entering into homeownership. The question is whether providing the opportunity for people from the low-income bracket to become homeowners is crucial. To this, then-Selangor Menteri Besar (Chief Minister) Datuk Seri Dr Mohd Khir Toyo expressed the state's concern about the thousands of unsold low-cost houses in Selangor, which suggested that there were indeed no takers for this type of house (Sarimah 2006).

Similarly, a study commissioned by the state in 2010 reported that a high percentage of council homes in a number of areas such as Taman Putra Damai, Lembah Subang 2, Hulu Selangor and Bangi were also vacant (IIUM 2010).

A number of contributing factors have been identified, including a lack of regular public transportation and infrastructure facilities. The provision and frequency of public transportation services (especially the buses) in the affected areas were unattractive, even though individual bus stops were well designed. The study further revealed that more than 50% of occupants of various council housing in Selangor commuted more than 10km to their workplaces. Other basic facilities and amenities such as schools and shops were located within 4km to 10km of public housing areas. This has discouraged those from the low-income group from residing in these poorly-chosen locations.

Furthermore, this type of housing development is perceived as suffering from more vandalism and other social problems than elsewhere. A lack of regular and planned maintenance of these buildings, coupled with security issues, has further aggravated the problem. A number of vacant units were misused by drug addicts while other units were reportedly being occupied by illegal immigrants. Most importantly, residents have yet to be inculcated with a sense of community in these public housing developments.

The current state government is acutely aware of these problems and hopes to address them by setting up a company to carry out maintenance services. The state housing, building management and squatters committee chairman Iskandar Abdul Samad announced that the company (most likely to be set up under PKNS) would handle all maintenance work at low-cost flats (Choong 2010). In 2011, the state provided RM2 million to help repair broken lifts, leaking roofs and other basic facilities in these flats. About 18 joint management bodies (JMBs), earmarked for the task under the state's Restoration Assistance Scheme, received this assistance. Under this special scheme, the Government pays 80% of the cost of repairs and the residents only need to pay the remaining 20%. The state does not provide 100% financial assistance so that residents can be jointly responsible for their homes. The JMBs are allowed to pay the 20% by instalment and must ensure that each resident does not pay more than RM50 per month for this purpose.

Rental arrears due to the state government further aggravate the problems. To address the huge financial burden placed on the respective local authorities in charge of public housing, the state government has introduced a unique scheme in which all occupants of PPRs in Selangor can undertake community service to settle their arrears (Henry 2010). The initial stages of the scheme, which was implemented in 2010, commenced with a target group limited to single mothers, the disabled and those earning less than RM720 per month (including recipients of *zakat* and social welfare aid). The community work included managing the resource and complaint centre at the PPR, participating in neighbourhood watch programmes, managing academic or vocational lessons for residents and keeping watch over public property. To a certain degree, this was also targeted to reduce vandalism and social problems faced by these communities.

PROSPECTS FOR PUBLIC HOUSING IN SELANGOR

Despite all the problems encountered by the state government, providing public housing to the bottom 40% of households (by income) in the state remains important. This form of housing is required, particularly when taking into account the housing affordability problems currently faced by the majority of the population, including middle-income households. The state government should perhaps consider continuing to provide the opportunity to rent for a certain number of years prior to purchasing, which will allow households to move gradually into homeownership. A special formula should be devised according to household income to determine the number of years that tenants are eligible to rent. The Government should also update the criteria for household income and number of family members on an annual basis to ensure that only genuine, low-income households are given this opportunity. The move to sell low-cost public housing, which is perceived as a short-term measure to ease the state government's financial burden, should at least be considered. Before this can be undertaken, however, the state must ensure that all problems are well addressed. It is pertinent to plan and develop housing in line with the provision of infrastructure and amenities. Special attention should be given to the needs of the ageing population who choose to live independently but close to their siblings and relatives. Proximity to healthcare facilities and other community areas must be seriously considered during the planning stage of public housing units. The state government must also not neglect the needs of the disabled and single mothers, and should consider providing amenities such as nurseries and other childcare facilities, as well as nursing care, close to public housing units.

The maintenance and management of public housing is another critical issue that has resulted in incidents of vandalism and social problems. The state has pledged a number of measures to overcome this problem as explained above. These efforts are also seen as an indirect way of inculcating a sense of belonging among public housing residents, which can in turn help to curb vandalism in low-cost apartments.

To bolster the quality of life in public housing, the state has also introduced the State Apartment Neighbourhood Safety Scheme (Skim Keselamatan Kejiranan Pangsapuri Negara or Seroja). The scheme is expected to be implemented in 2014 in five selected areas containing about 30 low-cost apartments. Each apartment area that participates in the scheme will receive a maximum grant of RM10,000 to be given to the JMB or the management corporation for safety and training programmes.

CONCLUSION

The Selangor state government has long acknowledged the need for public housing in the state to meet the demand of low-income households from both the renting and homeownership sectors. The state has aggressively provided the units through its own state investment agency PKNS for more than five decades. This effort is currently pursued by another agency, LPHS, while all local authorities have been given the responsibility to provide for and maintain these housing units with budgets allocated by the state government.

The growth of public housing must be integrated with surrounding developments to increase the quality of life for all residents. This will then enable households to feel a stronger sense of community, which is an important ingredient in maintaining successful public housing projects.

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INTRODUCTION

Meeting housing needs is a major national social objective, particularly in a less-developed state such as Sabah. This objective is to ensure that all people in the state, particularly the lower-income group regardless of ethnicity, can afford to have a suitable place to live in. Major land schemes and the systematic implementation of public housing in the state are emphasised to improve living conditions of the population not only in rural but also in urban areas. The Government's emphasis is on housing for the low-income group and the thrust of public housing programmes is to bring housing within the means of the poor. The state government understands that the lack of affordable housing can lead to negative effects on the population and the community's overall wellbeing.

PUBLIC HOUSING IN SABAH

In Sabah, the state Ministry of Local Government and Housing through Sabah's Housing and Town Development Authority (Lembaga Pembangunan Perumahan dan Bandar or LPPB) has been entrusted with developing and monitoring low-cost housing projects for low-income families. From the 1970s to the 1990s, most low-cost houses in Sabah were built using funds from the federal Ministry of Housing and Local Government (now the Ministry of Urban Wellbeing, Housing and Local Government). These funds were channelled to LPPB, which was given the task of building low-cost houses targeted by the state government. Today, this task is divided and shared between the federal and state governments. The federal Government has also entrusted other agencies to build low-cost houses in Sabah through the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) and the national housing corporation Syarikat Perumahan Negara Berhad (SPNB). There are numerous projects for public housing implemented in Sabah by the federal Government. These include: PR1MA, People-Friendly Homes (Rumah Mesra Rakyat or RMR), the Public

Low-Cost Housing Programme (Program Perumahan Awam Kos Rendah) and the Affordable Housing (Rumah Mampu Milik or RMM) programme. There is no conflict or overlapping of responsibilities between state and federal bodies. The existence of federal agencies is viewed as a complement to the state, especially in view of the inability of local authorities such as LPPB to meet all the low-cost and affordable housing needs of the people of Sabah.

Figure 1 shows the number of public housing units built from 1996 to March 2013 by both federal and state government developers.

Figure 1: Public housing units built (1996–March 2013)

Ministry/Agency/ Authority	Federal or state government	Public housing projects	Number of houses built (1996–March 2013)
Ministry of Finance	Federal	PR1MA/RMR/PPR	10,000–23,000 units
Ministry of Housing and Local Government	Federal	RMR/PPR	
LPPB	State	Public low-cost/ affordable housing	11,000–12,000 units

Source: Lembaga Pembangunan Perumahan dan Bandar; Ministry of Urban Wellbeing, Housing and Local Government.

Since its establishment, LPPB has always obtained support from the state government in the form of funds and subsidies to implement the public housing programme. However, federal funding and subsidy support to the state government were terminated in 2007. Thus, if there is a shortage of funds for building public housing, LPPB must now be supported by state agencies such as the Sabah Economic Development Corporation, through its subsidiary Sabah Urban Development Corporation, in joint-venture projects. This is necessary to ensure that LPPB is able to build and sell houses at prices set by the Government, which are usually lower than market prices. LPPB has successfully built low-cost houses in line with the Malaysia Plan periods (see Figure 2).

It can be observed from Figure 2 that the number of houses built by LPPB is on a declining trend, although it should have increased due to the increasing population. In Kota Kinabalu, the number of low-cost houses built fell drastically from 2,388 units during the Seventh Malaysia Plan period to only 72 units during the Eighth Malaysia Plan period, while no low-cost houses were built in the Ninth Malaysia Plan period. Other towns also experienced a similar decline. However, although the number of houses built by LPPB is declining, this is compensated for by more houses being built by federal agencies such as SPNB through funding from the Ministry of Finance.

Various factors have led to the decline. One is the lack of private-sector participation in the development of low-cost housing, especially in the urban areas, due to the lower profit margin. This is exacerbated by the rise in the cost of building materials over the past 10

Figure 2: Low-cost houses built during the Malaysia Plans

Malaysia Plan	Period	Total units	Town	Units by town
Seventh	1996–2000	5,377	Beaufort	311
			Inanam	500
			Keningau	84
			Kota Kinabalu	2,388
			Kudat	220
			Lahad Datu	207
			Papar	307
			Sandakan	624
			Tambunan	179
			Tawau	307
			Tenom	250
Eighth	2001–2005	6,848	Beaufort	229
			Inanam	300
			Keningau	308
			Kota Kinabalu	72
			Kudat	201
			Lahad Datu	699
			Menggatal	920
			Papar	1,411
			Putatan	300
			Sandakan	578
			Tawau	830
			Telipok	1,000
			Ninth	2006–2010
Kota Marudu	128			
Kunak	180			
Papar	77			
Sandakan	539			
Tawau	356			
Tenom	304			
Tenth	2011–2015	*1,455		

* Estimated target

Source: Lembaga Pembangunan Perumahan dan Bandar.

years. Another factor is the shortage of suitable land for low-cost housing in urban areas where more private land has been developed for medium- and high-cost houses.

The development of housing for the high-income group in Sabah will continue to be met by private developers while the state government will focus on the development of housing for the middle- and low-income groups. However, the state government will continue to monitor the development of housing for the high-income group to ensure that the private sector undertakes planned and orderly development of housing in the state.

I. Public housing policy in Sabah

Housing policy in Sabah is in line with the federal Government agenda, which is to provide adequate shelter for all. This means ensuring that all citizens, particularly the low-income group, have access to adequate and decent shelter. From the 1980s to the present, houses have been sold on a hire-purchase basis with repayments over a period of 25 years (it was 20 years in the 1970s). The first two years of occupancy are available only for rent and tenancies may be extended on a case-by-case basis up to a maximum of five years. If the occupants are found to be good tenants, the monthly rent already collected may be used as payment towards the purchase of the house while outstanding monthly repayments will proceed in the following year. (It should be noted, however, that some low-cost public housing units are available only as transit housing and are not available for ownership.)

The state government through LPPB has extended the development of public housing to the rural and interior parts of Sabah. For example, more than 400 units of houses were built in Tenom in three phases. Besides Tenom, there have been 100 units of low-cost houses built in Kemabong, 128 units in Kota Marudu and 50 units in Matunggong.

II. Eligibility criteria

In the 1970s and 1980s, at least 60% of the total number of houses in any public housing scheme would be offered initially to Bumiputera and 40% to non-Bumiputera buyers. If Bumiputera purchasers could not make up the 60% (or non-Bumiputera 40%), the remainder of the houses would be open for sale to either party. In 2000 this division was amended to 70% Bumiputera and 30% non-Bumiputera due to the increasing need for low-cost housing among the Bumiputera population. This division can also be changed depending on the Bumiputera and non-Bumiputera population composition in a given area. Also, if houses are built on Native Customary Rights land, only natives are eligible to apply (LPPB 1988).

Applications are otherwise open to all Malaysian citizens (or those who have been granted permanent residence) who belong to the low-income group and who do not already own houses or housing lots. LPPB's housing eligibility criteria and development policy are consonant with federal government policy. Over the years, these criteria have changed based on the needs of the state. Some new criteria have also been added. To qualify for low-cost houses in the 1980s and 1990s, total family income had to exceed RM750 but be less than RM1,000. In 2000, this was amended to a minimum of RM750 and a maximum of RM2,500. Also, applications are done through an open registration system. The advantage of this system is that it is fair to everyone in Sabah, and it goes in tandem with the low-cost housing policy to ensure that every citizen who is eligible has the opportunity to apply.

Application is open throughout the year and the system ensures only qualified applicants are allowed to apply for low-cost housing once in their lifetime. All applicants are processed and automatically filtered to remove ineligible persons and avoid multiple applications, including applications simultaneously submitted by both husband and wife.

The eligibility criteria for public housing programmes under federal programmes and agencies such as PR1MA and SPNB are similar to those of other states. For example, to qualify for a PR1MA house, applicants must be Malaysian citizens above the age of 21 with a gross combined income (husband and wife) not exceeding RM7,500 per month. These programmes are open mainly to those who are yet to own a house. For the RMR programme, applicants must be Malaysian citizens aged 18 to 65 with a gross household income not exceeding a stipulated limit – initially set at RM1,500 per month, then raised to RM3,000 per month. In addition, applicants must be married or single parents with dependents. They have yet to own their own houses, or they live in old houses that need renovation. These eligibility criteria also apply to the federal Public Low-Cost Housing Programme (PLCHP), first introduced in 1986, for which applicants are eligible if they own old houses that can be renovated.

III. Pricing

Figure 3 shows the prices of different types of low-cost and affordable houses in Peninsular Malaysia, Sabah and Sarawak. The prices for the same types of houses in Sabah and Sarawak are higher by 20% to 30% compared to Peninsular Malaysia. This is attributed mainly to the high cost of transportation and building materials in Sabah and Sarawak.

Figure 3: Prices of low- and medium-cost houses

Type of housing	Floor measurements	Price (Peninsular Malaysia)	Price (Sabah and Sarawak)
Low-cost	700sq ft	From RM35,000	From RM50,000
Low-medium-cost	750sq ft	From RM50,000	From RM70,000
Medium-cost	800sq ft and above	From RM80,000	From RM100,000

Source: Syarikat Perumahan Negara Berhad.

The prices of low-cost houses are usually determined by the Government and are usually set lower than the market price. Low-medium-cost houses in Sabah range from RM70,000 upwards and the demand for these houses is high. The estimated demand for low-cost and affordable houses is generally determined by LPPB based on registered applications. Until 2013, the demand for low-cost houses based on LPPB registration over the past 10 years was approximately 40,000 units in total. However, this number will keep increasing as more young married people enter the job market. The state government has so far been unable to meet the high demand for this kind of affordable housing.

PROBLEMS

The aim of Sabah's local authorities in developing public housing is to provide enough affordable housing of an acceptable standard to enhance the quality of life of the people. Even with various efforts taken by the authorities, there are still problems and challenges that must be overcome. Some of the problems are:

I. High cost of construction and shortage of suitable land

High construction and transportation costs generally put a great deal of pressure on and limit the ability of LPPB to build more low-cost houses in the state, particularly in the rural and interior parts of Sabah. This problem is intensified by the lack of federal funding for housing projects provided directly to the state Ministry of Local Government and Housing. The state government also faces a shortage of suitable land for low-cost housing development, especially in the major cities and towns. Thus, it can be seen that the development trend of low-cost housing built specifically by LPPB is on a downward trajectory. Most private land in the urban areas is developed for medium-cost and high-cost houses, which bring more profits to the owners. Since private land in the urban areas is no longer available for low-cost housing, the solution for the state government is to recommend that the federal Government open up more suitable undeveloped urban land (belonging to federal agencies) for the construction of low-cost housing for the urban poor. Fortunately for the people of Sabah, the Ministry of Finance through SPNB is also involved in the development of low-cost and low-medium-cost housing in the state.

II. The high price of private-sector housing

The prices of medium- and high-cost houses are determined by the Technical and Finance Committees of LPPB in conjunction with private developers. Prices are generally high due not only to big demand but also the high cost of materials for housing construction in the state. The cost of building materials such as cement, bricks and iron has increased significantly over the past 10 years.

Prices of medium-cost single-storey link-houses in new projects in most urban areas in Sabah were about 20% higher in 2012 compared to 2011. As a result, houses built by private developers are beyond the reach of the middle- and low-income population. Due to low profit margins, private developers are not keen to develop low-cost houses unless they are subsidised substantially by the state government – and even when subsidies exist, some developers compromise on quality in order to maintain or increase their profits. Thus, the solution for most of the population is the provision of affordable houses – that is, low- and medium-cost houses developed by government agencies. This is a major source of pressure for these agencies.

III. Weaknesses in delivery, monitoring and social amenities

Weaknesses in delivery and monitoring generally exist only for LPPB joint-venture projects with other local agencies or private developers. Social amenities such as transportation and public safety facilities are sometimes inadequate, particularly in houses developed in the rural areas by private developers. These weaknesses can lead to houses being abandoned.

IV. Population

The population of a state can be a good indicator of housing needs. Based on the 2010 Population and Housing Census of Malaysia, Sabah (with 3.2 million people) ranks third after Selangor (5.5 million) and Johor (3.4 million) (Department of Statistics Malaysia 2010). The state with the highest growth rate for the period of 2000-2010 was the Federal Territory of Putrajaya (17.8%), followed by Selangor (2.7%), Melaka (2.6%) and Sabah (2.1%). The population of Sabah was only 1.7 million in 1990 and 2.5 million in 2000. Between the 1990 census and the 2000 census, the population increased more than 40%. Between 2000 and 2010, it increased approximately 30%. The growing population inevitably contributes to an increase in social problems and inadequate housing.

The population of Sabah aged between 20 and 39 was approximately 0.85 million in 2000 or 34% of the total population. The figure for 2010 was 1.15 million (36%). This cohort includes young working adults who are expected to be looking for affordable houses to live in with their families. More houses must be built to cater to this cohort.

In 2010, out of 3.21 million people living in Sabah, approximately 0.88 million or 27.7% were non-Malaysian citizens. In 1990 non-Malaysian citizens in Sabah numbered 0.61 million or 23%. Most of them lived in Kota Kinabalu, Tawau, Sandakan, Lahad Datu and several other areas in the urban districts.

The main problem confronting urban areas in Sabah is overcrowding, which is the result of the natural increase in the urban population, and the migration of the rural population as well as immigrants and non-immigrants into the urban areas. The immigrants in Sabah are those who live in the state permanently and who mostly hold red identity cards and work permits; non-immigrants are those who enter Sabah on a temporary basis, for example tourists, business people and temporary foreign workers. All major urban areas in Sabah are experiencing rapid growth in population. This situation has led to the emergence of squatter areas in urban vicinities such as Kota Kinabalu, Tawau, Sandakan, Lahad Datu and other districts (Dullah and Mori 2008).

V. Non-citizens and squatter settlements

Resettlement of squatters is strictly meant for Malaysian citizens, and the removal of squatters for the purpose of resettlement usually involves many local authorities such as the police and the Immigration Department. Non-citizens, without proper documentation, usually move away from the squatter areas of their own accord but will eventually form new squatter settlements. There are also new squatter houses built by locals to be rented out. Hence, efforts to eliminate squatter settlements have not been entirely effective.

PROSPECTS FOR SABAH

Over the past 50 years, Sabah has experienced considerable progress in public housing development. LPPB has played a significant role in carrying out the Government's public housing agenda, especially in catering to the needs of the low-income population. The existence of federal agencies in the state such as SPNB and PR1MA is expected to further boost the development of low- and low-medium-cost housing projects in Sabah. Yet the unprecedented population growth and the rapid urbanisation and industrialisation of

several towns in several districts have resulted in an unmatched demand for public housing in Sabah and generally high housing prices in the state.

Thus, the greatest challenge faced by public housing developers in the immediate future in Sabah, particularly those engaged in low-cost developments, is to meet the increasing demand and to deliver the target of low-cost housing set by the state government.

In order to meet these objectives, there is an urgent need for the Government to provide continuous assistance in terms of sufficient funding to make the homeownership dreams of every low-income family in Sabah a reality.

It is also necessary to ensure that housing developers, particularly private developers, do not lose sight of their socioeconomic duty to provide affordable housing for the low-income group. Both the public and the private sectors should intensify their efforts to implement housing programmes to meet increasing demand in the state.

It should be noted that the federal and state governments are already taking steps to address these issues. One example is the policy announced by the Sabah Ministry of Local Government and Housing in 2012, which required private developers to ensure that, beginning January 2013, 30% of all housing units would be affordable houses. However, more must be done.

The state and federal governments also need to beef up their monitoring of mortgage lending practices and improve tax and regulatory measures affecting building materials and professional practices (e.g. real estate transactions) as these affect the cost of construction and ultimately the price of finished houses.

The Government must also obtain comprehensive statistics describing the population of Sabah, particularly the growing urban population, young working adults, non-Malaysian citizens, single parents and people with disabilities. The demand for housing is expected to increase as more young working adults enter the job market. The current mismatch between the supply and demand of affordable housing in the state is due to the lack of data on the income levels of the population. Hence, it is difficult for authorities to determine in detail the exact demand for the different types of housing. The continuing movement of rural communities to urban areas in search of better employment and a better quality of life poses another important challenge to policymakers. More houses must be built to cater to the needs of this population, lest they end up in squatter settlements.

From the policymaker's perspective, there are some weaknesses in ensuring the implementation and compliance of the service-delivery system in housing. There are also shortcomings in controls, monitoring and enforcement as well as inadequate social amenities and facilities, and a lack of employment opportunities in the vicinity of built environments. This is particularly true for joint-venture projects with the private developers. To this end, the federal Ministry of Urban Wellbeing, Housing and Local Government's distribution of annual grants totalling RM67.5 million to 20 local municipal authorities in Sabah for housing development in 2013 is very much welcomed. This grant will be used to upgrade local municipal facilities and utilities in public housing areas such as lighting, drainage and infrastructure, as well as to help local authorities cover day-to-day operational and maintenance costs.

There are also issues relating to the large number of illegal immigrants living in squatter settlements, and there is currently no specific policy on the total elimination of squatters in Sabah. The Government should continue to search for better ways to solve the problem of illegal squatters in the state.

CONCLUSION

The state government must ensure that the need for affordable housing is addressed through public policy instruments focused on the demand side of the market, where households are assisted in various ways such as through the provision of more employment opportunities in the areas where houses are built. Without good employment opportunities and higher household incomes, housing will not be affordable. Depending on the economic condition of the state, this may be achieved through public investment in building more public amenities such as schools, health facilities and commercial centres in selected areas. With these economic activities, more jobs will be created, thus increasing the ability of households to purchase medium- and high-cost houses in the future, in turn reducing the pressure on the Government to build more low-cost public housing.

On the other side of the coin, many issues and hurdles have been resolved by the Government. For example, eligibility criteria are reviewed regularly in accordance with the needs of the population of the state. The Government has also increased the purchasing power of individual households through various tax incentives and other fiscal policies, and by reducing the cost of mortgages and other forms of borrowing. For the most vulnerable groups, such as senior citizens, single-parent families and the disabled, both federal and state governments have provided publicly-funded allowances or incomes, which authorities hope will be sufficient to enable these population groups to afford to buy their own homes.

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INTRODUCTION

The lack of affordable housing is a perennial problem in most countries, and Sarawak is not immune. Rapid population increase and mass migration from rural to urban centres have made it nearly impossible for the authorities to cope with demand. The Government's recent move to recategorise urban low-income households¹ (Barisan Nasional 2013) has also immediately increased the number of poor households eligible to apply for public housing. The problem is acute in urban areas as shelter provision is governed by planning and building regulations which indirectly inhibit the supply of affordable housing. The many players in the industry, plus the lack of a fixed and formally documented policy on housing,² have also created a supply situation which is difficult to coordinate, as well as a demand environment of bewildered buyers. In the face of such daunting challenges, it is perhaps not surprising that the performance of the state's public housing sector over the past 10 to 15 years has been dismal. On the positive side, recent initiatives by the state Ministry of Housing and other industry players suggest that the sector may soon experience a marked improvement.

POPULATION GROWTH IN SARAWAK

The rapid increase in population in general, and in the urban population in particular, together with the lethargic growth in the supply of affordable housing, have combined to intensify the housing problem. In 2000, Sarawak had a total population of 2.01 million (48% urban), which jumped to 2.4 million (53.3% urban) a decade later (see Figure 1). In terms of the number of households, there were 422,000 (47.5% urban) in 2000 compared to 539,500 (51.2% urban) in 2010. The population increased at an average annual growth rate of 1.79%, while the urban population increased by 2.87%.

Figure 1: Distribution of dwellings, households and population by strata (2000–2010)

Strata	Urban			Rural			Total		
	2000	2010	Annual growth (%)	2000	2010	Annual growth (%)	2000	2010	Annual growth (%)
Number of dwellings ('000)	219.8	317.7	3.75	256.6	282.6	0.97	476.4	600.3	2.34
Number of households ('000)	200.5	276.3	3.26	221.4	263.3	1.75	421.9	539.6	2.49
Population ('000)	965	1,280	2.87	1,050	1,120	0.65	2,015	2,400	1.79

Source: Adapted from the Department of Statistics Malaysia.

A deeper look at the latest statistics reveals the magnitude of the problem. In 2010, for instance, Sarawak had a total population of 2,399,839, made up of 539,473 households. In the same year, it was documented that there were 600,300 dwellings in the state, giving a rosy picture of an excess of 54,999 dwellings (Department of Statistics Malaysia 2011). However, 6,558 units of these dwellings were improvised/temporary huts, rooms and "others", another 3,737 units were categorised as collective living quarters (hotels, rest houses, etc.) and 74 units were not intended for living at all. In summary, there were 10,369 units which were not meant for human habitation, reducing the net excess to 44,630 units. Again, out of the total living quarters, 15,357 units were shophouses, which meant that most of these were either empty or used as rented rooms generally for single individuals in need of cheap accommodation in town areas. In the urban centres, it is also common to find poor households living in these cramped rooms due to their inability to access affordable housing.

THE SUPPLY SIDE OF THE MARKET

From 2000 to 2010, urban households increased by 3.26% annually against a 3.75% increase in urban dwellings. Rural households jumped 1.75%, but the number of dwellings increased by only 0.97%. If we factor in the high probability of mismatched supply and demand by geographical region as well as by type of houses supplied against households' ability to purchase, we can conclude that there was a large number of households that were in need of affordable houses in the state, particularly in urban areas. Compare this need with the performance of the Sarawak Housing Development Corporation (HDC) and the Ministry of Housing and Local Government (MHLG) in Figure 2 below, which shows the number of affordable houses planned and completed under the Eighth and Ninth Malaysia Plan periods from the year 2000.

Of course, these figures do not include public projects handled by other agencies such as the Ministry of Rural Development and the Ministry of Agriculture and Agro-Based Industry. Nevertheless, the projects these agencies were involved in were so small in size that they scarcely made a dent in the total number of affordable houses needed.

Figure 2: Affordable housing planned and delivered by HDC and MHLG (2000–2010)

	Eighth Malaysia Plan (2000–2005)	Ninth Malaysia Plan (2006–2010)
Target	14,514 units	21,378 units
Delivered	7,312 units	1,191 units

Figures refer to units financed by MHLG and constructed by HDC.

Source: Housing Development Corporation.

HDC provides or manages four categories of houses. First, there is the Affordable Housing programme (Rumah Mampu Milik or RMM) which comes in two types: low-cost housing which cost RM40,000-RM47,000 and low-cost-plus housing, also known as medium-cost housing, which cost RM80,000-RM100,000.³ Second, there is the People’s Housing Programme (Program Perumahan Rakyat or PPR), under which units are built by the National Housing Department (Jabatan Perumahan Negara or JPN) but managed by HDC and which are generally meant as rental housing for squatters.⁴ People-Friendly Homes (Rumah Mesra Rakyat or RMR) costing RM57,000-RM65,000 are the third group and are meant to assist poor villagers who possess land but not the ability to construct their own houses. These houses are built mainly by Malaysia’s national housing corporation (Syarikat Perumahan Negara Berhad or SPNB) but managed by HDC. The final category is the long house programme (Program Pinjaman Rumah Panjang or PPRP) which takes the form of RM10,000 loans for long house inhabitants to renovate their units. The funding for these loans comes from the federal Government but is also administered by HDC.

The RMM homes built by HDC are very popular with the public but have always posed a challenge as the controlled prices and the huge subsidies involved make the delivery of such houses unsustainable. Sources in HDC have said that in 2009 it cost HDC RM125,000 to construct a low-cost-plus unit; this cost jumped to RM180,000 in 2013. Many of these houses are also built by the private sector,⁵ but even here the state has problems due to the failure of a key ministry to change the specifications for low-cost housing after the decision was made in the Eighth Malaysia Plan to switch from two-bedroom to three-bedroom dwellings, resulting in a substantial increase in floor space from 450sq ft to 650sq ft (see Figure 5).⁶ To the chagrin of some officers in HDC, SPNB is also now directly involved in the construction of RMM houses in the state, thus loosening HDC’s grip and indirectly weakening its position as the sole public agency supplying RMM housing.

A good example of the confusion that this has caused is the low-cost housing and low-cost-plus housing constructed by Kuching City Mall (a private housing developer) in the Batu Kawa area. In this project, the low-cost-plus houses were sold by the developer at over RM200,000 per unit although the price fixed by the MHLG was RM80,000-RM100,000 per unit. The low-cost houses which should have been sold at RM40,000–RM47,000 per unit were instead sold at over RM100,000 per unit. While the majority of the public seemed unaware that private developers were supposed to build affordable housing as well, those who had been allocated these “low-cost houses” after being selected by HDC seemed resigned when told that prices were higher than what they were supposed to be.

AFFORDABILITY LEVELS AND FINANCE WINDOWS

It is not sufficient to talk about matching the number of households in need of public housing and the number of public houses being provided. What must also be considered is the target group's ability to afford such housing and their access to financing. Before 2000, applicants could secure affordable houses by going straight to HDC, which would provide them with loans. Thereafter HDC ceased to play that role, leaving applicants to depend on commercial banks, especially Bank Simpanan Nasional and Bank Islam, for financing. This left many self-employed individuals and those without monthly pay slips in a quandary as conventional banking rules demand proof of regular income to enable banks to assess creditworthiness. Fortunately, the present stewards of the state Ministry of Housing were quick to address the issue, and after a number of meetings with the banking sector, conventional banks agreed to relax the rules and enable these applicants to secure the necessary financing.

Aside from this positive development, the fact remains that the price of these affordable houses, although controlled by the MHLG, are still far beyond the means of many.

In 2012, 2.4% or roughly 13,000 households in Sarawak lived below the poverty level (see Figure 3). Adding this figure to the number of squatters in the state (8,436 squatter households in 2012; see Figure 4) would reveal how many more new affordable housing units need to be built. Meanwhile, we already know that for the Eighth and Ninth Malaysia Plans (which spanned a 10-year period), only 35,892 affordable housing units were planned, out of which only 8,503 units were successfully delivered (see Figure 2).

Figure 3: Average monthly household income and poverty level

	Average monthly household income (RM)								Poverty level (%)	
	1976	1985	1990	1995	1999	2004	2009	2012	2009	2012
Sarawak	426	1,033	1,199	1,923	2,276	2,725	3,581	4,293*	5.3	2.4**
Malaysia	505	1,098	1,254	2,007	2,472	3,249	4,025	5,000	3.8	1.7

* By state, Sarawak is ranked ninth in terms of average monthly income.

** In terms of the number of poor households, Sarawak ranks third.

Source: Adapted from Abdul Majid *et al.*, 1990; *Ninth Malaysia Plan 2006–2010*; Department of Statistics Malaysia.

The state has taken cognisance of this issue and has reviewed the eligibility criteria a few times over the years to reflect the changing needs of poor households. The most recent review occurred early in 2013 when the State Minister for Housing announced that the maximum amount for an applicant's income in order to qualify for an RMM unit built by the private sector (for projects exceeding 10 acres) had been increased to RM3,000 per month, and that the applicant need not be married nor be the head of a household. This, according to a senior officer in the Ministry, was made to standardise the criteria with that for an RMM built by HDC, which had been changed a year earlier, probably as a follow-up to the announcement made by the Federal Territories Minister in 2009 regarding the RM3,000 poverty line for the urban poor.⁷ While the move indicated flexibility on the part of

the Government, it also reflected the haphazard way such decisions were made in the sense that it was made incrementally instead of in tandem with the criteria change for the publicly-built RMM. With this move, this group of households can now apply for houses which were once off-limits to them; however, they must still satisfy other criteria such as loan-to-income ratios put in place by financial institutions.

SQUATTERS AND RESETTLEMENT SCHEMES

As shown in Figure 4, the number of squatters in the state has hovered around 9,000 households, with the highest number registered in 2002. Except for the 1999 figures which were collated by Universiti Sains Malaysia and the recent figures for 2012 published by the MHLG, all other figures refer to the number of squatters registered by the state Land and Survey Department. The registration process does not include households squatting on private land. Overcrowding is also a serious but hidden issue, especially in Malay *kampungs* where traditional Malay houses are often extended to add extra rooms, and temporary units are built between existing houses to accommodate married children.

Figure 4: Squatters in Sarawak

Year	No. of households
1999*	7,394
2000	9,637
2002	10,970
2005	9,710
2006	9,612
2007	9,325
2012**	8,436

* Universiti Sains Malaysia

** Ministry of Housing and Local Government (2012)

Source: Land and Survey Department Sarawak.

The Government's response to the squatter problem has been limited, to say the least. The first response was the Integrated People Housing Programme (Program Perumahan Rakyat Bersepadu or PPR Bersepadu) initiated by the National Economic Action Council (NEAC) in 1998. This project involved 256 units in Demak Laut which were completed in 2002. In those days, an applicant had to have a monthly income of RM350–RM850 to qualify; this was later revised to RM650–RM2,500 per month. The monthly rental, however, has not changed from the original RM124 fixed in 2002. Tenants are initially given a two-year contract and if their records are clean (no arrears in monthly payments and no complaints from neighbours concerning social behaviour) they are offered a tenancy extension to a maximum of five years. However, there have been cases where tenancies were extended by another final year, after which occupants had to move out. Apart from the units in Demak Laut, no other units were built in Sarawak under this programme.

The next wave of response was the Program Perumahan Rakyat Baru (PPR Baru) introduced in 2002, also by NEAC, for households with incomes of less than RM1,500 per month. These units were built by JPN with land provided by the state, while the federal Government paid for building and infrastructure costs. Two hundred of these three-bedroom units were built in Sri Wangi and another 816 units in Matang. Also in 2002, the federal Government introduced the Program Perumahan Rakyat Dimiliki (PPR Dimiliki), which replaced the earlier Perumahan Awam Kos Rendah (PAKR). This too was for households with monthly incomes of less than RM1,500. For this scheme, the federal Government was to have paid for the cost of construction plus 40% of the infrastructure and a full grant to the state for land as well as infrastructure. The houses were to be sold at RM25,000–RM32,000 per unit in Peninsular Malaysia, while in Sarawak they were to be sold at up to a maximum of RM38,400 (20% higher). However, to date no PPR Dimiliki has been implemented in Sarawak.

Prior to the PPR scheme, PAKR schemes were also handled by JPN but only insofar as it channelled federal funds to HDC, which then built the PAKR units. Since the establishment of SPNB and its involvement in the construction of RMM and RMR housing as well as the direct involvement of JPN in the construction of PPR housing in the state, HDC seems to have lost much of its direct and active role in the provision of low-cost housing in the state, particularly when it comes to utilising development funds from the federal Government. As of now, JPN would approach the state or a private landowner to undertake a joint-venture project, or acquire the land and develop it themselves. However, this is done through HDC since theoretically HDC is still the entity that delivers public housing in the state. This is also done for practical reasons as HDC will take over and manage these houses once they are completed. Land for the Sri Wangi development, for example, is state-owned, while the land for the Matang and Batu Gong projects both belong to private individuals. The planning and design of the houses, as well as the appointment of construction contractors, are all handled by JPN. Once the projects are completed, they are surrendered to HDC for management, administration and maintenance. The completion rate of these projects has been quite dismal. By December 2006, only four projects had been completed, comprising fewer than 2,000 units as compared to the number of squatter households for the same period which stood at 9,612. It took another six years before another 1,500 units were completed: 500 in the Seduan area of Sibü in late 2012 and 1,000 in the Kemena area of Bintulu in early 2013. The Sibü project is open to any applicant who meets the eligibility criteria, while the Bintulu project gives priority to squatter families, particularly those from the Kidurong area of Bintulu.

Another problem concerns the fact that HDC can only charge rent based on the rate fixed by JPN. In this case, it was RM124 a month, until JPN agreed to push it up to RM150 a month following a request to increase the amount since it was barely enough to cover the upkeep of the units. Successful applicants were those who applied directly for these houses as well as those who had been resettled from squatter areas and those whose names had been forwarded by the state Land and Survey Department to HDC for consideration. Some applicants did not meet the financial requirements stipulated. For those whose incomes fell below RM777 per month, most of their monthly rent (i.e. RM124) was paid for by their respective councils within which the projects were located (for example, affected tenants in the Sri Wangi rental housing would be assisted by the

Commission of the City of Kuching North or Dewan Bandaraya Kuching Utara while those in Matang rental housing would be assisted by the Padawan Municipal Council or Majlis Perbandaran Padawan) with funds from the Poverty Eradication Programme. In such cases, the Councils would normally pay HDC annually, while the tenants would continue on a monthly basis to pay HDC the balance of RM26.

IMPLEMENTING AGENCIES

The Sarawak Housing and Development Commission (SHDC), established in 1972, was the sole implementing agency tasked with the provision of public housing in the state until the end of 2000, after which the responsibility was shared with SPNB and JPN. Under this arrangement, the SHDC was to implement the RMM project comprising low- and medium-cost houses, while SPNB would provide RMM as well as RMR homes, and JPN would develop the PPR. SPNB and JPN were only tasked with the construction of these houses and once completed would hand them over to SHDC for management and maintenance. Possibly to reflect its new corporate role, the SHDC was corporatised in 2002 and renamed the Housing Development Corporation (HDC).

As mentioned at the outset, the many players in the public housing sector, especially the federal departments and agencies operating in the state, have also led to confusion among the people. They have turned instead to the state Ministry of Housing, particularly in matters of maintenance and after-sales service. For instance, the Ministry of Rural Development, through its eKasih programme, administers the Program Bantuan Rumah (PBR) which provides housing costing up to RM46,500 (two-bedroom) and RM50,000 (three-bedroom) free of charge to successful applicants.⁸ Some people have confused this programme with the Program Pinjaman Rumah Panjang (PPRP) provided by HDC, which is meant to assist households with incomes of less than RM350 per month and living in rural long houses of at least 10 units. The assistance provided takes the form of loans up to a maximum of RM10,000 per household (HDC 2013). This confusion has caused unhappiness among those involved. They question why certain applicants are given free housing, which costs more than the amount they are getting in the form of loans. As a consequence, some PPRP borrowers have refused to pay their loans due to what they perceive to be double standards.

AFFORDABLE HOUSING DEVELOPMENT GUIDELINES

The guidelines for developing affordable housing in the state differ considerably from those in force in Peninsular Malaysia. The Sarawak guidelines have been reviewed twice; the first revision was conducted in 1996 for the purpose of reducing the cost of construction as well as increasing building density. The guidelines were further amended during the Eighth Malaysia Plan to increase the floor area in order to accommodate an extra bedroom, such that affordable housing would include a three-bedroom unit. These changes are shown in Figure 5 below.

HDC is tasked with delivering these houses. Private developers, for their part, are required to allocate 30% of their units as affordable housing if their developments exceed 10 acres. However, of this 30%, private developers are given the flexibility to build either 10% low-cost units and 20% low-cost-plus units, or vice versa. Most developers understandably opt for the

former ratio, because the units have to be sold at prices capped by the MHLG plus 20% more (at the most) in order to take into consideration the higher cost of construction in the state. There are many cases where private developers have succeeded in circumventing the guidelines by splitting their projects into smaller sizes and submitting them for planning approval separately. In this manner, the developer is not obliged to construct low- and medium-cost housing, and can focus instead on high-cost housing which will bring in more profit. A senior officer at the State Planning Authority who was interviewed confirmed that there have indeed been cases where a number of planning applications were submitted by the same developer for adjacent projects.

Figure 5: Affordable housing guidelines

	Pre-1996	1996	Eighth Malaysia Plan
Density	12 units per acre	18–20 units per acre	14–16 units per acre
Dwelling size	Not specified	433sq ft	650sq ft
Parking facilities	One unit per dwelling	One per four units of dwelling	One unit per dwelling

Source: State Ministry of Housing.

CONCLUSION

The turn of the century saw a change in the type of public housing supplied in Sarawak, as well as an increase in the number of public housing providers in the state. The Sarawak Housing and Development Commission, long the backbone of the public housing sector in the state, was corporatised in 2002 and renamed the Housing Development Corporation with the hope of turning it into a leaner, more competitive and efficient public housing provider. The period also saw the entry of JPN and SPNB into the state; they were tasked with implementing the PPR Baru for rent to urban squatters and the provision of RMM and RMR housing respectively. The introduction of the eKasih programme by the Ministry of Rural Development has further diluted the control that the HDC once had over the public housing sector in the state. The Ministry of Agriculture and Agro-based Industry has also joined the fray by providing houses to poor fishermen and farmers.

While the increase in the number of public housing providers is a positive development, it also results in duplication of services to the same target groups and raises legitimate concerns relating to coordination, implementation and responsibilities. JPN for instance, has ruffled feathers in the state Ministry of Housing by behaving and operating the same way as they would in Peninsular Malaysia without considering the different social and legal environment that exists in Sarawak. For instance, in the Batu Gong Housing Project in Kuching, they have fallen foul of the local authorities due to their ignorance of local rules and procedures, while in the Kemena Housing Project in Bintulu they have created uneasiness by adopting a housing layout common to Peninsular Malaysia where the *surau* is the node of the development, even for a community with few or no Muslims.

Despite the problems that have arisen in the past, the current stewards of the state Ministry of Housing seem to be very proactive in engaging with the Sarawak Housing and Real Estate Developers' Association in trying to solve housing issues and make the housing market more

efficient. At the moment, the Ministry is also in the final lap of formulating a State Housing Policy, which after all these years will finally see a properly documented housing policy for the state being put in place. All in all, although the problems of public housing supply in the state may never be fully resolved, the prospects for an improvement in the housing situation are bright if the state Ministry continues to pursue its current initiatives and engage all industry players, thereby making the supply side of the housing market more elastic and responsive to demand.

Endnotes

¹ There has been no formal review of the 2009 Poverty Line Income (PLI) but in October 2009 the Federal Territories Minister was reported to have said that the Government had agreed to set RM3,000 per month as the poverty line for the urban poor. Recipients of the 1Malaysia People's Aid cash payment (Bantuan Rakyat 1Malaysia or BR1M) were largely households earning below RM3,000 per month, while the Barisan Nasional website describes BR1M as a one-off assistance to households with a monthly income of less than RM3,000 to help low-income earners face the rising cost of living. The current PLI for Peninsular Malaysia, Sarawak and Sabah are RM763, RM912 and RM1,048 respectively.

² In Sarawak, the state's housing policy is not documented, and there is no documented state-level equivalent of the National Housing Policy.

³ Currently, Malaysia's national housing corporation Syarikat Perumahan Negara Berhad (SPNB) is also tasked by MHLG to build RMM houses nationwide, including Sarawak.

⁴ These are known as PPR for rent (PPR Disewa). There is also another category of PPR which is for sale to tenants, i.e. PPR for sale (PPR Dimiliki). At the moment, however, only PPR Disewa has been built in Sarawak, totaling 3,372 units.

⁵ Private developers with housing projects exceeding 10 acres must ensure that 30% of their housing units are affordable housing in the form of low-cost houses and low-cost-plus houses.

⁶ After the decision was made to increase the floor space to 650sq ft (three bedrooms), the State Planning Authority failed to revise the 1994 Circular which stipulates that the minimum floor space for a low-cost house is 450sq ft (two bedrooms). The Circular is therefore still in force and developers do not consider their three-bedroom units to be low-cost houses.

⁷ See note 1.

⁸ <http://www.rurallink.gov.my/web/guest;jsessionid=E9F99C0C3F06F4E5899FA6DEC735CAF4>

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INTRODUCTION

Public housing in Malaysia is provided by several institutions at both federal and state levels. Syarikat Perumahan Negara Berhad (SPNB) is one of the frontline federal agencies involved in building public housing for the lower-income group. Established in 1997 as a subsidiary of the Ministry of Finance (MoF) Incorporated, it complements the roles of other agencies, in particular that of the National Housing Department (NHD) under the Ministry of Urban Wellbeing, Housing and Local Government. After 16 years in the housing industry, SPNB has 500 qualified staff comprising technical, financial and non-technical experts, and has extended its network to more than 42,000 registered contractors and supply-chain partners nationwide. It has six regional branches in Penang, Pahang, Johor, Kelantan, Sabah and Sarawak.

There are two types of public housing administered by SPNB, namely, the Rumah Mampu Milik (Affordable Housing) programme and the Rumah Mesra Rakyat (People-Friendly Homes, now known as Rumah Mesra Rakyat 1Malaysia) programme. A total of RM6.6 billion has been invested in these programmes over the years.

This chapter will highlight SPNB's involvement in developing public housing in Kelantan. It will describe the challenges that it faces in meeting housing needs in the state and will offer some insights into the steps that can be taken to improve the delivery of public housing in Kelantan.

PUBLIC HOUSING IN KELANTAN

Located on the East Coast of Peninsular Malaysia, Kelantan has a land area of 15,099sq km and is the sixth-largest state in Malaysia. According to the 2010 Population Census, the state's population in that year was 1.54 million, or 102 people per sq km. Most people in Kelantan live in rural areas as the state has the lowest urbanisation rate in the country at 42.4%. There are 10 *jajahan* – or districts – in Kelantan (see Figure 1).

With its largely rural population, Kelantan also has the lowest average income level in the country. According to the 2012 Household Income and Basic Amenities Survey, the mean household income in Kelantan is RM742 per month. Since close to two thirds of all households have a monthly income of RM3,000 and below, the importance of lifting the state's economy has been acknowledged, and housing has been identified as an important development tool for restructuring society and eradicating poverty.

At the federal Government level, SPNB and the NHD are the main players in the development of public housing in the state. As mentioned, SPNB delivers two different categories of public housing nationwide. With Rumah Mampu Milik, SPNB provides affordable yet good-quality homes, especially for the lower- and the middle-income groups. With Rumah Mesra Rakyat, SPNB constructs homes for those whose monthly household incomes are lower than RM3,000. For this group, the Government subsidises RM20,000 of the price of each home. The maximum prices for these SPNB houses are RM250,000 and RM65,000 respectively.

Under the Rumah Mampu Milik programme SPNB has already completed 16,002 units all over Malaysia. Another 5,185 are still under construction, which will bring the total to 21,187 units. As for Rumah Mesra Rakyat, 23,666 units have been completed nationwide as of 31 July 2013 and 4,813 units are under construction.

Figure 1: The 10 districts in Kelantan



Source: Kota Bharu District and Land Office.

A total of 36,611 applications for Rumah Mesra Rakyat were approved between 2002 and 2013, and another 10,000 units are expected to be built under the 2013 Budget. Kelantan has the second highest number of applications for Rumah Mesra Rakyat and is also the state with the largest number of completed homes under this programme. In Kelantan alone, SPNB has delivered 2,353 units of Rumah Mampu Milik and 3,588 units of Rumah Mesra Rakyat. Figure 2 shows the Rumah Mampu Milik projects that were developed by SPNB and the price ranges of the different types of houses. SPNB's house prices were based on its own research into acceptable prices for affordable housing in Kelantan, and these have been identified as being between RM120,000 and RM150,000.

Unlike SPNB, which has a large presence in Kelantan, the NHD is only beginning to implement its Program Perumahan Rakyat (People's Housing Programme) in the state. Whereas the Program Perumahan Rakyat nationwide consists of two types of housing – for rent and for sale – in Kelantan, these units are only available for sale. The sole project, in Gua Musang, is currently under construction but once it is completed it will be able to accommodate 1,000 families. It is one of seven Program Perumahan Rakyat projects under construction as of the first quarter of 2013. Program Perumahan Rakyat units for sale were originally implemented only in Pahang but, since the Tenth Malaysia Plan, the programme has been expanded to Kelantan, Kuala Lumpur and Sabah. These houses are sold at prices ranging from RM30,000 to RM35,000 per unit in Peninsular Malaysia and at RM40,500 in Sabah and Sarawak.

MANAGING RISING COSTS

Housing developers throughout Malaysia, including SPNB, are under immense pressure to provide higher-quality low-cost homes. Even in Kelantan, where land and labour costs are relatively lower than in the rest of the country, the low fixed price is a genuine barrier for developers building low-cost homes. This has resulted in a greater number of higher-end and medium-cost houses being built by private developers compared to houses for the low-income group or for public housing.

Amid the recent rise in oil prices, SPNB has taken active measures to curb the resulting cost increases, especially in the price of construction materials, so that it can continue to fulfil the lower-income group's housing needs in a sustainable manner. SPNB has paid heed to the Government's call to adopt newer, cheaper and more efficient approaches in construction technology. The Industrialised Building System (IBS) has already been introduced into SPNB's Rumah Mesra Rakyat projects, and SPNB is taking steps to expand the use of IBS to its other programmes. The resulting positive outcomes have included cost savings of around 10%, early completion and good quality, all of which have contributed to curbing price increases. SPNB will continue to offer more quality and innovative affordable homes, either independently or jointly with IBS manufacturers and supply-chain partners, at the price of RM250,000 and below per unit. SPNB will also deliver more affordable homes through mixed housing developments of low-medium-cost and medium-cost units in suburban, semi-rural and rural areas in order to address the cost challenges it is currently facing.

Figure 2: Rumah Mampu Milik projects developed by SPNB in Kelantan

	Name of project	Minimum selling price (RM)	Maximum selling price (RM)	Total units
1	Taman Perisai Wira, Kuala Krai			
	i) Single-storey link-house	78,788	109,747	158
	ii) Double-storey link-house	131,313	158,856	40
	iii) Double-storey semi-detached	181,711	212,150	40
	iv) Double-storey bungalow	227,019	251,053	7
	v) 1.5-storey shop-office	172,727	206,277	13
	vi) Double-storey shop-office	222,222	263,315	10
	Total units			268
2	Taman Bator Harmoni, Bachok			
	i) Single-storey link-house, low-medium-cost	65,000	97,843	47
	ii) Single-storey link-house, medium-cost	85,000	97,843	100
	iii) Single-storey semi-detached	168,000	204,996	20
	iv) Single-storey bungalow	196,000	229,388	52
	v) 1.5-storey shop-office	190,984	206,396	8
	Total units			227
3	Taman Merbau Utama, Kok Lanas			
	i) Single-storey link-house, low-medium-cost	72,000	122,953	452
	ii) Single-storey link-house, medium-cost	95,000	148,477	418
	iii) 1.5-storey shop-office	250,000	277,273	35
	Total units			905
4	Mukim Tumpat Fasa 1 (a & b)			
	i) Single-storey bungalow	207,748	263,441	8
	ii) Single-storey semi-detached	161,643	230,223	12
	iii) 1.5-storey shop-office	200,637	240,801	13
	iv) Single-storey link-house, low-medium-cost	74,572	114,472	91
	v) Single-storey link-house, medium-cost	85,272	123,756	391
	Total units			515
5	Mukim Tumpat Fasa 2			
	i) Single-storey bungalow	207,748	263,441	10
	ii) Single-storey semi-detached	161,643	230,223	16
	iii) 1.5-storey shop-office	200,637	240,801	42

Figure 2: Rumah Mampu Milik projects developed by SPNB in Kelantan (cont.)

	Name of project	Minimum selling price (RM)	Maximum selling price (RM)	Total units
	iv) Single-storey link-house, low-medium-cost	74,572	114,472	181
	v) Single-storey link-house, medium-cost	85,272	123,756	189
	Total units			438
	TOTAL UNITS			2,353

MEETING HOUSING NEEDS

Public housing in Kelantan is a matter that concerns both the federal and state governments. SPNB is committed to supporting the federal Government’s agenda to ensure that all Malaysians have access to affordable and quality housing. However, meeting this objective has been a challenging affair. This section focuses on the issues that SPNB faces in meeting the state’s housing needs. Some of these challenges are also applicable to other states.

I. Budgetary constraints

There are many stakeholders involved in implementing a public housing project, even at the governmental level. While SPNB obtains data on demand for housing from both its in-house research unit and from external sources, particularly from the NHD and the Department of Statistics, supply data is often determined by the NHD based on its nationwide target. On the other hand, the budget to implement SPNB’s public housing developments, as is the case with all government programmes, comes from and is approved by the MoF. Overcoming budgetary constraints, while having to meet the huge demand for affordable housing, is a primary challenge for SPNB. It is therefore necessary for SPNB, like private developers, to obtain bridging financing from financial institutions to fund its developments. To build as many houses as possible with available funds, SPNB also has to operate on a very slim margin as it is a government agency that puts the rakyat’s needs ahead of any profit-making objective.

II. Scarcity of land

As much as the federal Government plays its role in setting housing targets, policies and strategies and in encouraging financial institutions to provide bridging and end-financing for public housing, state governments and local authorities also play a primary role in physical planning and housing investments. This is especially so because the state government has absolute control over land policies. In Kelantan, the state government is the sole provider of land for SPNB’s Rumah Mampu Milik projects, which makes the state government’s cooperation in approving and expediting the approval process crucial. Since Kelantan is an Opposition-ruled state, politics can become a delicate issue. When permission to acquire and develop a certain piece of land identified for affordable homes is delayed, in some cases for a few years, SPNB’s ability to meet housing demand in a sufficiently swift manner is adversely affected. This situation will inevitably be unfavourable to the people, whom all parties seek to serve in the end.

Fortunately, land scarcity is less of a problem when it comes to Rumah Mesra Rakyat. Unlike Rumah Mampu Milik, this scheme requires that applicants already own land or have building permission from the landowner. It is one of the factors that contribute to the higher and faster growth in the number of Rumah Mesra Rakyat that have been completed compared to the number of Rumah Mampu Milik in Kelantan. However, SPNB is also mindful of the needs of people without land but who need public housing.

III. Consistent and clear requirements

Local authorities have the power to require that all housing developments have their plans and utility connections approved. However, housing developers, including SPNB, are sometimes not sufficiently informed of the changes in requirements for the approval of a development plan. The difficulty is compounded by the fact that requirements also differ among various local authorities. Inconsistent and unclear requirements at the local-authority level can become costly for SPNB. As with the state level, politics at the local level also sometimes play a role in housing matters.

IV. Quality of contractors

As a public housing developer, SPNB's operations are supported by thousands of registered contractors and supply-chain partners. Their capability and performance are therefore of the utmost importance. In Kelantan, as well as in other states, there are cases of delayed delivery by contractors, which SPNB has to manage. Some contractors over-represent their capabilities at the tendering stage, which can result in their withdrawing from the project during implementation when they find themselves unable to deliver. Among the common reasons given by these contractors are financial difficulties, manpower shortages and a lack of experience.

SPNB is strict in its policy against contractors who perform poorly. These contractors, whose number has reached around 10% of the total number of contractors, are thereafter blacklisted and barred from participating in all SPNB developments. Not only does the failure of these contractors tarnish SPNB's image as a responsible public housing provider, it also has a negative impact on the delivery of affordable homes to the people.

THE ROAD AHEAD

SPNB takes cognisance of the Government's continuous effort to ensure that Malaysians of all income levels have access to adequate, quality and affordable homes, particularly those in the low-income group. Especially in Kelantan, where the average income level is relatively lower than the rest of the country, SPNB will continue to support the Government's initiative to build more low- and low-medium-cost houses in its mixed-development projects, and will continue to provide housing for the disadvantaged and the poor in urban and rural areas through its Rumah Mesra Rakyat scheme. To enhance the quality of life in Kelantan's public housing scheme, the provision of more systematic and well-organised programmes for urban services will emphasise sustainable development, greater community participation and the social integration of the population.

However, addressing housing as a basic need takes more than the mere provision, or supply, of housing units. While SPNB has and will continue to be committed to fulfilling housing needs, other players must be supportive in ensuring that public housing continues to be sustainable. This includes financial and regulatory stakeholders. Meeting housing needs for all requires affordable home financing. Mortgage lending must reconcile affordability to borrowers with viability to lenders. The cost of public homeownership should remain low through financial assistance in terms of down payments and mortgage interest payments, with more options made available to low-income families. Housing subsidy, for example, is a central issue in the housing policy for the poor. This is challenging given the rising costs of construction in recent years. Nonetheless, as public low-cost housing is a civic duty and not a commercial operation, the Government's housing policy for the low-income group should continue to focus on selling homes to the people at prices they can afford.

The state government of Kelantan, especially, should provide rental housing for households that cannot afford to buy their own low-cost homes. For renters who can afford to buy low-cost homes, a special housing policy and programme is required to help them make the leap into homeownership. The sale of public low-cost housing must be expedited to ensure that those who are eligible will be provided houses for sale. In this regard, appropriate policy guidelines for the sale of public low-cost housing must be drawn up to facilitate the sale of these units to sitting tenants.

As for the efficiency of the housing delivery system, it is important that the state government supports SPNB in expediting the land approval process. Rules and regulations at the level of local authorities should also be made consistent and transparent. In other states, too many public and private low-cost houses end up unsold due to poor locations, inadequate amenities and facilities and the lack of employment opportunities. Much of this is caused by poor planning with little regard for market needs. There is a valuable lesson to be learnt here – namely, that efforts to develop public housing in a certain target area must be accompanied by investment in infrastructure and employment opportunities within reach of this area. While SPNB ensures that the targeted housing is built, these two factors are ultimately the responsibility of both the federal and state governments.

Since its establishment, one of the objectives of SPNB has been to rehabilitate and complete the construction of abandoned houses, which mainly consist of houses in the low-cost and low-medium-cost categories. Over the years, SPNB has managed to successfully complete the rehabilitation of 14,794 units of previously abandoned houses nationwide, lifting many families from the misery of having to pay for an uninhabitable house. Managing and reviving abandoned projects is a complicated affair involving developers, purchasers, bridging financiers and landowners, among others, as it takes time for all parties to reach an agreement. Although the number of abandoned housing projects has fallen considerably due to more favourable economic conditions, improvements in housing laws as well as the Government's active supervision, authorities must not be complacent. In addition to the 10:90 Build-Then-Sell delivery system, which will better protect housebuyers, the Kelantan state government should also promptly and vigorously execute the applicable laws to relieve the suffering of innocent housebuyers by arresting failed and abandoned housing projects. The National Land Code empowers land administration authorities to confiscate any land where

the conditions of use have been breached. The abandonment of any housing project is clearly a breach of the development order and other legislation. The Government must take drastic measures, including enforcing the forfeiture of such land, so that the project can be revived and the houses completed and delivered to housebuyers.

CONCLUSION

The public housing situation in Kelantan is different from the rest of the country due to the state's unique demographic and economic features. While public housing in the urban areas of other states is given higher priority and importance, rural public housing is of greater concern in Kelantan. A large part of the state is rural, while close to two thirds of its population are eligible for SPNB's public housing programme. This is reflected in Kelantan's standing in the number of applications for the Rumah Mesra Rakyat scheme as well as completed houses. Needless to say, the context in which the public sector plays a role in housing the people of Kelantan is different from the rest of the country. It must be stressed, however, that this does not mean that public housing in the urban areas of Kelantan should be accorded a lower priority. To help SPNB face the main challenges in fulfilling the state's housing needs, improved communication and collaboration between the state and federal governments, and among the different ministries within the federal Government, is required. Ultimately, it is hoped that these insights will pave the way towards the better provision of public housing in the state, and eventually contribute towards greater general economic development.

THE SELL-THEN-BUILD (STB) APPROACH

The Sell-Then-Build (STB) approach to housing essentially allows developers to sell houses before completion or, in many cases, before they are even built. Variations of STB schemes have been widely applied in Asian countries such as Indonesia, Vietnam, Hong Kong, Taiwan and China (Leung *et al.* 2007). In North America and Europe, a “presale” approach is applied to large land development projects (Lai *et al.* 2004) where housebuyers include their preferences in design and construction (Ong 1997). To compensate for the risks that buyers face, presale houses are sold at a reduced price compared with similar but completed houses available on the market (Sirmans *et al.* 1997). In the US, it is common for developers to provide free home warranties for up to 10 years in order to attract buyers to presale houses (Ong 1997). In Hong Kong, the STB approach is only allowed for reputable developers, and buyers dissatisfied with the development can terminate their purchase agreements at any time during the payment period (Lai *et al.* 2004). In Singapore, where public-sector building dominates the housing supply, the STB approach is allowed only for a few private developers with good track records (Munneke *et al.* 2011). In major cities in China, STB projects are allowed for housing with more than eight floors and which are 60% complete (Sito 2007).

In Malaysia, STB started to become the norm in the housing industry in the 1980s as private developers became actively involved in providing mass housing to overcome housing shortages in the major cities (Nor'Aini *et al.* 2007). Under the Malaysian STB approach, buyers refer to the developer’s brochure for information on house specifications and floor plans. Those who decide to buy initially pay 10% of the price of the house when the Sale and Purchase Agreement (S&P) is signed – the S&P is a contract to construct and deliver a house to the purchaser, according to predetermined terms and conditions (Yok 1997). The remaining 90% of the house price is payable in stages, in accordance with the progress of the construction work. Because house prices are high, a buyer usually cannot

buy a house outright and has to borrow from a financial institution to pay for the house. If the loan application is successful, the housebuyer will start servicing the loan interest and paying the instalment when the financial institution starts to release the remaining amount of the house price to the developer's development account. This release depends on the stage of construction, as certified by the architect. Therefore, buyers who obtain end-financing from financial institutions actually finance the building of houses. In this sense, relatively little capital is required from a developer to start a housing project, particularly if the project does not involve buying land (Nor'Aini and Mohd Wira 2011). The success of the STB approach therefore depends on the integrity and honesty of both developers and certifying professionals.

STB AND ABANDONED PROJECTS

While the STB approach has so far played a tremendous role in meeting the country's housing needs, generating economic growth and creating employment opportunities, its successes have been marred by a host of problems. These include project abandonment (housing projects that developers failed to complete even though S&Ps have been signed), poor workmanship and project delay (Nor'Aini, Mohd Wira, Sofri *et al.* 2010). During the economic recession in 1983, a huge number of houses went unsold across the country, trapping many housing developers in financial difficulties and giving rise to many cases of abandoned projects. From 1986 to 1989, the number of abandoned housing projects increased from 126 to 277 (Raman 1997). The total reached 416 in 1991 (Sothi 1992) and the problem continued even as the economy improved.

This is because the STB approach allows the S&P to be signed even though the house is yet to be built or completed, providing the developer with the option of abandoning their projects when faced with difficulties (Chan *et al.* 2012). Housebuyers do not have the ability to interfere in the construction process, nor can they monitor the developers' financial positions. As such, housebuyers are unable to prevent the "houses" they have bought from being abandoned even though they are arguably the party worst affected when a housing project is abandoned. In North America, housebuyers can stop payment and some developers even refund their money (Chan *et al.* 2012). In Malaysia, however, a buyer still has to make payments to the bank for the loan on a house that will never be built or completed, while simultaneously paying rent for his or her current housing.

The Government is cognisant of housebuyers' hardships in these situations. To address their plight, and following continuous pressure from the National House Buyers Association, a Special Task Force and an Abandoned Housing Project Revival Fund were established to help revive abandoned projects. The Housing Development (Control and Licensing) Act 1966 (HDA), which governs the STB approach, was amended numerous times to improve legislative protection for housebuyers. "Project accounts" were introduced to prevent developers from misusing their project funds. In 2012, a proposal was made to include a Corporate Voluntary Arrangement (CVA) under the Companies Act 1965 to help developers who had gone bankrupt. In some cases project contractors were asked to complete problematic housing projects and were rewarded with either the completed projects or land by the Ministry of Housing and Local Government (Lee 2012). As Nuarrual Hilal and Mariappan (2012) have pointed out, however, the effectiveness of

these efforts in addressing project abandonment problems was limited. Not all projects could be revived and new housing projects continued to be abandoned each year. It seemed that developers were undeterred from taking the easy way out and abandoning their projects when they experienced difficulties. Currently, the Government continues to use public funds to help revive these projects. From 2009 to April 2013, there were still 178 abandoned housing projects in Peninsular Malaysia (Ong 2013).

THE BUILD-THEN-SELL (BTS) APPROACH

In China, the problem of abandoned housing projects was so severe that the National Development and Reform Commission (NDRC) proposed to abolish the STB approach altogether (Sito 2007). In Malaysia, however, the Government introduced the Build-Then-Sell (BTS) approach in April 2007 while allowing the STB approach to coexist. In 2012 the Minister of Housing and Local Government announced that in 2015 the BTS approach would be fully mandatory (Bernama 2012).

In essence, BTS is an approach that allows houses to be sold only after completion. It aims to provide greater protection for housebuyers and to promote better quality housing (Nor'Aini *et al.* 2007). Two models of the BTS were proposed by the Government: the 100% BTS and the 10:90 BTS. In the 100% BTS model, the selling of houses only begins after the housing units have been completed and certificates of completion and compliance (CCC) have been issued (Nor'Aini, Mohd Wira and Ilias 2010). Thus, interested buyers are able to inspect houses before committing to a purchase. Buyers pay 10% of the purchase price upon signing the S&P and then pay the balance within three months, with a possible one-month extension. As the houses will have already been completed, buyers can move in as soon as payment has been settled (Tan 2005).

In contrast, housebuyers under the 10:90 BTS model sign the S&P before houses are completed, making a 10% down payment at the point of signing. The remaining 90% of the purchase price is payable upon completion of the house and the issuance of a CCC. The down payment is initially placed in a fidelity fund pursuant to the Legal Profession Act 1976. The developer cannot access the funds until proper proof has been provided that a clear title for the property can be given (Chen 2006). The remaining balance must be paid within 90 days of the delivery of vacant possession with a CCC (House Buyers Association 2005).

The advantage of this model is that, unlike the STB approach, buyers need not worry about bank loans during the construction phase or if the project is not completed on time. This is because repayments only begin when houses are completed. On the other hand, the developer's concern about not having enough money to finance the project does not apply since it still receives progressive payments from the bank. The bank continues to provide the bridging loan and end-financing to the developer and buyer respectively through the symbiotic agreement between the developer and the bank.

BTS – ARE THE DEVELOPERS READY?

Only a handful of developers have adopted the BTS approach since its introduction in 2007. Authors such as Barlow (1999) and Burdock *et al.* (2001) have described the housing industry as conservative and hesitant towards change, including those related to the

Figure 1: Results for the analysis of developer readiness level with respect to BTS

	Mean (on a 7-point scale)	Standard deviation	Interpretation
OPTIMISM			
The BTS approach can generate more profits	3.83	1.62	Somewhat agree
The BTS is a better approach than the previous STB	3.53	1.58	Neutral
Ready to adopt the BTS approach if asked by the Government	4.45	1.51	Agree
Enjoys the challenge associated with BTS adoption	4.41	1.57	Agree
Likes the idea of the BTS approach	3.78	1.72	Somewhat agree
Adopts the BTS because the operation is similar to the previous approach	4.07	1.60	Agree
Competitors know more about the BTS approach	3.93	1.39	Somewhat agree
The BTS approach meets housebuyers' needs better	4.33	1.66	Agree
Mean score for OPTIMISM	4.06		Agree
DISCOMFORT			
The BTS approach involves higher business risk than the STB	5.86	1.27	Strongly agree
Keeps up with the latest information in the housing industry	5.58	1.02	Strongly agree
The BTS approach will not solve the defect problems faced by homebuyers	5.04	1.52	Strongly agree
The BTS approach is not designed for small- and medium-sized firms	5.11	1.52	Strongly agree
Mean score for DISCOMFORT	5.40		Strongly agree
INSECURITY			
Not confident in carrying out the BTS approach	3.93	1.38	Somewhat agree
Worried that BTS houses will be difficult to sell	5.58	1.02	Strongly agree
Not ready to adopt the BTS approach and will not adopt BTS	4.41	1.57	Agree
The BTS approach will tie up company cash flow	5.11	1.52	Strongly agree
Mean score for INSECURITY	4.41		Agree

Source: Nor'Aini, Buang *et al.*, 2010.

BTS approach. This is perhaps due to the great risks inherent in the industry, such as site variability and supply uncertainties (McCoy *et al.* 2009). A study commissioned by the National Real Property Research Centre (NAPREC) attempted to investigate whether housing developers in Malaysia were ready to adopt the two BTS approaches (the 100% as well as the 10:90 model) or behave in a manner that conformed to their implementation. A total of 118 housing developers from across the country responded to the study survey. Figure 1 presents the results (Nor'Aini, Buang *et al.* 2010).

Mean scores vary from 3.53 to 5.86 (on a seven-point scale), with standard deviations ranging from 1.02 to 1.72. In summary, the study found that despite developers being optimistic about the BTS approach, they felt insecure and had high levels of discomfort. Developers held positive views about BTS but perceived it as a complex and overwhelming approach that was not easy to implement. They were suspicious of the benefits of BTS supposedly in store for them, as there would be a higher risk of completed houses ending up unsold. They also viewed BTS as an approach that might potentially erode their control over their projects. These findings suggest that housing developers in Malaysia are willing to adopt the BTS approach only if they are able to overcome the drawbacks and are convinced of its benefits.

That said, there are developers that have voluntarily developed BTS houses with little push from the Government. The following case study illustrates how a small developer implements the BTS approach.

BTS BY A SMALL HOUSING DEVELOPER – A CASE STUDY

SHD (not the real name of the firm) is a developer that has been operating on the island of Penang for more than 30 years. It has a good reputation in the industry for building quality houses and delivering them on time. In the past five years, it has completed 937 high- and medium-cost housing units, the majority of which were apartments. All the projects were small in size, ranging from 12 to 312 units, and built on their own land banks. During the first launch of its first BTS housing project, more than 50% of the units were booked. It appeared that the buyers, who benefited from not having to pay anything during the construction phase, then circulated the news to others. At the subsequent launch, all houses were sold, mostly to friends or relatives of buyers from the first phase. In its second BTS project, almost all houses were booked during the launch. Initially, most buyers were either locals or expatriates working in Penang's industrial area. More recently, a growing number of international buyers who preferred completed houses have shown interest in SHD's projects.

SHD is small, with only five permanent staff. The level of formalisation is low and there are very few work procedures or rules to follow. Centralisation is high, with major decisions concerning day-to-day business operations made solely by the project manager.

The champion of the BTS approach in SHD is the project manager. He has over 35 years' work experience in the construction industry, with extensive networks among industry players. He has established close ties with a bank and contractors.

The 10:90 BTS approach implemented in two of SHD's housing projects was different from the 10:90 BTS approach proposed by the Government. In the approach used by SHD,

the buyer made a sales booking prior to completion and paid a 10% deposit at the time of signing the S&P. This deposit was not placed in a trustee account; it was paid to the developer. The buyer then had to obtain a loan from the developer's assigned bank for the remaining 90% of the house price. After the loan was approved, the bank paid the developer according to the progress of the construction work. In contrast to the STB approach, the buyer did not need to pay anything to the bank during the construction period. Loans were only paid once the construction had been completed and vacant possession handed over to the buyers. In this developer's version of the 10:90 BTS approach, buyers had to borrow money from a bank appointed by the developer in order to enjoy the convenience of not paying the loan during the construction phase.

Similar to the STB approach, the financing of construction was secured by a symbiotic agreement between the developer and the bank. The bank provided a bridging loan to the developer and, at the same time, end-financing to the buyer. It also waived interest on the developer's bridging loan for the first year of the construction period. This meant that the developer only began paying interest starting from the second year of construction.

To manage its cash flow, the developer paid in kind to the main contractor. Payment in kind (also known as a "contra unit") describes payment whereby several completed houses in the housing project are given to the contractor. This type of payment encourages the contractor to be vigilant with regard to the quality of the houses and subsequently results in both closer onsite monitoring and higher work quality. In addition, SHD's project manager exerted extra pressure on the contractor in the form of regular site visits, and this resulted in no major rectification work after the project had ended.

SHD also imposed higher liquidated and ascertained damages (LAD) on its contractors for the BTS projects compared to the STB projects. The LAD is a penalty for a delay in completion. In the BTS projects, the LAD stated in the contract was RM20,000 a day for delays, compared to RM10,000 a day for similar delays in the STB projects. From the developer's perspective, the higher LAD is to safeguard its interests and ensure that the project is completed on time. If the project is delayed, the developer may have to pay interest to the bank. The LAD was a significant amount of money for the contractor, who ensured that the project was managed well and completed on time.

At the same time, the developer's 10:90 BTS model also required all players to put more effort into ensuring the timely completion of the housing project and the quality of houses. A comparison was made, based on complaints by homeowners during the 18-month liability period, between BTS and STB housing schemes developed by the same developer and constructed by the same contractor. Figure 2 presents the results.

Figure 2: Defect complaints during liability period

	STB scheme	BTS scheme
Number of units	312	104
Number of defects	1,343	345
Average defects per house	4.30	3.32

Source: Noorsharijan, 2010.

The difference between the STB and BTS projects in terms of defects was nearly 23%. In the BTS housing scheme, as noted above, the contractor increased the number of site visits and took the initiative to repair defects before handing the units over to the developer. This was due to pressure from the developer (in the form of the higher LAD) who wanted to ensure quality houses when the project was completed. This attitude is one of the reasons for fewer defects in the BTS houses.

THE BTS-STB DEBATE

It comes as no surprise that both housing developers and financial institutions are adamant that the STB approach should be maintained, while housebuyers continue to push for the mandatory adoption of BTS. Essentially, the debate boils down to the risks involved in the two approaches, it being in the interest of each party to minimise the risks it bears. This section examines the advantages and drawbacks of both approaches from a risk perspective.

I. Market risk

Proponents of the STB approach argue that developers are able to reduce the risk of uncertainty for future demand, as upfront sales lock in customers. It also minimises the problem of unsold houses and reduces holding costs because houses are sold before completion (Lai *et al.* 2004). Developers are generally nervous about the adoption of the BTS approach as there is a higher risk of unsold houses. Several economic slowdowns in Malaysia in the past two decades have created an environment of uncertain timing of housing demand and market absorption – developers may “miss” the market since market demand may not be strong when units are ready. Under the 10:90 approach, there is no guarantee that a buyer who has paid the initial 10% deposit will proceed with buying the house once it is completed (Tong 2012); in such cases, signed S&Ps notwithstanding, it may be difficult for developers to recover what is owed to them. The BTS approach forces developers to be more prudent in their development plans, as each housing project requires a proper feasibility study rather than the naïve assessment that every house will be sold.

There are upsides to BTS, even if STB seems to be the developers’ preferred option. The selling prices of housing units under a BTS approach reflects actual market prices because at the time of sale the actual costs and market conditions are already known (Kasi 1992). Developers benefit since the value of their developments may appreciate more than expected towards the end of the construction cycle, thus enabling them to reap more profits than they would under the STB approach.

II. Financial risk

1. Developers’ views

From a financial point of view, developers are generally in favour of the STB approach because the buyers’ advance payments during construction provide cash flow and help improve developers’ financial positions. Under the BTS approach, developers can no longer rely on advance payments from presale financing by housebuyers. Construction financing is now front-ended. Authors such as Nor’Aini and Mohd Wira (2011) have argued that as a result of this change, developers face higher borrowing costs because they need more

extensive bridging finance since they can no longer rely on housebuyers to finance them. However, some developers, such as SHD in the case study above, have adopted more innovative approaches in financing their BTS projects, including negotiating financing packages with the bank or making payments in kind to their contractors.

Because of the higher costs BTS imposes at the construction stage, proponents of STB argue that only large developers with projects in sought-after locations would survive, with smaller and inexperienced developers being outcompeted. This would effectively reduce the capacity of the housing sector to be a catalyst for economic growth. Small developers would only be capable of developing small housing projects as adopting BTS in large projects would require large amounts of capital. The upside of this is that it prevents developers from leveraging beyond their means, which in turn ensures stability of cash flows and therefore the sustainability of their housing projects. Developers that overextended themselves, and subsequently faced tight financial constraints as a result of economic downturns, were the cause of the large-scale housing project abandonment seen in earlier periods. Nonetheless, the SHD case has proven that company structure and management style can make BTS adoption possible. SHD's structure of low formalisation and high centralisation has encouraged the adoption of BTS. A proactive attitude on the part of the project manager towards the BTS approach was one of the factors that enabled SHD to adopt BTS even as a small firm.

2. Financiers' views

Under the STB approach, financial institutions can transfer bridging finance risks to the housebuyers, who obtain the end-financing to purchase the houses. In contrast, under the BTS approach, the risks of financing the construction of a housing project are borne by the financial institutions. This forces them to be extra cautious about the viability of housing developments before agreeing to fund them. They must ensure the timeliness of the project as agreed upon between the banks and the developers, as this is a key condition for the release of payments to the developers. This means that, before releasing money to the developer, the financial institution has to engage its own consultant instead of relying on the certification made by the architect. Although this inevitably results in greater risk faced by financial institutions (and higher costs to developers), it provides greater checks and balances in the financing of housing developments and its overall delivery system, and ultimately benefits housebuyers.

3. Housebuyers' views

Housebuyers have expressed strong support for the BTS approach. They are very much in favour of BTS due to the ability to move in soon after purchase, which greatly reduces their financial burden. They would not have to service loans for new houses while paying rent for existing houses, as they would under the STB approach. They would also be provided with greater assurance of the developers' capability as the BTS approach allows only competent firms with knowledge, expertise and financial strength to enter the housing industry (Teoh and Lee 2009). Under the STB approach, almost anybody – even those with little capital and no experience – can become a housing developer.

The drawback to the BTS approach, however, is that housebuyers would have to pay the market price for the completed house, which would be higher than that under the STB approach (Tong 2012). With STB, where houses are priced at the time of purchase and before production begins, housebuyers do not have to bear production risks and the resulting increases in cost (Chan *et al.* 2012). Under BTS, a link-house may see an increase in price between 3% to 4% while an apartment unit may see an increase of 7% to 8% (Ong 2007). Some housebuyers view the higher price as still preferable to the development and financial risks they face under the STB approach. The inability of speculators to make a quick profit by “flipping” – or buying an incomplete house cheaply and selling it once it is completed – also contributes greatly towards keeping house prices in check.

III. Delivery risk

At present, Clause 14 of the S&P (HDA) stipulates that buildings must be constructed in a good and workmanlike manner. Yet, given the numerous reports and complaints highlighted by the media concerning shoddy workmanship, it is debatable whether Clause 14 is effective in ensuring that houses are built according to the standards promised. The potential of BTS to mitigate the delivery risks too commonly associated with STB is arguably one of the former’s greatest strengths. In the SHD case, there were indeed fewer defects in BTS houses. The SHD case also revealed a growing acceptance on the part of buyers with regard to the BTS approach and a willingness to pay for it. International buyers whose preferences lean towards completed houses also encourage the BTS approach. Housebuyers are able to examine the quality of the completed houses and choose the ones that meet their expectations (House Buyers Association 2003). This encourages developers to build quality houses that are attractive to buyers, and to be more conscientious regarding the time of completion. Improved working practices therefore become necessary (Nor’Aini, Buang *et al.* 2010). As such, the BTS approach is arguably more effective than Clause 14 of the S&P in ensuring that houses are built “in a good and workmanlike manner.” In fact, the implementation of BTS requires the industry to be prepared for its products (houses) to be examined by housebuyers, similar to other consumer goods such as cars, computers, etc. With more vigorous quality control, more vigilant monitoring and a higher level of professionalism from all players involved in a housing project – developers, consultants, contractors and subcontractors, from the initial design stage to construction and completion – one can argue that this will result in higher overall quality of housing in the country and greater investments in new technologies and standardisation. Perhaps it could also become a catalyst for the greater adoption of technologies such as the Industrialised Building System, which has so far been slow.

As houses are purchased only after completion, the issue of buyers encountering abandoned projects becomes irrelevant. The Government certainly benefits from implementing the BTS approach as it will spend less time and effort salvaging abandoned projects and can focus its attention instead on addressing complaints from purchasers regarding late delivery of houses and housing defects, etc. It would do well, however, to study the problems associated with BTS in other countries before BTS is fully implemented here in 2015. These problems include “gazumping” (i.e. developers raising the price higher than the price originally agreed upon) and – as in the case of the 10:90 BTS approach – buyers aborting the S&P and forfeiting their deposits, as is now permissible in Singapore.

IV. Supply risk

Developers cannot easily work on many housing projects simultaneously because of the full effort that the BTS approach calls for in every housing project. Similarly, the cash that developers need to commit with the BTS approach discourages developers from working on multiple or larger projects than they can handle. Such greater financial commitment from the developers will cause a shake-up in the industry, with small players who are less financially capable exiting the industry. Annual housing supply in Malaysia could shrink by at least 60% if BTS were made mandatory (REHDA 2005). This in turn may cause house prices to spiral upwards by 30% to 50% and will only widen the gap between house prices and household incomes. Developers argue that even more citizens will be unable to afford houses. Furthermore, they argue that the shrinking of the housing market will create an adverse trickle-down effect on the market for building materials and related services. Some even argue that this will affect as many as 140 related businesses and services, including the wholesale and retail trade, transport, communications and financing (Tong 2012). Housebuyers, who argue that the developers are applying “scare tactics”, claim that in countries where a shift from STB to BTS has been made, the transition had few problems (Yin 2005).

TOWARDS MANDATORY BTS IN 2015

In May 2004, then-Prime Minister Tun Abdullah Ahmad Badawi proposed that the BTS approach be adopted as a national policy in order to address housebuyers’ complaints regarding late delivery and poor quality of housing (The Star 2004). It was only in April 2007 that the Government announced its intention to operate the 100% BTS and 10:90 BTS approaches concurrently with the STB approach for a two-year trial period (Bernama 2007). Sadly, the Government’s call received a lukewarm response from developers. Nonetheless, during a debate on the Supply Bill 2013 in the Dewan Rakyat on 19 October 2012, the Minister of Housing and Local Government finally announced, amidst much objection and hesitation from the developers, that in 2015 the BTS approach would be fully mandatory (Bernama 2012). Given the developers’ reactions, it remains uncertain whether the Government will impose the mandatory BTS approach.

If the BTS approach is to become mandatory in 2015, the Government needs to gradually limit the STB approach while increasing BTS. Allowing both approaches in the meantime will not help the Government achieve its objective. State-owned developers and government-linked companies should take the lead in implementing a BTS approach and portray themselves as role models in adopting BTS before asking private developers to follow suit. Government housing programmes such as Perumahan Rakyat 1 Malaysia (PRIMA) should adopt the BTS approach in all their developments. To prepare them for the mandatory BTS, private developers who develop state or federal land should be required to use BTS in the same way that they are currently required to adhere to other housing-related policies such as the low-cost housing policy or the Bumiputera housing ownership quota.

Private developers who have their own land banks should be encouraged to implement BTS schemes. At the moment, most existing BTS projects are being carried out in small-scale developments with fewer than 250 housing units built. These developers have voluntarily

developed BTS houses without too much persuasion from the Government. The Government should continue to encourage small-scale projects to use the BTS approach since it can be adopted not only by large developers but also first-time and new developers who own only limited tracts of land. Incentive packages can also be extended. Apart from traditional incentives such as reduced corporate tax rates and double deductions for certain expenses, other incentives such as direct cash incentives per house will also help to reduce the developers' costs and convince them of the benefits of adopting BTS. Nonetheless, the Government should be careful to avoid a blanket subsidy. For example, one existing incentive is relief from building low-cost houses in BTS projects but this can conflict with the aim of providing more low-cost housing for the poor when BTS becomes compulsory. Also problematic is the fact that this particular incentive will mean little to developers if BTS projects continue to be small in size, as the present requirement to build low-cost houses only applies to developments of more than five acres (approximately two hectares) or 150 units.

To complement their efforts in encouraging greater BTS adoption, local authorities or state governments should consider limiting the number of projects using the STB approach. New developments should no longer be allowed to use STB, unless they are large developments with more than 500 units developed by developers with good track records. Even in these large developments, a certain portion of BTS houses must be provided. This will contribute towards greater availability of BTS housing on the market. Observers such as Leung *et al.* (2007), Chan *et al.* (2012) and Lai *et al.* (2004) have argued that STB should only be allowed when the economy is robust. During recessions, when the costs of finance and construction are high, the STB approach should not be allowed, because it only provides an easy way for the developers to abandon their projects when they face difficulties. On the other hand, developers may find the BTS approach particularly challenging to adopt in a recession, and many may encounter financial difficulties as a result. The Government thus needs to weigh the need to stimulate the economy against the need to minimise the risk of abandoned housing projects – a choice that is further complicated by the fact that the construction and housing industries are traditionally key components of the Government's economic stimulus measures in times of recession.

Regulations are not the Government's only tools in promoting BTS. Proper mechanisms and policies for the BTS approach are needed at each level. Inter- and intra-departmental communication among the three levels of federal, state and local government must be harmonised. For instance, the One-Stop Centre (OSC) was established to expedite the development approval process with the support of relevant authorities. However, communication problems still exist between the OSC and other related departments, and these should be addressed. Developers are sceptical that BTS approvals can be made easier and faster in the near future, based on their mixed experience so far when dealing with the authorities. Although some developers have admitted to having received speedy development approval for BTS housing projects, there are other developers who have had negative experiences when dealing with the authorities. In particular, when the Government introduced several incentives to encourage BTS implementation, developers complained that the authorities took a longer time to process the applications than the period guaranteed by the Ministry of Housing and Local Government. As a consequence of this first bad experience, these developers would rather forego the incentives given by the Government (Nor'Aini *et al.* 2012).

Sorting out administrative and procedural issues such as these will ensure the smooth functioning not only of BTS developments but also the housing and construction industry as a whole. Similarly, proper procedures or guidelines need to be developed for other BTS variants as well, and not just for the 10:90 BTS model. Excellent service by public delivery systems will reduce processing time for project approval, which in turn will help to reduce developers' holding costs and incentivise them to adopt BTS.

Finally, an active role on the part of financial institutions in facilitating the implementation of BTS projects is needed. Financial institutions have thus far been involved in financing the developers, contractors, suppliers and housebuyers. Their role in making the BTS approach work is crucial. Some financial institutions have taken the initiative to support BTS by offering products that fit into the different arrangements of BTS. One such package is a shariah-compliant financing proposal for houses costing RM600,000 or less, with instalments only commencing after the house is completed (Bernama 2011). Others, as in the SHD case, work with housing developers to design customised financing packages. While innovative, such arrangements between banks and developers may not be healthy for the industry, and housebuyers specifically might be worse off as their choice of end-financing will be limited. More financial institutions should develop BTS-friendly financial packages to complement the Government's efforts to enforce BTS in more housing developments in the country. Bank Negara Malaysia should also develop specific banking policies and regulations to regulate bridging loans under the BTS approach and to make it easier for competent developers with viable BTS projects to apply for financing. Financial packages similar to project finance (which is available to fund infrastructure projects) should be considered for BTS projects.

CONCLUSION

Proponents of BTS and STB have both been very vocal in expressing their arguments and views. The Government, for whom both sides are important stakeholders, needs to weigh these views carefully. It has already expressed its commitment to making BTS mandatory by 2015. Incentives have been introduced by the Government to facilitate the BTS approach, including a fast-track planning approval process, a waiver of deposit for the developer's licence and an exemption for low-cost housing. But as Walczuch *et al.* (2007) have warned, and as past experience has shown, housing developers will undoubtedly be even more vocal and critical about BTS as we approach 2015. They will likely find excuses not to implement BTS or, at best, they will ask for more help in doing so.

This resistance to the BTS approach is certainly not helpful to the housing industry and the development of the country as a whole. Certainly, there are direct and indirect costs incurred as developers adjust to BTS but its adoption should be viewed positively as a means to further safeguard the interests of housebuyers, and perhaps further enhance or restore their trust in developers. Closer cooperation and engagement will ultimately create a win-win situation for all stakeholders in the housing industry.

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I. Pros and Cons of Gated and Guarded Communities

Grace Xavier

INTRODUCTION

Neighbourhood safety and security have always been the purview of the police. However, of late, it appears that either the police are stretched beyond capacity or the force has not expanded in tandem with the growing population. The growing crime rate in housing areas has led to fully gated and fenced housing estates becoming increasingly popular. Similar concerns have led residents of many non-gated estates to employ their own guards to patrol their respective housing areas.

Using guards to patrol an area is one thing – building barriers and vetting all entrants to a housing estate is altogether another matter. Such barriers often have an impact beyond the neighbourhood that erected them. Residents of nearby estates who need to use the same roads to get to their homes are directly affected by the barriers, and have complained that it is akin to a closure of public roads (The Star 2007d). Another concern is that residents may become disengaged from each other, thereby leading to a segregation of race and/or class. In multicultural nations such as Malaysia, this goes against government policy encouraging the blending of the races.

The popularity of gated and guarded communities raises interesting questions. Do they reduce crime? Do they encourage polarisation within the population, especially in a multiethnic country like Malaysia? Do they result in social and economic segregation? Are gated and guarded communities governed by any particular laws? Do unscrupulous developers use the term “gated and guarded housing project” to artificially inflate the prices of the properties in the development? Are such communities similar or do they have different meanings in different jurisdictions? The following sections will attempt to address these questions.

DEFINING GATED AND GUARDED

A gated community refers to a gated and guarded residential community comprising strata title properties, while a guarded neighbourhood (GN) refers to a residential community comprising landed properties (with individual land titles) with security services, either with or without a security house. GNs without fencing are “guarded only”, while GNs with fencing are “guarded and gated” (JPBD 2010).

As such, a gated community is defined as a group of residents or community who live in a fully gated and fenced area, whether in a high-rise property such as an apartment, condominium or town houses, or in an area with landed property such as bungalows or link-houses. Public access is restricted, with private internal roads linking the houses or apartment blocks. Taken to an extreme, some gated communities may be self-managing communities with their own country club, retirement development and recreational facilities for the exclusive use of residents.

Gated communities typically restrict entry by the public with walls, security gates and the installation of CCTV cameras at prime spots. Access is denied or restricted, and a member of the public may have to surrender his or her ID card and state the exact address of the person he or she is visiting. Such restrictions, particularly involving landed property, may lead to the perception that persons living in gated communities belong to a higher class of the population. This may prevent the creation of mixed communities. It may also result in what Van Donk (2005) has described as “a mindset of exclusion and fear.”

Guarded communities, meanwhile, encompass housing estates that are not fully enclosed in a gated or fenced area but which nevertheless have boom gates and barriers and 24-hour guard patrols.

In Peninsular Malaysia, the Department of Town and Country Planning’s regulations governing gated and guarded communities further outline distinctions between the two types of community. These will be explained in greater detail later.

THE PRICE OF GATED AND GUARDED COMMUNITIES

Grant (2003) has noted that “gated enclaves represent the hope of security; they appeal to consumers searching for a sense of community and identity; they offer an important niche marketing strategy for developers in a competitive environment; they keep out the unwelcome; they often come associated with attractive amenities; and they increase property values.”

This security, however, does not come cheaply. One guard (working an eight-hour shift) costs about RM2,400 per month. Each housing estate that opts for a patrolling guard unit therefore needs to pay at least RM80 per day. A minimum of three guards is needed for a fully-guarded area. For example, in Taman Desa, Kuala Lumpur, each household pays RM480 every six months for patrolling guards.

Purchasers of houses in gated communities pay maintenance costs twice, first when they pay assessment to the municipality, and again when they pay maintenance fees to their residents’ associations.

In Malaysia, there appears to be a marked upward trend in the number of gated community developments, as well as their prices (Khairul 2013). There is a premium for properties in gated enclaves – such properties can cost twice as much as non-gated properties in the same area (The Edge 2011). The premium does not appear to have deterred buyers:

Gated and guarded housing seem to be an attractive value-added feature for housing developers in the Klang Valley. For most housebuyers, safety and security are issues close to their hearts, thus a neighbourhood which comes with such a feature surely adds premium to the value of the property they intend to purchase (The Star 2007b).

CRIME REDUCTION

If gated and guarded communities do in fact reduce crime, they should be promoted as a legal mechanism to combat crime irrespective of any other implications that such communities may inflict on the development of a nation (Landman and Schönsteich 2002). The question is whether they do in fact reduce crime. There are many instances in which gated and guarded communities are not foolproof where safety is concerned. For example, in the first nine months of 2012, there were three snatch thefts, 13 break-ins and 15 robberies in SS18, Subang Jaya, although most areas in that locality are gated or guarded (Fairuz 2012).

Crimes do occur within gated and guarded premises and may be the result of many factors. Some blame the incompetence of the security personnel and the lack of proper training (Oh 2013a). Many security guards are also either unschooled or possess only minimal education. Theoretically, gated and guarded developments are meant to project an image of security, safety and privacy. In reality, given the high number of crimes, there is little in the way of conclusive evidence to show that gated and guarded communities are safe. At the same time, it cannot be denied that, in particular segments of gated residential properties, crime has been reduced and the residents live in a state of contentment and security (Perumal *et al.* 2007).

SEGREGATION

Community stability is achieved when all categories of society have a chance to mix and move together. Grant (2003) has cited Edward Blakely's argument that the promotion of gated communities "implies acceptance of a built realm in which a growing portion of the most affluent among us wall themselves off." Gated communities raise significant questions relating to affordability, segregation and connectivity. They present physical barriers within the community, limiting access to formerly open landscapes and to public space in coastal areas. Grant (2003) noted that "as we try to plan sustainable communities with a place for everyone, we must ask whether gated areas represent an innocuous form of protected suburban development or a worrisome precedent for a divided urban realm."

The present trend appears to be that gated communities reflect increased polarisation and fragmentation, and diminished solidarity within urban society (Frantz 1999). Such gated communities may also be perceived to be freak developments that house the super-rich or influential, such as Margaret Thatcher's home in England, or the Wentworth estate that

housed exiled Chilean President Augusto Pinochet (Atkinson *et al.* 2005). If real estate developers are allowed to continue developing gated communities, the result may be a marked spatial segregation and social exclusion among the communities.

In Malaysia, gated and guarded precincts have angered the public (Kyra 2012), who perceive this type of development as housing for the affluent and “snobbish” sectors of the population (New Straits Times 2008). The tight security measures may mean that visitors may be delayed or even barred from entering a neighbourhood without proper identification and approval from the residents to be visited. Such measures contribute to the perception that gated and guarded communities are elitist.

According to Section 46(1) of the Street, Drainage and Building Act 1974, a person is not allowed to erect any kind of structure in any public place or along the side of any street without prior permission from the local authority. Guardhouses and gantry barriers illegally erected by residents must be removed. There is, however, no problem with private guards hired by the residents of a particular housing estate patrolling the streets of the estate (Fernandez 2007).

The general feeling is that a balance has to be struck between safety and the strict application of the law and rules. Given that gated and guarded communities are on the rise, it appears that safety has been given priority. Indeed, at least one state government has encouraged gated communities as a way to curb the rising crime rate in the nation (The Star 2008).¹

LAWS AND REGULATIONS

Gated communities appear to be flourishing with greater speed than legislative reform, and there is an urgent need to either streamline existing legislation to cater for gated communities or enact new legislation (Singh 2005). Legislation provides for roadblocks to be put up by the police² and for temporary erections during festivals and ceremonies,³ but not for permanent roadblocks, or barriers, to be constructed on a public road. Even the provisions of the Building and Common Property (Maintenance and Management) Act 2007 do not allow public roads to be blocked.

In Malaysia, there is no single comprehensive Act for gated and guarded communities, which are governed instead by way of regulations. The regulations of the Department of Town and Country Planning, Peninsular Malaysia, separate gated communities from guarded neighbourhoods (JPBD 2010). The guidelines for a gated community are:

- The minimum area covered under the scheme is between 200-500 house units (1ha to 10ha).
- The roads and shared amenities inside the community belong to the community and are managed by a management corporation elected by the residents.
- The building of a wall to separate the community from its neighbourhood is not allowed.
- A social impact evaluation has to be carried out.
- There must be two entrances/exits (one for main usage, another for emergencies).

- Boom gates are not allowed.
- A guardhouse not exceeding 1.8m x 2.4m is allowed.
- Visitors' parking lots must be allocated.

The Department's guidelines for a guarded neighbourhood (GN) are slightly different:

- A GN scheme is only allowed in an urban area where it can be shown that there has been increasing crime in the neighbourhood. Local authorities will determine the minimum and maximum number of houses within a GN scheme. GNs are not encouraged in rural areas as they can cause social isolation.
- The establishment of a GN needs to be proposed by the Residents' Association and supported by the majority of residents – at least 51% of residents in the neighbourhood must agree to the proposal.
- A guardhouse of 1.8m x 2.4m or smaller is allowed. Guardhouses can only be set up on the road shoulder and must not impede traffic.
- The GN cannot place physical obstacles on roads and stop residents and the public from exiting and entering the areas.
- GNs are not allowed in areas with public amenities (e.g. schools, parks) and on public transportation routes.
- A manual boom gate with 24-hour security control can be considered.
- Guards must be registered with the Home Ministry.

ADVANTAGES OF GATED AND GUARDED COMMUNITIES

One of the main advantages, at least as perceived by the public, is that barriers keep out crime. Many homeowners who are not comfortable with the level of security provided by the law and other bodies have taken to setting up gated and guarded communities in the hope of fortifying their neighbourhood, the case below being a typical example:

Resident Mr X, who has been staying in Phase 13 for 15 years, said residents were fed up with the increase in crime and had taken matters into their own hands. "We decided to build a guardhouse and hired four security guards to patrol the area from 7pm to 7am daily after incidents of house break-ins, car thefts and robberies. About a month ago, a resident was slashed in a tussle with a thief and as many as four cars are stolen each day in the area. Residents are also looking to fence up the area and make it a gated community," said Mr X (Michael 2008).

Introducing a guard system can be costly but here, again, the perceived benefits appear to outweigh the costs:

Where I stay, we used to have people coming in a car and stealing expensive shoes [...] Then my cast iron garden set was stolen. It would take three men at least to cart the set without making noise among parked cars and over the fence. And surely they would have come in a small lorry. In broad daylight, a neighbour's house was emptied when they were at work. A lorry came on the pretence of shifting furniture [...] It came to a point where the residents were so afraid that they formed a residents' committee. The erection of the guardhouse and payment for the guards are

all private [...] The whole idea is to keep strangers out or get visitors to register with the guards (The Star 2007e).

There is community cohesion and social interaction, which is prevalent in gated communities overseas, though not as much in Malaysia. In some studies, residents in gated communities reported a high degree of community spirit and informal social interaction, for example at communal Christmas dinners. In one gated development, fortnightly musical concerts held in the communal hall were well attended by residents, as were the various sporting activities organised. Another advantage is that in a gated community, residents have the opportunity to participate in the management of their development. Residents' association meetings and get-togethers are often well attended.

Residents of gated communities appear to benefit from high levels of advocacy. Many local authority officers believe that residents in gated communities have higher expectations than other residents and that they demand very high levels of service delivery (The Star 2007a). When services do not meet these expectations, residents of gated communities are likely to take immediate action, ranging from letter-writing to involving their legal representatives. Some community management companies conduct regular surveys of residents and encourage regular and continual dialogue between residents and service providers.

A further potential benefit of gated communities is the extent to which the regulation of residents' conduct creates a secure, peaceful and harmonious community. Gated communities are often also prominent and symbolic developments in their local area; as such, they can provide powerful signals about the residential desirability and sustainability of local areas.

DISADVANTAGES OF GATED AND GUARDED COMMUNITIES

Gated and guarded communities can have potentially adverse effects on society. As Grant (2003) has noted, "such communities enhance class and ethnic segregation; they privatise elements of the public realm (like streets, parks and even schools); they may promote rather than reduce the fear of crime."

Where residents are concerned, one disadvantage of gated communities is that service providers are kept out. Every housing estate enjoys services provided by the local authority/local council, e.g. rubbish collection, tree pruning and the laying of speed bumps on residential roads. Public or community areas and drains are kept clean, roads are swept and grass is cut. All property owners pay rates and taxes for these services. The assessment and quit rent have to be paid annually to local councils that oversee the particular housing estates. With gated communities, however, the council workers are usually unable to enter and perform their tasks, leaving the residents in a quandary (The Star 2007a). The residents may be walling in more problems than they are able to keep out.

There is also the resentment of those who feel that gated and guarded communities restrict free movement. A report in *The Star* (2007c) prompted the following response from a reader:

Your report on gated and guarded communities and its current popularity [...] did highlight one point which is an issue for concern as well. The point mentioned is the right of passage of roads [...] I understand the residents' [...] concern over security, but to block off a public road and cause inconvenience to others is not a solution [...] Furthermore they have no legal right to erect the barrier on a public road, especially so if it is used by other residents to gain access to their home via the same road and also there are bus stops located along the road.

Freeloading is yet another problem with existing properties where the gated and guarded schemes are purely voluntary. There are freeloaders who enjoy the facilities without paying, and nothing can be done. At least in new housing schemes, the purchasers have no choice as a monthly charge is already provided for in the Sale and Purchase Agreement.

CONCLUSION

The desire for gated and guarded communities is in part a reflection of growing concerns about crime in urban areas, manifested through increasing use of private security by more affluent groups. While gated and guarded communities come with many advantages, the implications with regard to property prices, as well as class and ethnic segregation, must be considered. Gated and guarded communities are in one sense anathema to government policies aimed at increasing social cohesion and reaffirming linkages between neighbourhoods.

In Malaysia, at least for now, houses in gated and guarded communities are not ideal, as such houses too have become victims of robbery and burglary (Oh 2013b). What is the solution? Do we continue to pay high prices for properties that are still not fully secure? There is a real need for legislative intervention (Singh 2013). Only then can the taxpayer claim that his needs and security, both basic human rights, have been preserved.

Endnotes

¹ In this report, then-Menteri Besar of Selangor Datuk Seri Dr Mohamad Khir Toyo said that the state government encouraged gated communities as a way to prevent crime, besides other efforts such as setting up Rukun Tetangga to increase security.

² Section 78, Road Transport Act 1987; Section 21, Police Act 1967.

³ Section 46(4), Street, Drainage and Building Act 1974.

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II. Developing Cohesive and Participatory Communities

Khairiah Talha

INTRODUCTION

The growth and development of cities have often been associated as much with social issues as physical and administrative ones. Crime, poverty, difficulties in race relations, schools of poor quality, inadequate healthcare and pollution are but some of the prevailing issues in cities.

In addressing these issues, one of the most pertinent elements has been resilient communities – communities that are willing to help themselves and not depend on handouts by governments and their agencies. Healthy, vibrant communities in many cities throughout the world have shown a way out of the issues they face. Hence, communities play a strong role in building a strong and sustainable city.

This chapter will delve into the making of vibrant, healthy and thriving communities. It will provide examples of best practices, demonstrate why thriving and vibrant communities are pertinent to urban sustainability, and how these factors are in turn relevant to matters of housing. This chapter will also recommend strategies to move forward in the Malaysian context.

WHAT ARE COMMUNITIES?

A “community” refers to a social unit of any size that shares common values. There are several more definitions:

- A “community” is “an interacting population of various kinds of individuals in a common location” or “a group of people with a common characteristic or interest living together within a larger society” (Merriam-Webster 2013).
- As a concept it can be interpreted as a sense of belonging, a way of life and diversity with a common purpose (Hall and Potterfield 2001).

For the purposes of this chapter's discussion, a community is defined as a group of people within a common location or neighbourhood who share common characteristics and interests.

"Community" has been prescribed for much of what allegedly ails cities. In Malaysia, comparisons have been made between community cohesiveness in the *kampung* or village and with people living in large towns. Indeed, calls for a return to community values and neighbourhood governance are being heard across the social spectrum. Malaysian town planners have, for example, attempted to design residential areas that encourage more community interaction. The appeals to go back to community living and social cohesion seem ubiquitous.

Since the Earth Summit in Rio in 1992 at which Local Agenda 21 was introduced, the subject of communities working with local authorities and non-governmental organisations (NGOs) has been seen as vital in ensuring sustainability in human settlements. Local authorities were to promote the environmental, economic and social wellbeing of their communities as suggested by Ireland's Department of the Environment, Community and Local Government (1995), namely through:

- Modernising the local government agenda and promoting integrated policy and action
- Community planning, neighbourhood renewal and the social inclusion agenda including health, education and employment action programmes and crime-reduction strategies at the neighbourhood level
- The introduction of local strategic partnerships as a means of encouraging more accountable and effective local delivery mechanisms
- The promotion of best values and best practices.

Building strong and vibrant communities form part of the Local Agenda 21 implementation, for only then can programmes and projects benefit the community. Communities are seen as social capital (Putnam 2000) and their wellbeing is dependent on the relationships among the citizens of a neighbourhood or a city.

COMMUNITY BUILDING AND DEVELOPMENT

Community building is defined as a field of practice directed towards the creation of community enhancement among individuals within a regional area (such as a neighbourhood) or with a common interest. It is also sometimes encompassed by the field of community development.

The Scottish Community Development Centre (SCDC) is one of the finest examples of an organisation specifically set up to help build and develop communities throughout the country. Its development programmes help people to recognise and develop their abilities and potential, and to organise themselves to respond to the problems and needs they share. It supports the establishment of strong communities that promote social justice and help improve the quality of community life. It also enables community and public agencies to work together to improve the quality of government (Scottish Community Development Centre 2013).

Another exemplary organisation is NeighborWorks America, which helps create opportunities for lower-income groups to live in affordable homes within safe and sustainable neighbourhoods. NeighborWorks is an alliance of 235 independent and community-based non-profit organisations serving more than 4,500 communities nationwide. It provides programmatic support, training and technical assistance with its national and local partners. It also helps build leadership, strengthening resident-led associations and sponsoring community activities. As such, residents often take the lead in projects and this approach has resulted in positive community change.

In Malaysia, the Petaling Jaya City Council (Majlis Bandaraya Petaling Jaya or MBPJ), in partnership with the Centre for Environment, Technology and Development Malaysia (Cetdem), has successfully undertaken a project in which community groups initiated a waste composting effort to reduce household waste (Yip 2009). The 18-month community project involved 53 households from various parts of the city, with a total of 46 participants. The city produced 145,000 tonnes of solid waste in 2008 while MBPJ allocated about RM48 million or 18.7% of its 2009 budget on waste management. The community project managed to reduce the city's production of solid waste by 25 tonnes, and if the programme were to be expanded, the city council could substantially trim its annual budget for waste disposal. The participants, meanwhile, fostered better ties with their neighbours during the process.

COMMUNITY BUILDING IN HOUSING PROGRAMMES – SUCCESSFUL COMMUNITY-BASED HOUSING INITIATIVES

The examples given above illustrate how community-building and development can be harnessed as social assets to address the environmental, social, cultural, racial and economic conditions of an area. The community-based approach has also been used for housing issues, especially for urban low-income groups. The four regional and international examples below will show that resident/community-driven engagement has resulted in improved lives; greater equity; new and strengthened institutions, organisations and relationships; a reduction in government expenditure; new standards and expectations by the community; and an improved quality of life for all. Unfortunately, there has been no such engagement towards the provision of low-income or affordable housing in Malaysia, either at present or in the past.

I. Indonesia's Community-based Initiatives for Housing and Local Development (CoBILD)

The CoBILD Project was a partnership between the Government of Indonesia and UN-HABITAT. It successfully utilised community-based initiatives to reduce the cost of housing for low-income groups through the collective acquisition of land and development of infrastructure.

In early 2000, 12 pilot cities were selected according to criteria that included the participation of city governments, the availability and interest of community-based organisations (CBOs) as well as the availability and skills of community facilitators to empower the communities and build partnerships with city administrations. An empowerment strategy and dissemination campaign were developed and implemented to promote an

understanding of the project's objectives, expected outcomes, as well as arrangements for revolving loans. City forums composed of civil society activists, NGOs, CBOs, academics, professionals and local governments were established in all 12 cities, each electing a management board to interact with CBOs and to manage the revolving loans. Loan funds were disbursed to all boards, which in turn disbursed the loans to neighbourhood groups who would then implement their housing projects.

As a result, 12 city forums and management boards were established along with a support system linking communities and neighbourhoods through to the city level. About US\$1.5 million was disbursed to the boards for the improvement of almost 5,000 houses, the construction of 215 new houses and the purchase of more than 2,800 plots of land. The revolving funds have grown by US\$554,120 in the two years of operation. Through the establishment of loan mechanisms, partnership-building with the private sector and capacity-building, the community has managed to service the loan, thus demonstrating the initiative's financial viability. In this way, CoBILD has assisted in the evolution of a very important option for supporting community-based housing for low-income groups.

II. Rebuilding after the tsunami: Assisting communities in Aceh, Indonesia

To help people in Aceh and Nias rebuild their lives in the wake of the 2004 tsunami, the World Bank initiated a project to help 15,000 families completely rebuild or repair their homes through grants and technical assistance. In addition, 176 of the most devastated villages were given grants to rebuild basic infrastructure.

In the reconstruction effort, the community-driven approach adopted in the Community-based Settlement Rehabilitation and Reconstruction Project (CSRRP) – better known as “*Rekompak*” – put responsibility into the hands of groups of 10 to 15 families to rebuild their own homes. According to the World Bank (World Bank 2013):

Village teams were also formed to rebuild priority infrastructure. Each village was also required to come up with a settlement development plan. Facilitators trained by the Ministry of Public Works were assigned to help communities prepare and implement their projects. By using this community-driven approach, grant money was spent more wisely and more effectively. Grants from the Multi-Donor Trust Funds (MDTF) for Aceh and Nias/North-Sumatra were deposited straight into community accounts in instalments. The grants required that at least 30% of the members of various project teams were women. Enforcing a woman's touch ultimately led to better project selection and greater transparency. [...] The project helped communities rebuild or rehabilitate 15,000 housing units, representing about 35,000 people (post-tsunami families) and basic community infrastructure in 176 villages.

Other results of the community-based effort included the following:

- Fifty additional villages were added to the initial 130 villages that chose to apply the community-based approach for reconstruction.
- Of the project team members, 27.6% were women, while 24.1% of treasurers in housing groups were women. Although this was slightly lower than the expected 30%, it was a significant change for a traditionally male-dominated society.

III. Self-help housing: Mutirao 50, Fortaleza, Brazil

The Mutirao 50 Project took place in the Municipality of Caucaia, where 540,720 of the Fortaleza region's 2.5 million inhabitants lived in *favelas* or slums. In 1986, the People's Council of Rondon (CONPOR) emerged to protect the property rights of some 18,000 families who were earning below the minimum wage. In 1988, CONPOR signed an agreement with the Municipality of Fortaleza and an NGO called the Group for Research and Technology Exchanges (GRET) to initiate a self-help housing project using municipal land. According to UNESCO (UNESCO 2013a):

By 1994, the project realised extensive infrastructure (drainage, electricity and water supply, sewage and land-filling), the building of 50 housing units, the creation of micro-enterprises, and the establishment of a nursery and a small commercial centre with 11 shops. The partnerships and social processes involved in this project have been not only beneficial to the community in terms of empowerment, civic pride and engagement, but have led to changes in the housing and settlement policies of the state and local government [...] In March 1990, a micro-enterprise for the production of building materials was officially established as well as the Housing Department of CONPOR [...] The micro-enterprise now has a daily production of 3,000 soil-cement bricks costing 40% less than what is available on the market [...] while] 40 people, including adolescents, have been trained in the construction sector.

By 1995, the provision of infrastructure and basic services including roads, electricity and water supply, drains and sewerage was completed. A community housing fund was also utilised by over 600 people each year.

UNESCO also noted that the project's success "has led the local authority to revise its attitude, perceptions and policies regarding low-income and squatter settlements" and that this in turn led "to other programmes and initiatives for home improvement loans and the institutionalisation of an Integration Council" in the country (UNESCO 2013a). The Integration Council is a special commission set up to manage more of such community-based housing projects. It has "two representatives of each of the partners involved: the state government, the municipalities, the university and technical school, intermediary NGOs and community groups. The Council prepares the work plan, coordinates public, private and community feedback, and gives the community a voice in the allocation of financial assistance to different activities" (Serageldin *et al.* 2006).

IV. Walerton Neighbourhood Builders Ltd, UK

Walerton and Elgin Community Homes (WECH) was the first resident-controlled housing association to use the Tenant's Choice legislation under the UK 1988 Housing Act (UNESCO 2013b). This allowed WECH to take over ownership from the local council after the council had decided to re-house tenants and sell the houses. After the takeover, a programme of repair began to improve the conditions of the houses. In the beginning, WECH required local contractors to take on local people but, partly because existing skill levels were quite low, a decision was made to set up Walerton Neighbourhood Builders (WNB). WECH was established with grants from two charitable trusts and its repair programme took 10 years to complete. As such, it offered local people the opportunity to learn building skills and gain experience over an extended period.

COMMUNITY DEVELOPMENT IN MALAYSIA

Community development in Malaysia was a major policy matter in almost all the five-year Malaysia Plans. However, it was mainly directed towards the population in rural regions in order to address poverty and income imbalances between urban and rural areas. For example, the Fourth Malaysia Plan (1981-1985) had the main objective of inculcating community values towards development and self-reliance. To accomplish this, village and community working-groups were set up. To this day, there are Village Development and Security Committees (Jawatankuasa Kemajuan dan Keselamatan Kampung or JKKKs) in all villages and towns. The main objective originally was to address poverty and backwardness among the predominantly rural Malay population. In the Fifth (1986-1990) and Sixth (1991-1995) Malaysia Plans, community participation became more about community involvement in the projects, which were funded largely from government resources through the various ministries.

Similar approaches were continued through to the Ninth Malaysia Plan (2006-2010) under which community development was instituted at two levels. At the policy level, there were government programmes aimed at improving and developing communities, which in turn were empowered to contribute to national development. At the implementation level, community development was used as an approach to encourage people's participation in government-initiated programmes. In both situations, community development was a state-induced, planned programme for people to participate together to bring about economic change.

The Community Development Department, more popularly known as KEMAS (Jabatan Kemajuan Masyarakat) became the major player for community development in rural areas. Its community development focused on upgrading living standards and tackling poverty, especially among rural Malays.

However, the Tenth Malaysia Plan (10MP, for 2011–2015), has dedicated a chapter to inclusive socioeconomic development. The 10MP's fourth chapter outlined the national strategies for building a progressive and more inclusive society, i.e. one in which diversity is respected and encouraged. Although different groups within the community, such as women, youth, children, older persons, persons with disabilities and family institutions have been addressed, most of the programmes of action focused on economic prosperity. The 10MP, however, has no action plans for an inclusive approach to get communities to help themselves solve housing problems.

Most notably, there have been no specific community development policies or programmes by the national or state governments for people in urban areas. Both urban and rural communities in Malaysia have been highly dependent on government financial handouts for all their needs, whether in employment, education, housing, food, transportation, etc. As such, community development programmes in Malaysia do not interpret the capacity-building of the people as a means of helping them to address their own issues collectively and to become independent in the long run. Community problem-solving has therefore not evolved as well as in the international examples provided earlier in this section.

WEAKNESSES IN MALAYSIA'S COMMUNITY DEVELOPMENT PROGRAMME, ESPECIALLY IN HOUSING MATTERS

The examples of successful community programmes and those that have dealt with housing clearly show that there are different approaches to involving the community in the management of human settlements. Community participation in Malaysia has been seen as involving people in economic development programmes run and managed by the Government. Communities or participants in the programmes have been given handouts and, when these run out, supplementary funds are made available. The generosity of these economic programmes, however, has failed to realise the community as a long-term economic asset of society.

Long-term handouts by the Government and its agencies under “community programme” projects have meant that recipients may be viewed as passive recipients of services. Another equally damaging outcome may be that recipients believe in their own helplessness and dependence, thereby discouraging any self-help activity.

Despite the adoption of Local Agenda 21 by local authorities, very few of them have successfully implemented the agenda with community participation. More often than not, programmes are dictated by the local authorities and the community only participates during the launch and period of implementation. There have been very few partnerships, and the MBPJ example is one that stands out as an exception where the community has been involved from day one.

The community's participation in housing has also not been seen as a strategy to address the shortage of affordable housing. Although the same Ministry is involved in Local Agenda 21 – i.e. the Ministry of Urban Wellbeing, Housing and Local Government (MHLG) – there has been no mention of community participation or development programmes in the National Housing Policy (National Housing Department 2013). None of the policy's six thrusts or 20 action plans outlines the involvement of the community in housing initiatives or looks at making communities in urban areas engaged and thriving. The fact that Malaysia now has a bigger urban population is not being taken advantage of, especially by government agencies and most local authorities. These well-educated, highly communicative urban communities should be seen as assets that will assist in better governance and save government financial resources in the long run.

MOVING FORWARD

The examples given earlier of best practices have indicated that involving people in collective decision-making about the future of their communities can go a long way towards fostering a sense of common purpose and building social capital. This is especially so in Malaysia, where people come from diverse backgrounds, cultures and religions. An inclusive community planning process can reinforce the democratic dialogue and civic engagement that form the bedrock of cohesive communities.

Community development must not be seen as the mere participation of the community (or target groups, in the case of Malaysia's approach), but as enabling the community to be more independent and as building the democratic process of grassroots decision-making.

As the percentage of the urban population in Malaysia increases, community development and participation must now be focused in these areas. This is pertinent because urban issues increasingly plague the nation more so than rural ones.

I. Community leadership

Building community leadership among local residents can strengthen a neighbourhood's capacity to effect change (Pitcoff 1998). Strong and vibrant neighbourhood communities can do more than function as decision-makers – they can also act as neighbourhood think-tanks, analysing available resources and needs. They can then determine how best to address their needs based on the resources at hand.

The following actions are recommended to strengthen a community (Tackie et al. 2004):

- Build the skills base so that residents can take up socioeconomic participation.
- Foster community leadership.
- Establish self-management capacity and capability.
- Strategise social programmes to overcome public nuisance issues, vandalism, crime, public safety or rent/service charge arrears as well as family dysfunction.
- Create dynamic community-business-government partnerships.
- Improve the transport infrastructure to provide better access to employment and services.
- Ensure that socioeconomic participation positively impacts on the neighbourhood's wellbeing.
- Develop control, trust and good financial management to attain social pride and security.

Such steps have been emphasised as the means to allow the community itself to become the custodian of the maintenance and management of housing developments (Leong 2009). Skills development among occupants is vital so that the residents themselves will be the managers and decision-makers of the homes they live in. Giving them the recognition and building their capabilities and confidence will reduce costs for government authorities in the long term. The conclusion is that affordable housing without community development is unsustainable. Sustainable housing, therefore, must go hand-in-hand with sustainable community development – the two systems are interrelated and interdependent.

A more participatory approach in leadership training has also been called for (Tackie et al. 2004). Research has shown that this approach builds better leaders among community members. Moving into leadership positions demands special skills, such as the ability to work with others; serving as a coach, mentor, motivator and/or role model; and being able to make tough decisions and understanding how organisational politics work to achieve organisational effectiveness.

Training is also needed for leaders to help resolve conflict within communities. These skills are necessary to transform the social and economic dimensions of the community,

recognising the interconnections and interrelationships among just about everything in the community and creating the necessary synergies among people, processes and technologies.

On the other hand, local authorities have to play a better role in engaging the community, accepting their leadership and sharing their vision. Hence, managers within local authorities in Malaysia must undergo a paradigm shift and learn new leadership skills. Leadership coaching also needs to be undertaken for council managers. They are the main actors who will coach the community, initiate and adapt to change, build a culture of innovation and improvement and develop community-centric services.

II. Sustainable communities

UNESCO recognises the fact that sustainability must begin at the grassroots level, i.e. among the people who make up a community. Changes initiated at other levels – by businesses, government, international organisations – only help create the conditions that facilitate actions for sustainable development.

An example of national policy that targeted the community to initiate change was launched by the UK Government in 2003. The “Communities Plan” (Sustainable Communities: Building for the Future) set out a programme of action for “delivering sustainable communities in both urban and rural areas” (ODPM 2003). The plan called for a focus on governance, transport and connectivity, services, the environment, equity, economy, housing and the built environment, and society and culture. Most if not all the actions in the programme called for participation, engagement, collaboration and partnership with communities.

In Malaysia, physical spatial planning and the development of towns and rural areas are guided by the Town & Country Planning Act 1976. The Act allows for a democratic process for engaging the community of a city, region or a neighbourhood in the formulation of a spatial plan for the area. However, in the history of the formulation of these plans – with State Structure Plans, District Local Plans and Special Area Plans, for example – barely 1% of the area’s population will offer their suggestions or even objections. Such a response does not constitute community engagement and participation as practised elsewhere. Furthermore, community participation is only invited after the fact and after the formulation of development plans. The community, therefore, only comments on the plans that have already been formulated by the authorities. The lack of community ownership of a plan for their area makes development programmes difficult to execute due to objections and protests from people who were not aware of the participatory opportunities available to them.

CONCLUSION

Partnerships and good governance at the local level, with an outward focus on addressing community priorities and making a tangible difference to people’s quality of life, will result in a sustainable city. Strategies developed with and by the community should be the factors that influence the activities and financial budgeting of local authorities. The community strategy must start by engaging with communities, bringing together statutory bodies, businesses and voluntary groups and establishing a broad and inclusive vision for the council’s area.

A vibrant community that has trust and faith in this partnership with local authorities can contribute much and, as illustrated through many examples of best practices, can bring about a win factor not just for housing, but for all the elements and needs of the urban community.

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PART 4
FUTURE
DIRECTIONS AND
INNOVATIONS



INTRODUCTION

The patterns of housing today are rapidly changing with housing areas being developed farther away from urban areas. Scarcity of land is one of the key contributing factors to this shift. Housing developments are shifting to the suburbs as land is cheaper and in greater abundance. Unfortunately, here it is also farther away from employment and commercial centres. This shift has created the demand for mobility: the need for connectivity and accessibility to economic activities demands availability of transportation services which may be in the form of private vehicles or public transportation.

Dependence on private vehicles has led to several urban traffic problems. Traffic congestion, the most common concern, triggers a chain reaction that includes other issues like pollution, traffic accidents, increased fuel consumption, improper land use and time-loss. The principal effects are not limited just to degrading quality of life and environmental conditions – they also impede economic growth.

Hence, the most optimised option for mobility is public transportation. Public transport is about moving people from outside the city to the city, and linking suburbs to the city and suburbs to other suburbs. Public transport reshapes how people move throughout a region. Our transportation system is an integral part of everyday life. The importance of transportation cannot be overemphasised in providing links between destinations, and transportation determines where economic activity can take place. Industries need raw materials to complete their production chains while making profits. People must have access to work in the city and be involved in commercial as well as leisure activities, wherever the transportation can get them. Improving access will make further development possible whereas disrupting it will have a detrimental effect on the economy.

For residents and businesses that place importance on accessibility, proximity to a good public transport system redistributes the value of location within a region and makes

a place more or less desirable. Apart from lower transportation costs, the ability to travel within a large urban area while avoiding traffic congestion is highly valued. The clustering of commercial and entertainment options is an attraction in itself besides representing an effort to shrink carbon footprints.

In view of our transformation landscape today, public transport is seen as a catalyst for, as well as a source of, convenient and unprecedented mobility. Therefore, master plans are designed to ensure that an efficient public transport system is present, through strategic policies and effective action plans, to support economic growth in Malaysia.

This chapter will present the overall institutional structure that provides the frame of changes in the Malaysian public transport system, key strategies to integrate housing and transport networks, and an aggressive action plan that seeks to ensure connectivity and accessibility for all.

SUPPORTING NATIONAL TRANSFORMATION PROGRAMMES

Recognising the importance of transportation, national policies, plans and programmes have identified transport as playing a catalytic role in making Malaysia a progressive and high-income nation. An efficient public transport system has been identified as one of the fundamental building blocks that support economic growth. Such a system moves people and goods, enables access to employment, education and entertainment, and connects urban and rural areas, all of which serve to enhance not only economic growth but also inclusiveness – one of the key pillars of the New Economic Model – in the sharing of economic benefits.

Accelerated economic development brings about high demand for mobility. Mobility demand has increased from 13 million trips per day in 1991 to 40 million trips per day in 2010. Therefore, as our Gross Domestic Product increases by 6% per annum, mobility demand is expected to increase by 5% to 7% per annum.

Mobility in urban areas is provided by a combination of modes of transport that can vary greatly. These modes of transport are a fabricated system (i.e. a system constructed in defining policies for mobility and public transportation) that effectively defines mobility policies. Worldwide, greater emphasis is given to sustainable solutions in which public transport plays a major role while personal vehicles play a complementary role.

The National Urbanisation Policy identifies an integrated and efficient urban transportation system as one of the key thrusts to ensure efficient and sustainable urban development, contributing to sustainable population and economic growth.

The National Physical Plan 2 (NPP2) forecasts that the Malaysian population and economy will continue to grow over the next 20 years. This will intensify the need for greater accessibility and mobility, both within and between conurbations as well as between rural and urban areas.

Both the Government Transformation Programme and the Economic Transformation Programme acknowledge the need for an integrated land public transport system that connects people to jobs and businesses. It is reasoned that the efficient mobility of people and freight will enhance productivity and encourage economic activity, thereby increasing

national output and competitiveness, which are of paramount importance in achieving the national aspirations of Vision 2020 and 1Malaysia.

There is a need to expand capacity and connectivity through the development of a high-quality land public transport system to provide efficient and reliable connections in relation to accessing jobs and businesses as well as to create an efficient link to international gateways.

KEY CHALLENGES IN TRANSFORMING THE PUBLIC TRANSPORT SECTOR

I. Accommodating population development

According to the 2010 Housing and Population Census, the total population of Malaysia is 28.6 million and the current trend suggests that this figure will increase to 38.6 million by 2040 despite a lower average annual growth rate of 2% compared to 2.6% in the year 2000. Population distribution by state indicates that 42.4% of people reside predominantly in Selangor, Johor and Sabah. The growth rate of the working-age population increased to 5.1% in 2010 compared to 3.9% in 2000, and the population also became substantially older: the median age increased to 26.2 (compared to 23.6 in 2000) and the dependency ratio dropped from 59.2% to 48.5%, which are trends indicating the transition towards an aging population.

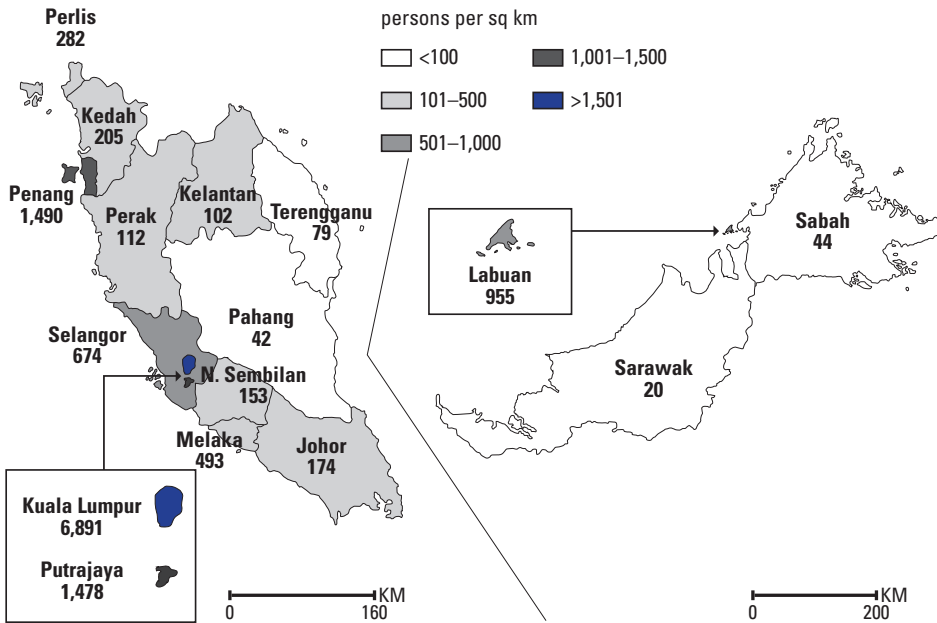
Apart from population distribution and age structure, a key element which affects the design of the transport network is population density (see Figure 1). Malaysia's population density stood at 86 persons per square kilometre in 2010 compared to 71 persons in 2000. The Federal Territory of Kuala Lumpur had the highest density at 6,891 persons followed by Penang (1,490 persons) and the Federal Territory of Putrajaya (1,478 persons).

The level of urbanisation has responded dramatically to rapid economic development, and the urban proportion of the population increased to 71% in 2010 from 62% in 2000. Fully-urbanised states are the federal territories of Kuala Lumpur and Putrajaya, while Selangor and Penang have high levels of urbanisation at 91.4% and 90.8% respectively.

The sizeable increase in overall population will create a need for more housing, employment and services, which may lead in turn to substantial impacts on travel patterns and demand. Recent demographic trends already indicate changes to travel demand: the baby-boomer generation continues to work part-time beyond retirement and the recent hike in the retirement age to 60 has created an extended demand for mobility. Also, more and more young Malaysians graduate from universities every year and they require connectivity and access to job markets as well as to commercial and social activities. The number of graduates that entered the labour market in 1982 was 231,800 compared to 2.1 million in 2010.

If current trends continue, it has been estimated that the majority of the Malaysian population will live in developed regions – more than 80% in major cities, urban and suburban areas. Changes in family structures, incomes, lifestyles and social expectations may also occur. Many anticipated sociodemographic issues over the next 20 to 30 years will change the population's transportation needs, travel patterns and expectations regarding mobility. For example, the effects of population growth may alleviate or magnify the effects of related factors such as aging and urbanisation.

Figure 1: Population density by state (2010)



Source: Department of Statistics Malaysia.

Some of these trends suggest an overwhelming increase in mobility needs. The population increase of 10 million in the next 30 years, the 7% increase of those aged 65 years and over by 2020, as well as increasingly active lifestyles and shifts in growth areas suggest an impending surge in travel demand. The patterns of travel may also change substantially, with travel increasing for different types of trips to different locations and at different times.

II. Competing with private vehicle ownership

There has been a considerable increase in vehicle registration over the past decade. In 2005, there were 6.47 million cars registered in Malaysia (see Figure 2). By 2010, this had increased to 9.1 million, a percentage increase of 41% or 7.1% per annum.

In 2005, the number of motorcycles registered in Malaysia was 7 million and this increased to 9.4 million in 2010, a percentage increase of 35% or 6.1% per annum. This growth in vehicles has led to increased congestion and a worsening of public transport mode share.

The largest number of vehicles registered was in the central region where in 2010 there were 3.19 million motorcycles and 4.41 million cars for a population of 8.89 million people (see Figure 3). By contrast, in the northern region there were 2.95 million motorcycles and 1.78 million cars for a population of 5.8 million people.

Figure 2: Vehicle registration per annum (2005–2010)

Number of vehicles	Year					
	2005	2006	2007	2008	2009	2010
Motorcars registered	6,473,261	6,941,996	7,419,643	7,966,525	8,506,080	9,114,920
Motorcycles registered	7,008,051	7,458,128	7,943,364	8,487,451	8,940,230	9,441,907

Source: Ministry of Transport.

The lowest level of vehicle registration was in the eastern region with 1.11 million motorcycles and 0.69 million cars for a population of 3.9 million people. It is evident that the level of car ownership presents one of the biggest challenges to public transport development.

Figure 3: Vehicle registration by region (2010)

Number of vehicles	Region			
	Northern	Central	Southern	Eastern
Motorcars registered (mil)	1.78	4.41	1.16	0.69
Motorcycles registered (mil)	2.96	3.20	1.41	1.11

Source: Ministry of Transport.

Research by the Highway Planning Unit indicates that each private vehicle makes 3.5 trips per day (Ministry of Works Malaysia 2008). Extrapolating this figure leads to an estimated 31.9 million car trips per day or 11.6 billion car trips per year. The potential of people shifting from private car use to public transport will depend on the effective implementation of public transport policies and plans to address current public transport issues such as reliability and punctuality, the reduction of travel times as well as concerns about safety and security. This modal shift for private vehicle users will be the key determinant in increasing the modal share for public transport.

III. Integrating housing and transport networks

Nationally, a working family spends 22.6% of its income on housing and 14.9% on transport – these are in fact the two highest figures for average monthly household expenditure (see Figure 4) in Malaysia. Furthermore, it was observed in the 2009/2010 Report on the Household Expenditure Survey that the percentage expenditure per rural household for transport is higher than that for an urban household. The trend is indicative of the impact of distance on cost of transport. In their search for lower-cost housing, working families often relocate far from their workplaces, dramatically increasing their transportation costs and travel times.

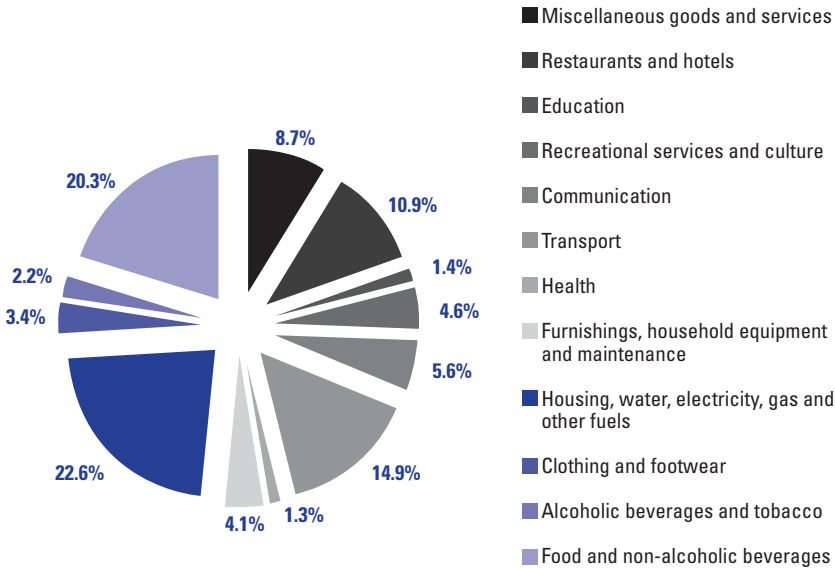
The trade-off between paying a greater share of income for housing and tolerating long commutes and high transportation costs is inevitable, and as more and more working families commute, traffic congestion becomes the norm. The combined cost of transport and

housing (37.5% of average monthly household expenditure) should be treated as opportunity costs that might otherwise be expended on a better quality of life for each working family.

Savings in travel times improve general productivity. A study under the Regional Public Transport Master Plan for Greater Kuala Lumpur recorded a 300-minute journey time (am/pm peak) per working day by public transport from suburban areas moving towards the central business district of Kuala Lumpur. It is estimated that this results in 50 days of lost time a year. The true importance of integrating housing and transportation can thus be gleaned from the cost dilemmas attached to mobility requirements. It is therefore imperative for cities and regions to consider housing policy and transportation policy together in order to provide a sustainable transport network as a solution to mobility demand.

The operation of multiple agencies managing public transport has proven ineffective and a new institutional model is needed. The transformation of public transport in Malaysia will require a new institutional architecture to meet the stated key challenges.

Figure 4: Average monthly expenditure by main group of goods and services (2009/2010)



Source: Department of Statistics Malaysia, *Report on Household Expenditure Survey, 2009, 2010*.

INSTITUTIONAL ARCHITECTURE

The establishment of the Land Public Transport Commission (Suruhanjaya Pengangkutan Awam Darat or SPAD) in June 2010 marked the beginning of public transport transformation in Malaysia. SPAD’s mandate is provided for in the Land Public Transport Act 2010 and, as such, it may plan, licence and enforce matters pertaining to land public transport encompassing services, terminals, facilities, networks, systems and other associated services.

This enables integrated and coordinated planning for an overall public transport

system while administrative functions previously spread among multiple agencies such as the Commercial Vehicles Licensing Board, the Ministry of Transport (public transport infrastructure), the Economic Planning Unit (infrastructure investment) and the Ministry of Works (traffic and road management) now come under a single coherent management.

I. The National Land Public Transport Master Plan

Subsection 3(3) of the Land Public Transport Act directs SPAD to prepare a National Land Public Transport Master Plan for the approval of the Prime Minister. This initiative takes the form of:

- A 20-year National Land Public Transport Master Plan containing macro-level policies and plans, including schemes and programmes for land public transport
- 20-year Regional Land Public Transport Master Plans containing policies and plans, including schemes and programmes for land public transport, based on the National Master Plan.

The formulation of the Master Plan provided by the Act seeks to achieve a safe, reliable, efficient, responsive, accessible, planned, integrated and sustainable land public transport system while ensuring the provision of affordable services for passengers. The Master Plan consolidates all aspects of land public transport service development and delivery under a coherent policy direction. Fourteen policies are designed to transform the public transport landscape and these focus on regulatory strengthening, collaborative planning, service enhancement and infrastructure.

It is envisioned that public transport will become the *rakyat's* first choice for mobility by 2030. A target of 40% modal share in urban areas and improved connectivity in rural areas provides the focus for SPAD and stakeholders seeking to ensure efficient mobility within and between spatial conurbations across Malaysia.

The Master Plan consists of a series of action plans and proposals. A combination of top-down and bottom-up approaches will be adopted in order to address the complexity of the transformation. Strategic objectives and policies defined under the Master Plan will then be cascaded to regional, state and local authorities.

One of the strategic objectives is to enhance quality of life through a better journey experience, which can be achieved through improving the punctuality of services, reducing door-to-door journey times, better information, newer and cleaner buses and trains as well as easier access to services.

Improving the safety and security of public transport services is another key strategic objective. Travellers often do not use public transport because of concerns about their safety and security. Improvements in these areas are therefore paramount. The Malaysian road network has among the highest number of fatalities in the region at 23.6 deaths per 10,000 population, compared to 19.6 in Thailand, 12.8 in Korea and 4.8 in Singapore (Jacobs *et al.* 2000). The Master Plan seeks to attract existing car users to use public transport, thereby reducing highway traffic and congestion. High traffic levels and congestion tend to increase the number of road accidents and any mode shift to land public transport is likely to result in safety benefits.

An improved and more efficient public transport system will also help reduce carbon emissions and improve air quality and carbon impacts. People have also become more concerned about noise and impacts on the environment. At the Copenhagen Climate Change Conference in 2009, the Malaysian Government pledged to lower carbon emissions by 40% by 2020 (compared to 2005). The NPP2 identifies the need to encourage the use of public transport as one of the principal spatial strategies in support of this commitment.

II. The Regional Land Public Transport Master Plans

The lack of a comprehensive and reliable public transport system often leaves those who do not have access to a private vehicle with limited or even no access to education and employment opportunities as well as other basic necessities of life. Recognising this, the key thrusts of the NPP2 and the Tenth Malaysia Plan include the development of an integrated, efficient and reliable land public transport system and the establishment of strong rural-urban linkages to improve connectivity and accessibility. In turn, this will help to achieve the national objective of promoting balanced regional development.

Meeting the needs of (and expanding accessibility for) all Malaysians and, where appropriate, the needs of particular groups and communities – including the rural population, children, the elderly and the disabled – is the key to improving social inclusiveness across the country.

Regional master plans will be developed for each state, where a detailed plan for state and local public transport needs will be addressed. All regional plans will align with national objectives and policies; draw upon state, city and local plans; address local needs and requirements; recognise local issues of growth and reflect local priorities such as demographic changes and land-use planning. The establishment of a Public Transport Technical Committee in every state will be instrumental in developing the Regional Master Plan. In 2011, the Greater Kuala Lumpur/Klang Valley region became the first to establish its own Public Transport Master Plan.

III. Licensing and enforcement

The Land Public Transport Act obliges all operators to be licensed if they provide public transport services, and this is applicable equally to private as well as government-linked companies. Licensing serves as a regulatory tool that defines performance standards, areas of service, penalties for non-compliance and service conditions, which must all be closely coordinated to ensure the safety and security of public transport users.

By law, operators must comply with set standards for routes of service, frequencies and scheduling of services. These standards are key tools to achieve reliability of services.

Terminals are required to be licensed to ensure that the physical infrastructure provided meets requirements in terms of operations, passenger comfort and convenience as well as to provide for the sufficient integration of all modes.

IV. Coordination among agencies

The harmonisation of policies among Government agencies and institutions will lead to the successful implementation of the Master Plan. There are certain matters (for example, those pertaining to land) under state jurisdiction that must be coordinated with improvement plans in public transport. Roads and highway development policies may need to focus on priority measures for ease of public transport movement. Streamlining development procedures at the local authority level will also be important in ensuring that public transport is prioritised.

The Master Plan has outlined 14 key policies that are set to improve public transport capacity throughout the country by addressing physical connectivity, affordability, sustainability and infrastructure needs. Several action plans have been formulated to address mismatches between housing and the transport network. The underlying principle in the formulation of these action plans has been the need to bridge first/last-mile gaps.

V. Bridging first/last-mile gaps

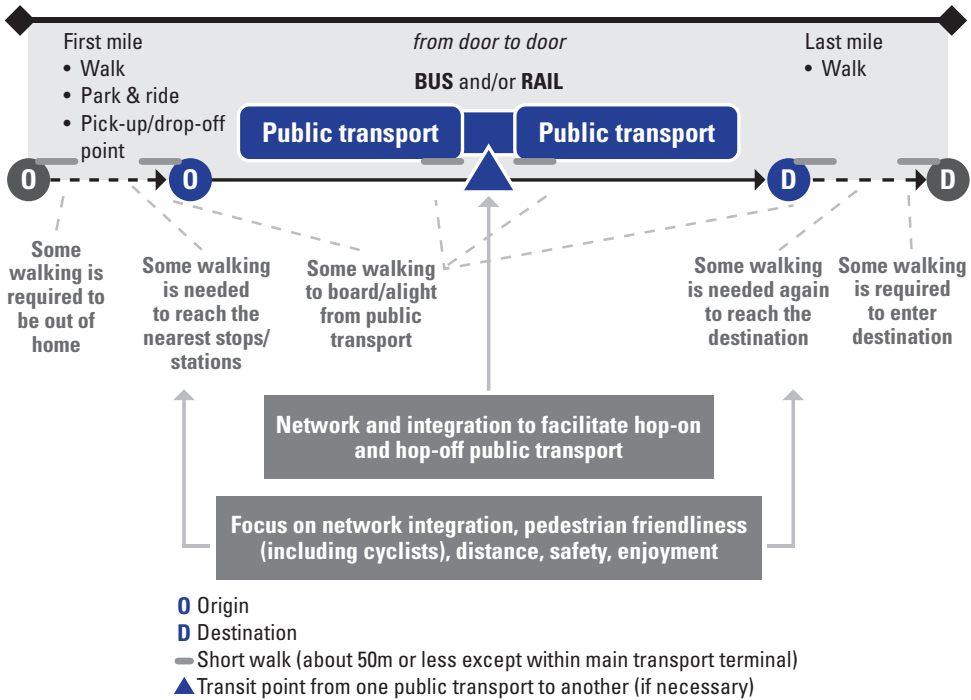
The last-mile problem refers to the provision of public transport services from the nearest public transport node to a home or office that consists of a simple round-trip between the rail station or bus stop, and the commuter's final destination. When users have difficulty getting from their starting locations to a transport network, the scenario may alternatively be known as the "first-mile problem" (SPAD 2011). These issues are acute where land-use patterns have moved more jobs and people to lower-density suburbs that are often not within walking distance of public transport options. This promotes reliance on cars, which results in more traffic congestion, pollution and a greater urban sprawl. A conceptual first/last-mile transportation system is described schematically in Figure 5.

Hence, the development of action plans must focus on getting commuters on board with support for public transportation without the dreaded first/last-mile problem. Strategies to enhance overall mobility and solve first/last-mile barriers include the provision of pedestrian walkways, bicycle facilities, journey planners and feeder services. Practical and user-friendly services are necessary to realise the full benefits of the investment in public transport and to meet the goals of reducing vehicle trips and developing a fully-integrated multimodal transportation system.

STRATEGIES TO HARMONISE HOUSING AND PUBLIC TRANSPORT NETWORKS

Transforming the public transport landscape to one that will be the preferred mode for mobility requires strategic as well as tactical action plans. In the case of enabling an "anywhere-to-anywhere" network, urban development must be synchronised with public transport planning. This can be achieved by setting a common goal that prioritises public transport networks within a locality. Coordination and cooperation among local authorities and SPAD will lead to cohesive and integrated planning for the benefit of the general population. Without this, the implementation of the selected strategies will not be successful.

Figure 5: First/last-mile problems in a transportation system



I. Land-use planning and transport

A critical precondition to the successful implementation of strategies is the relationship between spatial planning and public transport planning. The transformation of public transport services cannot be undertaken in isolation. There are crucial interrelationships between land-use development planning and development control. Development control processes must be enhanced to take account of the need to stimulate public transport through the provision of facilities and services. In addition, the planning process needs to be less focused on highway needs and should cover wider transport needs, particularly the encouragement of the use of public transport.

The aim of development control is to ensure that land-use development proceeds in accordance with State Structure Plans and Local Plans. The development control process often involves land-use zoning, density as well as parking- and plot-ratio controls to prevent incompatible development and to preserve the desired functions and character of the land-use zone. Infill development is encouraged where inner-city redevelopment focuses on employment centres or when good transportation access to employment centres is required. Effective development control limits areas of sprawl. A reliable and high-quality public transport system is important for suburb-to-suburb commuting as well as getting families from suburbs into the city centre. In order to compete with private vehicles, substantial and visible improvements in public transport services will be needed.

As part of the holistic approach towards preparing the Greater Kuala Lumpur Public Transport Master Plan, a preliminary assessment of the development control of various local

councils has indicated that controls are limited to land-use type and density, and that no requirement for public transport assessment has been included. There currently exist gaps in local council processes when approving developments. Councils should thus include requirements for the submission of a Traffic Impact Assessment report in order to plan for public transport corridors by providing quantitative analysis and qualitative assessment of the effects that the proposed development will have on the surrounding highway network, and the scope for mitigating them. There is, however, no specific requirement for the assessment of public transport provision and performance, and this issue needs to be addressed.

Moving forward, the development of the regional public transport master plans should be a platform to guide planning authorities in reviewing and prioritising new development areas to ensure that developments are close to public transport corridors and that they are developed in a way that is receptive to increasing population density and land use over time. Planning for phasing and land-banking is essential to ensure a sustainable approach towards the better integration of land use and transport.

The relevant agencies and local authorities must consult one another to strengthen these linkages. Key areas to focus on include securing good public transport access and facilities for new development areas. For any of the latter that do not enjoy the benefits of being “location efficient”, state and local authorities are encouraged to undertake progressive planning and secure good public transport access and facilities for the development by designating and reserving rights-of-way for public transport corridors, providing public transport network planning and integrating community facilities to encourage the use of public transport and reduce dependence on private vehicles.

For a start, any new development should provide for adequate access to public transport services before planning approval is given. This ensures that public transport will be a viable and indeed attractive option for future residents of (and visitors to) the new development. The reserved rights-of-way can be utilised later when the surrounding development has matured sufficiently to support the demand for a more intensive public transport system. In addition, plans should include pedestrian linkages to create safe walking environments that enhance public transport catchment areas.

II. Transit-oriented development

Transit-oriented development (TOD) is a development style that promotes mixed-use development within a five-to-10 minute walk of a public transport station. Basically, TOD helps create an environment in which the community can live, work and play without relying on the use of private vehicles. One approach towards reducing the cost of housing and transportation is to expand housing opportunities adjacent to transport hubs. TOD presents unique opportunities to create housing close to public transportation and to address zoning and land-use issues when developing mixed-use development projects.

Implementing TOD can have significant benefits for individuals, society, the region, the economy and also the environment. By creating “activity nodes” linked by public transport, TOD provides mobility options for young people, the elderly and those who prefer not to drive or own a car. The efficiency and effectiveness of public transport services

increase ridership and reduce vehicle miles travelled. As mentioned above, housing and transportation rank respectively as the first and second largest components of a household's average monthly expenditure. As such, TOD may potentially increase disposable incomes by reducing household transport costs – an estimate according to the draft National Transport Master Plan 2013 shows average household savings of RM3,000–RM4,000 per year. Access to amenities a few short blocks away can also increase a family's disposable income by eliminating the need for a second car. Apart from these benefits, TOD reduces air pollution, conserves resource land, revitalises aging and declining areas and reduces infrastructure costs specifically through compact development.

To date, the initiative closest to TOD in Malaysia is Kuala Lumpur Sentral where a development project blends in with existing neighbourhoods to create a community and to add value to public transport services which feature:

- Six rail networks – the KLIA Ekspres, KLIA Transit, Putra LRT, KTM Komuter, KTM Intercity and KL Monorail
- 400 condominium units and 600 loft apartment units
- Corporate office towers and business suites
- Five-star international hotels
- A shopping mall.

Another major TOD project currently in conceptualisation is Iskandar Malaysia, Johor. The initiative has determined TOD as one of the key directions in enhancing development and economic activity in the area. TOD zones (defined as the area within a 400m radius of a rail station or terminal) have been identified and enjoy the following benefits:

- High-intensity activity nodes within the TOD zone
- High-density residential developments and a high plot ratio of commercial development within the transit planning zone
- Mixed-use development of commercial, residential, community facilities and other civic amenities
- A pedestrian-friendly environment
- Good urban design.

However, transit-oriented development is not without challenges. Chief among these is the typically high land cost that results from market demand for housing, office space and amenities within walking distance of public transport. Current TOD provides for luxury housing opportunities but the real challenge is attracting or supporting mixed-income housing as a significant component of TOD. This will require incentives or policy tools to ensure that housing is available for all income groups.

There are other challenges to TOD, which include: zoning and regulatory barriers to housing; the complexity of joint-development projects involving SPAD, private investors and other public authorities; as well as the upward pressure on housing prices.

A NEW REGULATORY REGIME

A process has been developed to move to a new regulatory regime that will assist in developing and allocating risks and responsibilities to key stakeholders while minimising the risk of service disruptions from external influences to ensure effective delivery.

It is envisaged that the key drivers (namely regulation, network design and planning, enforcement and performance monitoring) required to improve the bus service environment will be delivered as a result of moving through the key stages set out above.

In order to move the industry forward, network design must be coupled with effective integrated network planning and fare structures. The regulatory – and, as appropriate, contracting – regime must provide a measure of reliability and stability such that all partners can have reasonable certainty in terms of what is expected of them with regard to service delivery.

Most importantly, passengers and potential passengers must be able to recognise a stable network of service provision across all modes and be provided with reliable and comprehensive passenger information both when planning and undertaking their journeys.

Equally, operators (particularly bus operators) must be certain about the role of their services within the wider integrated provision. They must also have confidence that, with the exacting standards expected of them, they will be protected from the impact of unauthorised competition, and that this protection will take the form of regulatory, licensing and enforcement processes.

The operators at present do not provide the level of regulation necessary to achieve effective integration, develop a planned network to respond to future changes or to raise standards. Hence, there is a need for significant changes to the regulatory and operational regimes, starting with manageable first steps.

It is widely accepted that, in order to improve the existing situation, a revised regulatory and route licensing model involving some form of contract must be introduced. This will enable the exercise of greater control over the industry and introduce better governance processes at least in the short to medium term (perhaps the next five years) while processes and capacities develop.

In order to effect changes within the bus industry while ensuring that effective competition takes place, a contracting regime will be implemented as the basis of relationships within the bus industry that will enable SPAD to plan the network and outline service standards as well as vehicle specifications, bus frequencies and headways while service delivery is secured through outsourcing of operations.

Tendering for services on a competitive basis will significantly remove off-the-road competition in order to secure some form of contract. This is in contrast to the on-the-road competition among operators whether they are operating legitimately or in breach of licensing regulations.

This form of contracting can see the Government bearing the financial risk and simply requiring the operator to provide a cost for running services, or passing the risk to operators, or sharing it. It should be emphasised that the day-to-day operational aspects of the bus

services will be provided by private operators secured through the competitive tendering process.

The operators' performance would be monitored closely within a defined performance management regime set by SPAD. It would also be reasonable for the private operator to expect to be protected from unauthorised competition from other bus operators through an effective monitoring and enforcement regime that checks not only the performance of operators per contract requirements but also the wider operation of the bus service.

Thus, a detailed operating specification will enable the public sector to monitor the industry effectively in order to ensure that standards are met in accordance with the contract. A penalty will be levied for non-compliance with set standards (for example, missed journeys and poor levels of punctuality or performance). Ultimately, persistent poor performance will be penalised by loss of contract or a reduction in the scale of the contract.

RATIONALISING PUBLIC TRANSPORT NETWORKS/NETWORK CONFIGURATION

The provision of a well-planned, integrated bus network will form a central focus in all regions within an overall integrated public transport strategy, especially where bus operators are provided with contractual incentives to improve the quality of their services and to maintain the inherent flexibility of public transport. An expectation is placed upon the bus network that quality will be improved. To achieve this, there is a fundamental need to move to a revised structure in the delivery of bus services, both on the road and in terms of regulation and procurement, as the existing structure fails to enable effective planning to take place. It also requires the delivery of bus services to be properly coordinated in order to achieve the levels of consistency and integration required for the overall bus service to play a proper part in the wider spectrum of public transport provision. In order for a change to the bus industry to be effective, and to meet the Government's key policies and objectives, it is important that a considered transition take place.

Given the current state of bus service provision in the country, it will be impossible to make effective changes in a single exercise. Effective progress towards high-quality integrated bus services requires the measured development of technical capacity in planning and regulatory bodies as well as in the actual operation of bus services. Thus, in order to fully ensure that the industry moves forward and meets its objectives in terms of supporting key policies for the public sector, it is important to deliver, in stages, the reforms needed by the travelling public and to meet the commercial needs of the operators.

A key policy focusing on mobility improvement is the structuring of multimodal public transport networks in different types of urban and rural areas. This concept involves enabling travel "anywhere to anywhere", such that different advantages of various public transport modes and types of lines can be exploited. The main idea is to provide a public transport network that is supply-based rather than demand-driven and to ensure network coverage that does not discriminate among urban, suburban and rural areas. The network planning approach is a fairly new concept that is slowly being recognised in many places. The success of the approach harnesses the network effect which will lead to an increase in modal share.

One of the countries that has successfully implemented the network planning approach is Switzerland, namely in Zurich, and this is an example of good practice. Zurich is an area with 25 municipalities, most of which have populations of fewer than 2,000 people (13 municipalities have fewer than 1,000). These semi-rural areas posed particular problems such as low densities and dispersed travel patterns that led to low ridership, high subsidy levels and infrequent services. Network planning emerged as the response to a crisis in the Swiss national rail system where the share of rail trips fell from 28% in 1960 to 16% in 1970. The crisis led to an increased use of private cars.

A study conducted by the Zurich Transport Agency in 2007 recorded that approximately 80% of city inhabitants (roughly 385,000 people) used public transport regularly, i.e. daily or between two to five times a week. Public transport is embedded in an overall transport concept for Zurich and carries more than 300 million passengers a year.

Apart from the design of the network, key success factors observed were the strong interagency collaboration working in the same direction and the imposition of a specific order on the supply of public transport services. The Transport Supply Order requires the provision of good public transport services for all continuous built-up areas with at least 300 inhabitants, jobs or students. “Good” means that there must be a bus stop in a catchment area within a distance of 400m or a train stop within a distance of 750m with at least one service per hour, but usually half-hourly (Ott 2001).

ADOPTING THE NETWORK PLANNING APPROACH

Inspired by the Zurich model, pilot districts have been identified in every state in Malaysia where the existing public transport network will be reconfigured for expansion of coverage as well as improvements in level of service. The current practice in determining bus services is typically based on demand from new housing and commercial project developments. Meeting individual needs will be an arduous task and is unsustainable for operators. As such, the success of the network planning approach will be based on two key principles:

- **Keep the service simple and intuitive.** An intuitive system that is easy to understand and use relies on a simple network and route design. This concept requires better coordination of schedules and transfer points, and will result in an easier-to-use and more convenient system while reducing waiting and overall travel times. These enhancements to service quality are expected to help increase ridership and revenue at no additional cost. Furthermore, predictable and consistent headways help to reduce uncertainty about next bus arrival times.
- **Minimise transfer inconveniences.** An essential element in the development of an integrated network is that the system should be seamless from the customer’s perspective. Transfer is important in order to cut operational costs but inconveniences must be eliminated by ensuring simplicity for users of the public transport system. Elements that will be focused on include high-frequency services, timed transfers on less-frequent services and shared stops for ease of transfers. Trip information, way-finding and integrated ticketing are also important elements of a customer-focused public transport network.

Case study: Seremban, Negeri Sembilan

Seremban, the capital of Negeri Sembilan, is composed of eight municipalities and covers an area of 95,900ha. The total number of housing estates in Seremban is 252 and currently there are three stagecoach operators servicing the areas. This has led to overlapping routes in profitable areas and a lack of service on less lucrative routes where demand may not be too encouraging (see Figure 6).

Seremban has a population of 397,000 (according to the Seremban District Local Plan of 2000). Population density is projected to increase from 417 persons per square kilometre to 624 in 2020. An area of 3,364ha was allocated for the manufacturing industry, of which 69.4% has already been utilised. Provision for housing units is also projected to increase from 15,086 (2010) to 21,706 in 2020. Most of the development is concentrated in the west of Seremban.

A distinct gap is observed in the connectivity from residential areas to the main trunk line. Current service coverage is at 250km, which covers approximately 26% of the total area of the city. Most residential areas are not served and, in places where there are services, the frequency can differ from 20 minutes to 45 minutes. Overlapping routes do not seem to address the reliability issue but instead contribute to excessive competition among operators, leading to unsustainable operations.

The new network (see Figure 7) will provide expanded coverage from 250km to 350km, ensuring linkages between key housing estates and the main trunk, and connecting to centres of employment, business and entertainment. Improvements in the design of the network structure rely on a trunk and feeder system that is supported by strategically-placed transfer points.

The following are critical service quality goals which SPAD seeks to achieve when designing the new service level in the area:

- **Develop a network of services rather than a collection of individual routes.** Individual routes do not need to serve all market requirements. Rather, routes should be designed to serve specific purposes within the network. Combined, the network should provide services to all major destinations and densely-populated areas throughout the day.
- **Minimise duplication and increase shared stops.** Overlapping services may be costly, confusing and unproductive for service providers and users. Through better service coordination, duplication of bus services, as well as that between bus and rail services, can be reduced. An increase in shared stops will lead to a simple-to-use public transport network by reducing confusion.
- **Provide timely and readily available customer trip information.** Information strategies regarding trip movements will be articulated through scheduling, and this will include dissemination of information. Timely and readily available information will minimise any confusion about using the public transport service. Users will always be kept informed of the status of their trips and this will reassure them about when the next public transport vehicle will arrive, or if there has been a service disruption and how long the delay is expected to be.

- **Ensure reliability of services.** In order to change the negative perception of public transport, the system will identify and prioritise service quality attributes that support a reliable, effective and sustainable operation. Reliability will be given the highest priority. Poor schedule adherence, vehicle breakdowns and missed trips will be managed by establishing reasonable running times and schedules, maintenance and management of vehicles, and operator availability and performance.

For high-frequency services with headways of every 15 minutes or better, schedules will be written to allow operators to be punctual but without excessive running times that can slow the service substantially and result in additional operating costs.

For low-frequency services with headways of every 20 to 60 minutes, reliability will be even more critical. Missing trips on low-frequency services increases consequences to the passenger given the significant travel delays and waiting times. Therefore, special attention will be placed on ensuring that low-frequency services are designed and operated to the greatest reliability.

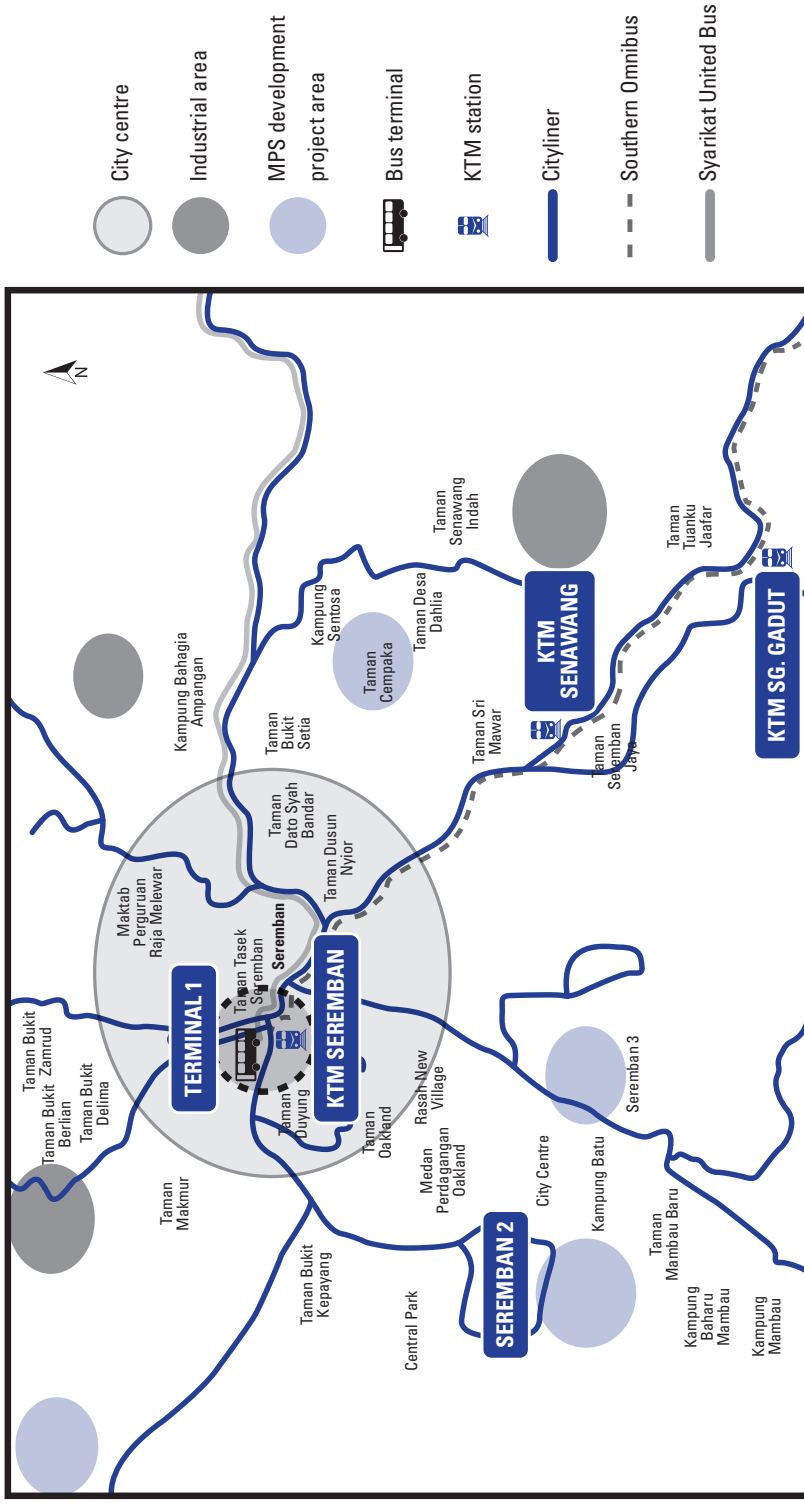
- **Optimise passenger capacity.** Passenger capacity (the number of seats and standing room on a bus) is an important consideration when designing public transport services. The use of vehicle capacity should be maximised to make the most of resources. However, capacity should not exceed a threshold that deters ridership due to uncomfortably crowded conditions or excessive stop and station dwell times as a result of blocked passageways on board. The load factor is used to determine how many trips must be scheduled for each direction of travel during specified time periods.
- **Ensure safety and security of routing and stops.** Safety and security covers both real and potential incidents of crime that may pose a threat to passenger safety, even if the actual risk is minimal or non-existent. Measures must be taken to alleviate passenger concerns about safety and security both at stops and aboard public transport vehicles. Whenever possible, stops should be located in well-lit areas with ample sidewalk space and room for queuing for buses.

CONCLUSION

Integrating housing and public transport networks not only improves regional accessibility for residents and businesses, but also reduces traffic congestion and revitalises neighbourhoods. A new or improved public transport system jumpstarts private-sector growth and strengthens the regional economy.

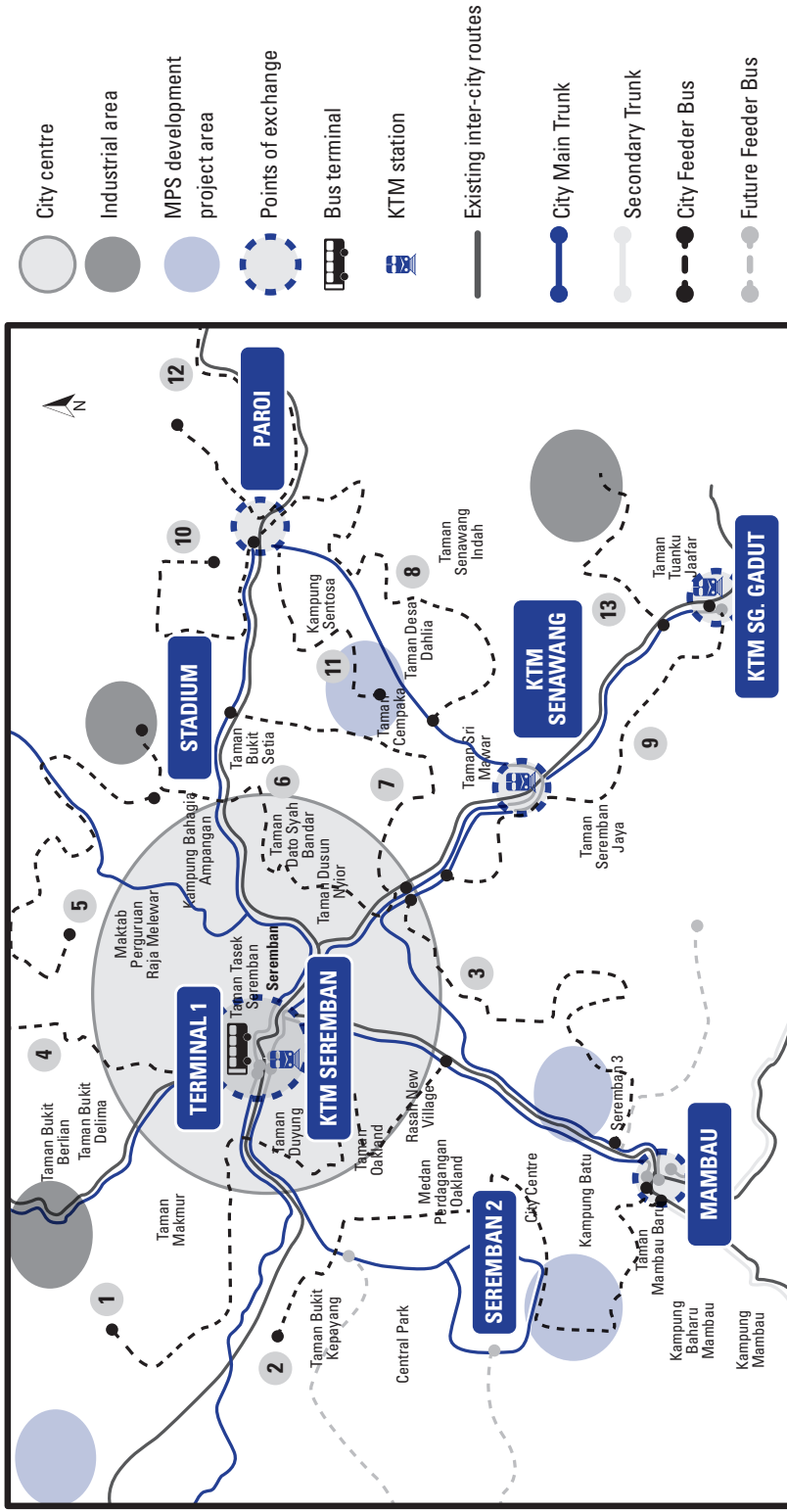
Taking cognisance of the key role of public transport in ensuring that mobility demands are met, the National Land Public Transport Master Plan was formulated with a target set for 40% modal share by 2030. An institutional framework has been designed with key principles and strategies defined to guide the transformation path. Bridging the first/last-mile gap is a core principle that underlies public transport strategies and action plans. Rationalisation of the public transport network by linking urban areas to suburbs, suburbs to suburbs and urban to urban areas not only generates economic growth but also enhances social inclusiveness.

Figure 6: Existing bus network in Seremban, Negeri Sembilan



Source: Suruhanjaya Pengangkutan Awam Darat.

Figure 7: New bus network plan in Seremban, Negeri Sembilan



Source: Suruhanjaya Pengangkutan Awam Darat.

The promotion of transit-oriented development indicates the need for more creative and practical strategies that simultaneously provide for housing and address mobility needs. These are key strategies in addressing the mobility demand of the people. Both demand and supply of public transport systems are addressed with the aspiration of making public transport the *rakyat's* choice of mobility.

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I. Implementing The Industrialised Building System

**Zuhairi Abdul Hamid and
Kamarul Anuar Mohamad Kamar**

INTRODUCTION

In a highly-competitive industry such as construction, a company's profit margin in a given project can hover around 5% to 10% of total costs and risks are extremely high. Unfamiliar techniques such as the Industrialised Building System (IBS) can easily reduce a company's profit. To create a market that generates continuous demand for IBS and to avoid unprecedented losses to housing developers, contractors and manufacturers, a strategy has to be formulated. This strategy must take into account current Government policy and aspects of sustainability in IBS, focus on the need to achieve economies of scale for the system and seek ways to overcome the unaccommodating perception of, and lukewarm response to, IBS. The objective of this chapter is to assess IBS as a preferred mode of design and construction such that stakeholders will choose standardised components at the outset of any construction project.

DEFINITION OF IBS

While there is no commonly-accepted definition of IBS, there are numerous definitions in the relevant literature. Most of these give preference to prefabrication, offsite production and the mass production of building components as the main characteristics of IBS.

However, the Construction Industry Development Board of Malaysia (CIDB) has published a definition and classification of IBS that have been widely used by researchers and practitioners in Malaysia (CIDB Malaysia 2003, 2007a, 2007b; Zuhairi *et al.* 2008; Kamarul *et al.* 2009). This definition and classification are explained thus: IBS is a construction technique in which components are manufactured in a controlled environment (on or off site), transported, positioned and assembled into a structure with minimal additional site work. It is classified into five main systems:

- Precast concrete framing, panel and box
- Steel formwork
- Steel frame
- Prefabricated timber framing
- Block work.

The move towards the advanced development of the construction industry is a global phenomenon and not merely a local or isolated initiative. As such, the definition and classification of IBS must evolve in order to incorporate global standards and practices. The definition and classification of offsite construction (OSC), the modern method of construction (MMC), offsite manufacturing (OSM), offsite production (OSP), pre-assembly and prefabrication must also be aligned to give us a different perspective and to enrich our understanding of the IBS concept as a whole.

ADVANTAGES OF IBS

The expected outcomes of implementing IBS can be broadly summarised thus: quality, faster completion time, clean construction sites and sustainability.

I. Quality

The main objective of implementing IBS is to increase the quality of buildings for end-users, the main elements of which should include:

- High-quality components in construction
- Aesthetically-pleasing buildings that serve the purposes they were built for
- Cost-effective and environmentally-friendly construction
- Does not give problems to end-users (such as leaks)
- Adaptable to future needs of users through renovation or extension
- Upholds safety and health requirements in construction.

II. Faster completion time

The consistently faster completion of construction is due to the use of standardised prefabricated components, CAD/CAM and IT-based design solutions, and simplified installation processes which result in fewer site workers as most of the components are cast in the factory.

III. Clean construction sites

As most of the work involved in manufacturing IBS panels and components are carried out in factories, there is less of a need to transport raw materials to construction sites. Work at the sites is also kept to a minimum as much of the labour is concentrated on erecting and

assembling precast panels. These factors make clean construction sites a common element of IBS.

IV. Sustainability in IBS

There are several aspects of IBS that have the potential to contribute to different aspects of sustainability and green construction (Zuhairi and Kamarul 2012). Some of the major aspects are explained below:

1. Sustainability through controlled production environments

IBS offers a controlled manufacturing environment with the ability to reach difficult nooks and corners that are often inaccessible in regular construction. With the availability of production tools, as well as permanent jigs and fixtures, it is easier to control the workmanship of construction, ensuring tighter construction and energy savings by minimising leakages (thermal leakage).

2. IBS and waste

IBS has been traditionally known to minimise waste, with the ability to reuse material from one module or product in another, thus supporting the sustainability agenda. However, several aspects of planning both in terms of materials management and production management must be monitored in order to achieve the waste minimisation benefits promised by IBS.

3. IBS and building materials

Several prefabricated technologies such as structural insulated panels (SIPS) offer great potential in terms of the construction of more energy-efficient buildings. However, if appropriate process controls and planning are not implemented, these potential benefits could be lost due to expensive onsite assembly processes. Therefore, it is important that the advent of new technologies be accompanied by proper process designs for onsite assembly.

4. IBS and logistics

Some recent estimates have put the amount of environmental impact from material transportation activities at one third of the total environmental impact of the entire construction process. IBS offers the ability to order large quantities, thus potentially reducing the number of trips taken. To reap these potential benefits, it is important that a detailed material transportation and logistics plan be established.

5. IBS and economic sustainability

Most governments emphasise the reduction of reliance on foreign labour and the ability of IBS to achieve this goal is well documented. However, for it to succeed properly there is a need to develop a detailed training and dissemination strategy to promote IBS and to

prepare the workforce for it. R&D and training institutes must be established in full operation with all stakeholders to fill the void.

DRAWBACKS OF IBS

Looking into the performance and implementation of IBS, one must first examine the progress of the IBS programme to date and then consider what steps are required to keep the programme on track. Notwithstanding IBS achievements in Malaysia, a number of implementation snags have been identified as potential hurdles. These include:

- Developing and sustaining market demand for IBS sufficient to generate economies of scale
- Developing standard plans and standard component drawings for common use
- Apprenticeships and on-the-job training in the area of IBS moulds and casts and assembly of components
- Vendor development programmes
- Readiness of designers' and consultants' practices.

The market is not responding very enthusiastically to the IBS programme, possibly due to the following reasons:

- Mindsets that are not changing fast enough and the inability to achieve acceptance by the construction community. This is by far the most difficult problem. Many in and out of the construction industry still perceive IBS as too rigid and inflexible in form and dimension to meet the varying demands of construction. This leads to the mistaken conclusion that IBS can be of service only to monotonous designs.
- The cost of using IBS exceeds conventional methods of construction, especially given the ease of securing relatively cheaper foreign labour.
- The risk of trying an unfamiliar technology is too high vis-à-vis current profit margins in construction.
- The IBS design concept is not being taken into consideration at the outset of the project.
- Designers will not design using components as they cannot find them in the market, while producers will not produce the components as they do not see designs using them.

IBS HOUSING: THE INTERNATIONAL EXPERIENCE

From its inception in Europe after the Second World War, IBS has been evolving through continuous improvements to processes, technology and people. In Sweden, where the offsite market is well established, some companies use contracting to reduce cost, increase predictability and improve client satisfaction. Similarly mature production supply-chain networks exist in Austria, the Czech Republic, Finland, Germany, Norway, Poland and Spain.

Japan is currently the world's largest practitioner of manufactured construction, with some companies producing over 70,000 manufactured homes a year. This is a very mature market, with several large companies including Toyota Homes, Misawa Homes, Sekisui Homes and Sanyo Homes being well established. These firms are able to supply customised homes that are pre-assembled from standardised components or modular systems (Barlow *et al.* 2003). Prefabrication is seen as a medium-to-high-end product and prefabricated homes constitute approximately 20% of the Japanese domestic market. However, there are specific contextual issues to acknowledge in Japan, the most prominent of which is high building density and limited available land for development or redevelopment. Redevelopment cycles are also quite short (approximately 30 years), which make the house-building sector quite buoyant. As a result, Japan has been in a strong position to make positive developments in adopting modular building processes to meet demand for residential housing and the change in emphasis on sustainability drivers.

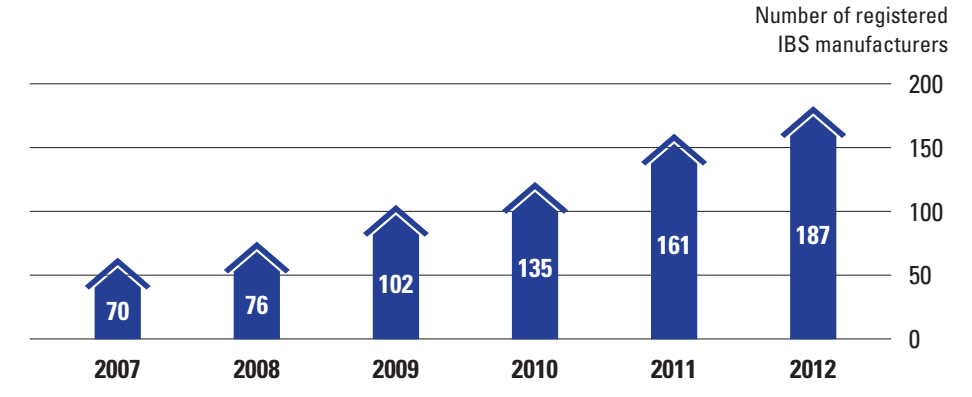
There is strong industry support in the US and Canada for modular building. It is anticipated that by the end of 2013, 98% of the sector will use prefabricated construction in some form. This includes housing, healthcare projects, higher education, low-rise office developments, public buildings, etc. The barriers to adoption include misconceptions about the quality of modular buildings and a general lack of awareness about the benefits that IBS can bring to a project. From a technological perspective, the US and Canada are openly exploiting solutions such as building information modelling (BIM) and enterprise resource planning (ERP) on a regular basis. This trend is continuing to rise, with approximately 78% of prefabricated or modular adopters now using BIM in some projects (McGraw-Hill Construction 2011).

DEVELOPMENT OF IBS HOUSING IN MALAYSIA

IBS in Malaysia began when the Ministry of Housing and Local Government visited several European countries in 1964 to evaluate housing development programmes (Waleed *et al.* 2003). After the visit, the Government started its first IBS project aimed at speeding up delivery times and building affordable and quality houses. About 9.2ha of land along Jalan Pekeliling (now Jalan Tun Razak) in Kuala Lumpur were dedicated to the project, comprising seven blocks of 17-storey flats with 3,000 units of low-cost flats and 40 shoplots. This project was awarded to Gammon/Larsen Nielsen using the Danish system of large prefabricated panels (CIDB Malaysia 2003). In 1965, the Government undertook its second such housing project comprising six blocks of 17-storey flats and three blocks of 18-storey flats on Rifle Range Road (Jalan Padang Tembak), Penang. The project was awarded to Hochtief/Chee Seng using the French Estoit System (Din 1984). Among the earliest housing development projects to use IBS was Taman Tun Sardon, Penang. The IBS precast components and system used in the project were designed by the British Research Establishment for low-cost housing in tropical countries. Nonetheless, the building design was very basic and did not consider aspects of serviceability such as the need for wet toilets and bathrooms (Ahmad Baharuddin and Wahid 2006). Between 1981 and 1993, the Selangor State Development Agency (Perbadanan Kemajuan Negeri Selangor or PKNS) acquired precast concrete technology from Praton Haus International of Germany to build low-cost houses and high-

cost bungalows in Selangor (CIDB Malaysia 2003). The use of steel structures as part of IBS first gained attention with the construction of the 36-storey Dayabumi complex completed in 1984 by Takenaka Corporation of Japan (CIDB Malaysia 2003).

Figure 1: Growth of IBS manufacturers registered with CIDB (2007–2012)



Source: CIDB Database.

The use of IBS as a method of construction in Malaysia is evolving. Many private companies have teamed up with experts from Australia, the Netherlands, the US and Japan to offer precast solutions for their projects. In addition, more and more local manufacturers have established themselves in the market. The total number of IBS manufacturers registered with CIDB stood at 70 in 2007 and 187 in 2012 (see Figure 1), producing 347 IBS products available in the market (see Figure 2).

Figure 2: Registered IBS manufacturers and IBS products available in Malaysia

Material	Manufacturer				Product
	Local	Foreign	Unknown	Total	
PC panel, frame, box	27	3	21	51	245
Steel frames/panel components	16	1	13	30	45
Systems formwork	14	3	12	29	29
Timber frames	13	2	13	28	28
Total	70	9	59	138	347

Source: Suruhanjaya Syarikat Malaysia; Construction Industry Development Board.

Most locally-developed products are based on traditional materials such as reinforced concrete while the more innovative materials are usually based on imported technologies (CIDB Malaysia 2007c). There is currently no mandatory requirement for any certification or accreditation of components, companies or installers. Anecdotal evidence suggests that there has been sporadic dumping of substandard foreign products in Malaysia (CIDB Malaysia 2007c). A mechanism to ensure that IBS products are made to an acceptable

standard must be introduced in the manufacturing process. Testing and certification of components will limit industrial usage to only safe and acceptable IBS panels.

STEPS IN IMPLEMENTING IBS IN THE HOUSING INDUSTRY

Let us examine the process and supply chain involving IBS (see Figure 3). Manufacturers of IBS components are usually involved only after the tender process whereas IBS should be addressed from the outset at the design stage to ensure the successful optimisation of design and construction considerations. IBS derives from a combination of design (architectural and structural engineering), workshop detailing and scheduling, manufacturing (factory) and construction on site (Zuhairi 1993). Some of the key activities in IBS are discussed below.

Figure 3: Activities in IBS



I. Architectural design concept

In any IBS project, workshop drawings are prepared for the casting of precast components at the factory. These drawings will be based on the architectural and structural drawings. The architect must clearly define his concept as a practical method of panel construction and erection. An experienced architect with an IBS construction background can help ensure that the design concept is practical. This does not mean that if the architectural concept is not aligned with IBS, the construction cannot be done. IBS allows for flexibility as it can be adopted in combination with traditional and conventional methods of construction.

II. Structural engineering design

Close coordination among the structural design engineer, manufacturer, contractor and panel erector is important. The manufacturer normally engages a third party to produce the workshop drawings in detail and in some instances may produce it in-house. It is the responsibility of the manufacturer to inform the structural designer about the construction progress and to notify him or her of any changes made to site erection and precast panel casting to avoid any construction difficulties and rework.

III. Building component manufacturing and quality control

In the factory, the casting of precast panels is done with stringent supervision and quality control. Sufficient cover is required to protect the reinforcement from corrosion as well as to keep the reinforcement safe in case of fire. The reinforcement is tied as required by the design to ensure its rigidity and that it is securely fastened to avoid any displacement during concreting of the IBS components. Concrete grade ranging from 30 to 40 is normally used while superplasticiser is used to achieve good workability. All reinforced concrete works are monitored by a concrete foreman and a concrete steel fixer. Completed panels are lifted after 18 hours and air cured for 24-28 hours before being delivered to site.

IV. Transportation to site

Panels are brought to site by lorries or trailers. Specially-designed stackers are used to stack the panels so as not to damage them structurally during transportation. The panels are securely tied or attached to the delivery vehicle by restraints and it should be noted that low-friction material should not be used as packing to support an element. Long and thin members may require temporary support and temporary bracing against lateral buckling during transportation. Casting of panels is sometimes done on site simultaneously with factory production.

V. Building component and site erection

The erection sequence should be planned and agreed to by all relevant parties at the earliest possible stage. Coordination among the contractor, precaster and other parties must be emphasised at all times. The arrival of precast components to the site and their erection via cranes must be in sequence and properly coordinated to avoid long-term storage of precast components.

DRIVING IBS FORWARD

The use of IBS in Malaysian housing is slowly gaining popularity and momentum as this method of construction has been proven to be sustainable, faster, safer and efficient. But it must be recognised that the slow adoption of IBS thus far stems not from technology but from people. Success depends to a large extent on a meeting of minds among all in the IBS value chain. Clients, architects, designers, engineers, quantity surveyors, technicians, contractors, project managers, construction managers, financiers, technicians, skilled workers and the approving authorities must undergo a mental evolution.

Precast and component technologies have existed for some time but have not generated much interest as traditional construction methods have been so deeply entrenched. The cost advantage of employing cheap foreign labour, for instance, is a boon to contractors but a bane to the nation as it entails a leakage in the economy in the form of the expatriation of funds. It also brings with it numerous social and health problems such as increasing crime, additional burdens on the national health and education systems and higher policing costs.

When comparing the cost of construction between conventional methods and IBS it is most likely that the IBS under consideration involves proprietary products produced

by a few established companies. In other words, it is a construction sector subject to an oligopoly. Economies of scale can be improved dramatically if the domination by a few companies can be transferred to many small-and-medium enterprises (as is the case in the production of precast culverts, columns and drains, stumps and footings). The most frequently cited problem in achieving this objective is that of standard joints. R&D can contribute by developing standard joints that accommodate various standard components.

The corollary to economies of scale for IBS is of course the diseconomies of scale for conventional methods. This can be achieved by restricting the number of foreign workers employed in the construction industry or by imposing higher levies for their employment, making the employment of skilled construction workers mandatory, or by providing double tax exemptions to developers using IBS.

The adoption of IBS in Malaysia tends towards client-driven needs and user-acceptance. The development of “factory-like” buildings such as supermarkets tends to have a higher adoption of IBS than that of landed properties and small commercial units (CIDB Malaysia 2007c). As such, it is evident that IBS has a long way to go in housing construction.

Solving the challenge of wider adoption and tackling all outstanding issues will depend on the proactivity of developers, manufacturers and contractors. These are the builders who can change the construction scene in Malaysia.

I. Clients

Clients usually have a poor knowledge of IBS compared to architects and engineers. Nonetheless, as the adoption of IBS is mainly client-driven, their commitment is a prerequisite. The merits of IBS must be clearly understood by clients as they will adopt IBS only if they are convinced that it will result in fast-selling and sustainable housing that requires less maintenance. In addition, end-user perception that IBS lacks flexibility, causes “leaky accommodation” and uses unfamiliar materials must be erased.

II. Developers and planners

Developers make the final decision about what method of construction will be used (i.e. conventional or IBS). Typical factors that influence a developer to choose IBS include site location, availability of manufacturers and user acceptance. A developer who possesses a complete in-house team ranging from planners and designers to contractors and an IBS factory and other trades within the supply chain will definitely have the flexibility to exploit IBS construction to the fullest.

III. Architects/design consultants

IBS is not universally popular among design consultants because repetition and standardisation, which are among the key features of IBS, can limit their creativity. The lack of knowledge among designers also contributes to the slow uptake as new technologies to be learned and adopted are time-consuming and involve financial outlays. A good example is the use of proprietary systems, which designers often find hard to adopt and which narrow their imaginative capabilities.

IV. Contractors

Smaller-scale contractors often view IBS as a threat and not as an opportunity. They normally prefer conventional methods of construction. One of the reasons is that IBS can reduce their profit margins by as much as 70% to 80% as profits that they would normally enjoy from the conventional methods are now going to the IBS manufacturer of the components. The only profit left for these contractors comes through infrastructure construction such as roads, landscaping, drainage and other ancillary works.

V. Manufacturers

Building an IBS factory is costly and demands careful planning and site selection. A new IBS manufacturer must make careful decisions. Manufacturers are cautious in their investment because IBS has not yet achieved the expected volume and it requires a different supply chain management compared to conventional construction. They must also be equipped and be able to deliver acceptable and good-quality IBS products. This may be achieved only after years of experience and upon completion of several IBS projects.

VI. Government

The Government unveiled its IBS Roadmap 2003-2010 in October 2003. The Roadmap was a blueprint to achieve the total industrialisation of the construction industry ahead of Open Building by the year 2010. In 2010, the Roadmap was renewed and an IBS Roadmap 2011-2015 was announced. The IBS Roadmap provides a framework and an outline for the Government's role as a facilitator and custodian of the public interest.

Given the existence of these Roadmaps, the Government should have led the way in implementing IBS in all its construction and housing projects. Unfortunately, this has not been the case. The use of IBS has not yet been fully implemented by government agencies and there is no push factor for authorities and responsible government bodies via legislation and regulation. However, it is hoped that the participation and inclusion of IBS catalogues and the use of standard components in building design (i.e. IBS design) in government quarters, schools and government administrative offices will expedite IBS implementation.

The effort of CIDB Malaysia to certify IBS products and accredit components for companies and installers has also already taken effect. The human capital development programme (i.e. the Contractor's Training Programme) will also drive the IBS initiative forward. There are training modules available on the installation of precast lightweight concrete blocks and concrete wall panels for contractors, and many IBS training programmes have taken place since 2008.

Other programmes include:

- Quality CIS 5: quality assurance for prefabricated timber truss systems (which is conducted continuously).
- IT in Construction: the use of Modular Coordination Checker software, launched in 2006.

Despite the efforts of the authorities, however, there is room for further improvement in the following areas:

- A Malaysian standard for the design, manufacturing and installation of IBS components must be drafted for use by authorities and IBS practitioners. This standard is currently non-existent.
- Reference materials relating to IBS guidelines and good practices must be made readily available.
- More IBS focus and training for approving authorities are necessary to enhance levels of knowledge and capacity to approve building projects using IBS. A poor knowledge of IBS technology will result in misunderstanding and misinterpretation of regulations and contribute to more red tape in the approval process.

CONCLUSION

The construction industry plays a vital role in helping the efforts of the Government to attain sustainable development – a balance among economic growth, social expansion and environmental protection. The industry must change its traditional approach to construction from one with little concern for environmental impact to a new mode that makes environmental concerns the centrepiece of its efforts. Ideas of sustainability are currently taking root, and the construction industry must demonstrate that it can lead and take this forward. Embedding aspects of economic viability, design principles and environmental protection within the IBS manufacturing practices framework, such as that of the 10 Principles of the Green Way (see Figure 4) will synergise green construction and the implementation of sustainability in Malaysia.

Figure 4: Embedding aspects of IBS in 10 principles of green sustainability for Malaysian housing construction

10 Principles of the Green Way	1 Focus on the big picture	<ul style="list-style-type: none"> • Green mindset from onset • Holistic approach
	2 Choose a suitable site	<ul style="list-style-type: none"> • Regeneration • Avoid damage to natural resources • Accommodate existing facilities
	3 Do the math	<ul style="list-style-type: none"> • Apply Cost Benefit Analysis (CBA) • Return On Investment (ROI)
	4 Make the site plan work for you	<ul style="list-style-type: none"> • Site planning • Building orientation
	5 Landscape for savings	<ul style="list-style-type: none"> • Cost-effective tools
	6 Design for greater green	<ul style="list-style-type: none"> • Design management • Shapes, colours, orientation, materials used
	7 Take advantage of technology	<ul style="list-style-type: none"> • Creating innovation in building
	8 Save and manage water	<ul style="list-style-type: none"> • Rainwater harvesting • Conserving irrigation systems • Effective storm water management system
	9 Use alternative materials	<ul style="list-style-type: none"> • 3Rs – Reduce, reuse, recycle • Non-toxic alternative building materials
	10 Construct green	<ul style="list-style-type: none"> • Construction process • Recycle construction waste materials

Source: Developed from Lockwood, 2006.

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II. Improving the Productivity and Skills of Construction Workers

Mahyuddin Ramli and Ruhizal Roosli

INTRODUCTION

Rapid economic growth and better housing development prospects in Malaysia have created a high demand for skilled construction workers of various trades. A by-product of this rapid growth, however, is a critical shortage of workers in the Malaysian construction industry as local workers are unwilling to participate. Hence, contractors resort to importing foreign workers to meet the construction sector's labour needs and requirements (Sazali 2011).

Since foreign labour is readily available at very low cost, it has slowed investments in and the adoption of advanced construction technology in Malaysia. In addition, although the construction and housing industry boom started well before the 1990s, the Malaysian Construction Industry Development Board (CIDB) was only established in 1994 before issuing its Construction Industry Master Plan (CIMP) 2006-2015. By then, any effort to modernise and upgrade the industry's overtly low-skilled and labour-intensive practices was met with resistance, although consistent advocacy and the extension of appropriate incentives have started to move the industry in the desired direction.

Foreign labourers are usually unskilled when they first arrive, which has had a negative impact on the local housing industry's levels of productivity and quality. Clearly, the practice of complementing unskilled labour with sophisticated technological methods and tools will only prevent the industry from achieving its maximum potential. Taken to an extreme, foreign, low-skilled labour can be seen as a viable alternative to sophisticated machinery, which will not help reduce the country's dependence on foreign labourers.

EMPLOYMENT IN THE LOCAL HOUSING INDUSTRY

The housing industry's contribution to Malaysia's economic growth has undoubtedly been significant. In 2010, the housing or residential construction subsector alone contributed

RM20.4 billion to the nation's Gross Domestic Product (see Figure 1). In 2010, the construction industry as a whole employed 1,214,000 workers, who made up 10% of the country's total workforce of 12,116,600 (Department of Statistics Malaysia 2012). Of these, 223,163 people or 22.9% worked in the residential/housing subsector. The workforce is divided into several groups: managerial and professional; technical and supervisory; clerical and related; general workers; and construction/operative workers. The last category constitutes the largest group of workers, amounting to 192,237 construction workers or 86% of the total workforce in housing construction (see Figure 2). Out of this, more than half (101,093) are skilled workers while the remaining are unskilled (see Figure 3). Close to 60% of construction workers are employed through labour contracts.

Figure 1: Indicators of the residential construction subsector

	1998	2000	2002	2005	2007	2009	2010
Value of gross output (RM billion)	7.7	8.7	9.9	14.6	14.9	17.4	20.4
Value of intermediate input (RM billion)	4.6	5.6	6.4	9.6	10.5	12.2	13.2
Value added (RM billion)	3.1	3.1	3.5	5.0	4.4	5.2	7.1
Total persons engaged	127,934	115,236	120,369	150,193	148,509	152,251	223,163
Salaries and wages (RM billion)	2.1	2.2	2.3	3.0	3.2	3.5	4.6
Value of fixed assets (RM billion)	1.2	1.2	1.2	1.5	1.6	1.9	2.9

Source: Department of Statistics Malaysia.

Although foreign labourers have been brought in to address the shortage of workers in housing construction, the Department of Statistics last published data on their numbers in 1992, when its Annual Survey of the Construction Industries distinguished between immigrant and local construction workers. There is therefore no periodic data available on the number of foreign construction workers, although the CIDB reported that as much as 69% of registered labourers in the construction industry in June 2007 were foreigners (CIDB 2008). This would have been significantly higher had the country taken illegal foreign workers into account.

Based on figures from the Ministry of Human Resources' Workforce Department, 14.2% or 223,000 foreign workers in Malaysia worked in the construction industry in various subsectors in 2011 (see Figure 4). The large number of foreign workers in the housing industry and elsewhere raises the question of whether they suppress wage growth and the quality of housing construction in this country, and whether they hinder the adoption of better technology and more labour-efficient construction methods.

Figure 2: Employment in the residential construction subsector

	1998	2000	2002	2005	2007	2009	2010
Working proprietors and unpaid family workers	509	345	234	854	313	339	2,461
Managerial and professional	2,782	3,210	3,015	4,550	4,136	4,652	6,790
Technical and supervisory	3,044	3,821	4,096	5,025	4,978	5,050	6,991
Clerical	2,895	3,405	3,258	4,559	4,082	4,653	7,495
General workers	1,468	1,873	1,738	2,110	1,964	2,334	3,802
Construction/operative workers							
Directly employed							
• Skilled	7,826	8,758	12,274	19,381	21,132	22,592	44,955
• Unskilled	16,795*	10,925	11,814	19,095	23,813	21,152	33,362
Through labour contractors							
• Skilled	29,321	39,448	42,724	46,402	44,249	43,282	56,138
• Unskilled	62,582*	42,799	40,119	47,055	42,611	46,701	57,782
Part-time employees	712	652	1,097	1,162	1,231	1,496	3,387
Total	127,934	115,236	120,369	150,193	148,509	152,251	223,163

*Includes semi-skilled and unskilled workers

Source: Department of Statistics Malaysia.

Figure 3: Skill composition of construction workers in the housing industry

	1998	2000	2002	2005	2007	2009	2010
Skilled	37,147	48,206	54,998	65,783	65,381	65,874	101,093
Unskilled	37,530	53,724	51,933	66,150	66,424	67,853	91,144
Semi-skilled*	41,847						

*Data from 2000 onwards no longer includes semi-skilled workers

Source: Department of Statistics Malaysia.

However, there is evidence that even with the (perceived or real) domination of foreign workers in the industry, labour productivity has improved over the past decade (see Figure 5). From 1996 to 2009, labour productivity as measured by total output per employee increased 2.7 times. Labour productivity as measured by added value per employee also doubled over the same period. Although the figure on unreported illegal workers may have been overstated, data suggest that the increase in labour productivity may be due to the adoption of the Industrialised Building System (IBS), which reduced the need for workers. Government policies have played an instrumental role in this, as shown by its requirement to use at least 50% of IBS in all new government projects since 2005 (CIDB 2007) and the exemption of a construction levy on contractors using IBS in 50% of the building components since 2007. As the housing industry grows faster than the demand for workers, we may see a further reduction in the number of foreign workers in the future.

Earnings have also improved, as shown by the labour cost per employee, which has doubled from 1996 to 2009. Furthermore, Chia *et al.* (2012) found that employees earn more in larger organisations. There is also growth in capital intensity – a measure of the amount of fixed assets per employee that indicates the extent to which the industry is capital- or labour-intensive – which can be used as a proxy for technology. This implies that the housing industry has become more capital intensive. A higher adoption of technology has brought about a positive impact on workers as their earnings have increased.

Figure 4: Distribution of foreign workers by key sectors in Malaysia (%)

Sector	2000	2005	2008	2011
Agriculture	24.8	26.0	25.0	28.7
Manufacturing	38.1	32.1	36.0	36.9
Construction	8.5	15.5	14.0	14.2
Non-domestic services	6.7	8.8	9.0	8.4
Domestic services	22.0	17.6	16.0	11.7
Total	100	100	100	100
Number ('000)	807	1,815	2,020	1,573

Numbers may not add up due to rounding

Source: Athurokala and Devadason, 2012.

Technological change has a direct impact on employment, labour productivity and wages. To further reduce the dependence on unskilled labour on a construction site, there is a need to identify technological alternatives such as innovative building systems and materials, advanced equipment and tools and better construction methods. Although the construction industry has been built around brick, mortar, steel and hard labour, technology is now playing a bigger role. With the advancement of technology, the industry is able to design and construct buildings with more accuracy, which in turn improves the quality, standards and punctuality of the completion of projects.

Figure 5: Productivity in the residential construction industry (at constant 2000 prices, index in parentheses)

	1996	1998	2000	2002	2004	2005	2007	2009
Total output per employee (RM)	54,060 (100)	60,263 (112)	75,397 (134)	81,715 (151)	98,420 (182)	104,258 (193)	115,243 (213)	147,424 (273)
Added value per employee (RM)	21,943 (100)	24,394 (111)	27,019 (123)	29,132 (133)	35,042 (160)	35,572 (162)	33,739 (154)	44,396 (202)
Labour cost per employee (RM)	14,488 (100)	16,745 (116)	18,547 (128)	19,140 (132)	21,131 (146)	21,030 (145)	25,098 (173)	29,293 (202)
Capital productivity	3.19 (100)	2.62 (82)	2.71 (85)	3.00 (94)	3.36 (106)	3.45 (108)	3.08 (97)	3.52 (111)
Capital intensity (RM/employee)	6,676 (100)	9,364 (140)	9,979 (150)	9,608 (144)	10,832 (162)	11,040 (165)	12,591 (189)	16,260 (244)

Source: Chia *et al.*, 2012.

Currently, the construction industry's continued use of conventional methods and "wet trades", which are very labour intensive, has led to an unhealthy construction environment. While steel reinforcements are fabricated off site, reinforced concrete frames, bricks, beams, columns, walls and roofs are still cast on site using timber frameworks. These methods are labour intensive, involving formwork fabrication, steel bending and concreting. Wet trades carried out on site, such as carpentry and plastering, are still required and the process can be hampered by quality issues, unfavourable site conditions, skilled-labour shortages and bad weather conditions (Kamarul Anuar *et al.* 2010). The industry must react quickly to these issues and modernise the required capacity and knowledge. It should rely more on technology-based approaches rather than conventional methods of construction. In this regard, it is heartening that modernisation efforts in Malaysia are already underway through the adoption of IBS, in which components are manufactured in a factory, transported, positioned and assembled into a structure with minimal additional site work, saving a lot of time, cost and energy (Premaraj 2010). Much of the process is carried out in a controlled environment (on or off site). It is hoped that a wider adoption of IBS systems will result in cheaper total construction costs and subsequently benefit buyers if the savings are transferred to them.

FOREIGN VERSUS LOCAL LABOUR

Although the Employment Act clearly provides against any discrimination on the basis of nationality, there is evidence that local workers are paid more than foreign workers (see Figure 6). When compulsory allocations for the Social Security Organisation (SOCSO) scheme and Employees Provident Fund (EPF) are included, a permanent local worker costs more. One may therefore argue that employers in the local construction industry prefer to hire foreign workers for their cheaper total costs.

Figure 6: Daily wage rates of general construction workers in Penang

Year	Wage rates (RM)				
	2007	2009	2010	2011	2012
General construction worker (local)	52.50	55.00	57.50	52.00	55.00
General construction worker (foreign)	39.30	41.25	45.50	43.80	42.50

Source: Construction Industry Development Board.

The fact remains, however, that it is neither easy nor cheap to employ or import skilled foreign labour. Employers face lengthy procedures and approval times, high costs and legal requirements. Since 1992, there has been an annual levy on foreign workers to reduce the economy's overdependence on foreign workers and to safeguard employment opportunities for Malaysians. The levy rate for workers in the manufacturing, services and construction sectors was increased by 186% from RM420 per annum in 1992 to RM1,200 per annum in 1996. Apart from the annual levy, employers must also pay for workers' work permits and processing and visa fees, which amount to at least RM1,942 per year (see Figure 7), and provide lodging facilities for them.

Hiring foreign labourers to fill jobs quickly is therefore not as straightforward as it might seem but many employers still consider it a feasible solution to labour shortages. The dirty, dangerous and difficult (3D) perception of the local housing industry and the prevalence of old-fashioned employment practices, outdoor work and temporary and casual labour have discouraged local workers – both skilled and unskilled – from joining this industry, resulting in many jobs being executed by untrained foreign construction workers. There are also (perceived or real) differences in attitude between foreign labourers and local workers. Foreign labourers are said to be less choosy about the type of work they do, do not question employers over salaries and are less concerned about their welfare and the facilities provided to them by their employers. Foreign workers are also seen as more disciplined and hardworking on site and accept lower wages, allowing employers to reap bigger profits. Locals, on the other hand, are not interested in working in the construction industry. As long as this remains unchanged, the influx of foreign workers into this sector is likely to continue.

EMPLOYMENT CONDITIONS AND WELFARE

The construction sector is not known for its attention to safety and health (Sundaraj 2006). According to the Department of Occupational Safety and Health, close to 1,000 accidents were reported from 2002 to 2010 in Malaysia (Yakubu and Bakri 2013). The inherent dangers of working on a construction site are compounded by ignorance on the part of both employers and employees in ensuring a safe and healthy working environment. This has been documented by many studies, including by Yakubu and Bakri, which have revealed poor provision of protective equipment for personnel at the workplace. This means workers are exposed to various safety hazards at their workplace. The same study also found that construction workers themselves were unaware of their companies' occupational safety and

health policies. This fact was found to be one of the reasons why local labourers preferred not to get involved in the construction industry (Musmulyadi 2011). There are also concerns about the health of construction labourers. The main occupational health problems are back injuries from carrying heavy loads, respiratory disease from inhaling dust, musculoskeletal disorders, noise-induced hearing loss and skin problems.

Figure 7: Cost of employing a foreign construction worker for one year through Construction Labour Exchange Centre Berhad (CLAB)

Type of charges	Cost (RM)	Pay to
PLKS / VP(TE) (Work permits)	60	Director of Immigration
Fees	50	
Visa	According to country of origin	
Levy	1,200	Insurance companies
Insurance guarantee	According to country of origin	
Insurance FWCS (foreign workers compensation scheme)	75.35	
Insurance–stamp duty	10	
CLAB processing fee	300	CLAB
Agency fees	50	
5% service tax	17.50	
FOMEMA	180	FOMEMA
Total	1,942.85 + cost of visa	

FOMEMA Sdn Bhd was established in 1997 to manage and operate a mandatory foreign worker health screening programme in Peninsular Malaysia.

Source: Construction Labour Exchange Centre Berhad.

In a survey of site operatives, however, only 14% of foreign labourers directly expressed dissatisfaction with work safety. A much higher proportion was dissatisfied with the lack of insurance coverage (41%), accident compensation (24%) and medical coverage (24%), which indicates that social security is a major concern for workers (Abdul Rahim *et al.* 2011). However, many employers do not pay into social security funds on behalf of construction labourers who are on temporary contract, particularly illegal foreign workers. This is despite the fact that the law states that all employees – whether on permanent or temporary contracts – should be treated equally. Most foreign labourers are not covered by SOCSO (Musmulyadi 2011). Workers who are most in need receive no social security benefits such as healthcare, holiday pay or protection against loss of pay during periods when they are unable to work due to unemployment, ill health, workplace accidents or old age.

In many countries, workers in the construction industry are paid a fixed piece rate. Many are forced to work long hours while others choose to do so either because the rates of pay are so low or because they want to earn as much as possible while work is available. In Malaysia, the uncertainty of supply and an apparent shortage of local labourers have kept wages at a higher level than for comparable work in other sectors. From the foreign labourers' perspective, wages in Malaysia are still considered high compared to what they can earn in their countries of origin. Occupations in the construction industry offer better incomes compared to other sectors in Malaysia, which help to compensate for the absence of social protection and lower remuneration stability (see Figure 8). However, this should not be an excuse for the poor provision of social security and welfare. There are also issues regarding security of income, which is measured by opportunities to work (number of days worked) and wages paid for the work done. Most workers are employed on temporary contracts that only last for the duration of a project. The casual and short-term nature of employment in the housing industry means that there are frequent job changes.

DEVELOPING HUMAN CAPITAL IN THE HOUSING INDUSTRY

Training is fundamental to meeting skill requirements and is also an important factor in the realisation of several other objectives, notably improving occupational safety and health, earnings and career development opportunities. While vocational training centres do exist in this country, many workers and contractors continue to see formal training as an unnecessary expense rather than an investment. In most developing countries, construction skills are still mainly acquired through an informal and formal apprenticeship system, which has proven to be an effective way of imparting skills. The apprenticeship system can be strengthened further by the teaching of new approaches, the use of proper equipment and safety gear, and the promotion of professional work ethics and systematic site-office administration. In a strong apprenticeship, trainees can develop a genuine interest in their job and will be able to see the housing industry as a viable career prospect.

In addition to providing skills training, it is also important to have in place a standardised skills testing and certification system. Other approaches to overcome local workforce issues, such as providing a safe and healthy work environment and paying competitive wages and benefits, also merit greater attention. Human capital development efforts should include reducing the number of illegal foreign workers and unskilled workers, and encouraging better adoption of technology in the industry to improve labour productivity and increase workers' earnings. In particular, IBS should be encouraged to provide a safer, cleaner and productive environment at construction sites. IBS Training Courses by the IBS Centre must be further promoted to universities, consultants, government agencies, local and state authorities as well as private contractors and housing developers. Likewise, developers and contractors can co-fund these training programmes and incentivise workers to undertake continuous skills upgrading and training in the use of sophisticated machinery.

Figure 8: Wages of selected occupations in Malaysia

Sector	Clerical staff		Technicians		General workers	
	Min	Max	Min	Max	Min	Max
Agriculture, hunting and forestry	600	1,267	600	1,267	548	1,144
Mining, quarrying/ petroleum	1,210	2,350	1,519	3,120	900	2,150
Manufacturing	700	1,300	750	2,400	510	1,280
Electricity, gas and water supply	580	2,530	630	2,530	550	1,930
Construction	1,500	4,041	1,288	3,558	750	2,110
Trading, distribution and retailing, motor vehicle repair, motorcycles and personal and household goods	590	3,080	590	3,080	510	2,950
Hotels and restaurants	460	1,935	1,739	3,781	320	1,140
Transport, warehousing and communication	850	1,170	1,907	3,813	450	955
Health and social work	553	1,280	780	1,820	490	1,170
External organisations and bodies	695	1,889	395	1,889	550	1,645
AVERAGE	773.80	2,084.20	1,019.88	2,725.89	557.80	1,647.40

Source: Ministry of Human Resources Malaysia.

CONCLUSION

In some countries (e.g. Denmark and Sweden), construction work is well paid and workers are well protected (Applebaum 1999). In Malaysia, the image of the housing construction industry as a dirty, dangerous and difficult industry, and construction work as a low-status job, is prevalent. Such an image has discouraged skilled local workers from joining this industry, resulting in many jobs being executed by untrained foreign workers. Efforts to eliminate such a perception must be carried out more aggressively. The industry's image should be oriented more towards the extensive use of technology and machinery rather than unskilled workers. More organised sites that are equipped with safety gear, up-to-standard vehicles and other safety requirements must be encouraged. Perhaps new apprentices in the construction industry could be given a fresher, more socially acceptable title, such as *juruteknik binaan* (construction technician) instead of *buruh binaan* (construction labourer).

Meanwhile, the Government should focus its efforts on ensuring a steady supply of skilled workers by attracting more of the same, and utilising foreign construction workers who are already skilled and/or trained in this country but who may have overstayed their

visas. The present system of hiring workers, even unskilled ones, should be reviewed and improved. For instance, the authorities should consider extending work permits for skilled foreign workers once their five-year permits end, rather than continuously importing unskilled foreign workers on a temporary basis. Curbing the intake of unskilled foreign workers is a necessary prerequisite for the industry to upgrade its human capital. The Government should strive to eliminate illegal construction workers and ensure that all foreign workers have valid permits to eradicate worker exploitation.

The enforcement of health and safety regulations (as well as other labour legislation) through inspection must also be improved. More labour-saving construction methods such as IBS and greater automation and mechanisation should be encouraged. At the same time, more investment in research and development in the construction industry, particularly in housing construction, should also be encouraged. Likewise, developers should be responsible for and given a stake in upgrading the skills of their workforce. Any policy that addresses skills deficiencies will only be successful if it produces a continuous rather than a temporary increase in the skills of the local workforce.

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III. Environmental Sustainability Through Green Design

Ken Yeang

How can we ensure the environmental sustainability of our housing construction? In discussing this, we need to affirm the significance of environmental sustainability, define why it is necessary and dispel any current misperceptions about it.

As sustainability concerns all of society, the task of implementing it lies not just with one stakeholder, such as our design community (our architects, planners, engineers, designers, *et al.*) or public legislators (who can offer incentives or enforce penalties, etc.) – it must be a voluntary and ethical action undertaken by society as a whole. Achieving this will require early education and the Government ensuring a concerted and ongoing engendering of public awareness.

Designing for a sustainable future has to be the most compelling issue facing the Malaysian design profession today. Although this is a universal concern, in today's rapidly developing context it is particularly crucial in Malaysia. Our cities are growing increasingly dense, large tracts of rural land are being callously cleared for development and our road networks are burgeoning and becoming more congested. These issues must concern not just the design profession but the entire building industry as a whole.

We are all too aware of the numerous social and physical issues that the nation needs to address. These include managing income disparities; providing clean water, proper sanitation and affordable enclosures for all; ensuring clean air; resolving increasing urban congestion; reducing criminal activities, and others. But without a clean environment, all these pressing issues become even more difficult and costly to address. Thus, a clean environment needs to be the Government's and Malaysian society's first imperative. Our building industry cannot deny the role it plays in contributing to environmental issues such as climate change, fossil fuel consumption, emissions and landfill waste.

How do we design and build for a sustainable future? We need to envision what is required of a built environment that is sustainable and how it will look in our urban environment. In

doing this, we must understand how design can address the environmental consequences of our built environment's functions and processes. This can be done by determining what action is needed to realise this vision with comprehensive and ecologically-benign strategies, which can include new models for design, new construction and production systems and new materials and processes. Environmental devastation must first be dealt with at the design stage and not afterwards.

THE CHALLENGES OF EXECUTING GREEN DESIGN

Despite recent advances, green design is still very much in its infancy. Simply stated, the ideal and absolutely green building does not yet exist – if it did, it would be impractically expensive. Many of the engineering technologies needed to execute this task have not yet even been invented. What we have at present is a built environment that, at its very best, functions at varying “degrees of greenness”, i.e. it achieves different levels of sustainability in approximating the ideal green built environment, defined here as one that exists with Nature in a state of a mutually beneficial stasis.

Other businesses and industries, in Malaysia and elsewhere, are also concerned about understanding the environmental consequences of their commercial functions and processes, and seeking new sustainable business models, production systems, materials and processes.

SKILLS AND DESIGN CAPACITY TO EXECUTE GREEN DESIGN

Do we have the skills and design capacity to fully address this issue? Clearly, Malaysian private-sector architects have, to a large extent and by their own commendable initiative, stolen a march on the public sector by developing and advancing their own green rating system. This Green Building Index (GBI), established with the support of the Malaysian Institute of Architects (Pertubuhan Arkitek Malaysia or PAM), is now being implemented by many of PAM's architects.

The GBI's green ratings start with “certified” and is followed by “silver”, “gold” and finally, “platinum”. As of July 2013, 146 buildings have been fully certified under the GBI. While a large number of private individual houses have been accredited, no single housing estate has yet been accredited in its entirety. Greenbuildingindex Sdn Bhd, a subsidiary of PAM and the Association of Consulting Engineers Malaysia, oversees GBI accreditation as well as the training of GBI Facilitators. These courses are attended not just by architects but also engineers and others from the building industry. At the moment, being a qualified Green Building Facilitator can be a reasonably well-remunerated consultancy. To date however, Malaysia has only 622 GBI Facilitators and 16 GBI Commissioning Consultants.

The Real Estate and Housing Developers' Association of Malaysia (REHDA) has also recently introduced its own rating system. This further obfuscates the situation as, besides the GBI and REHDA's system, we now also have Singapore's Green Mark (which some Malaysian developers prefer to use), the Leadership in Energy and Environmental Design (LEED) system from the US and the BRE Environmental Assessment Method (BREEAM) from the UK.

These and other rating systems worldwide play a useful role in enabling the design community and building industry to compare and assess a set of building typologies and master plans, using a common standard and denominator. They are also useful as checklists (albeit partial ones) of design reminders of key items in green design. These rating systems have also been immensely successful in proselytising green design to a wider audience.

However, the housing industry in Malaysia needs to be clear that the various accreditation systems are not compatible with each other. There is a disparity in the way aspects within the various systems are rated. For example, Singapore's Green Mark assigns higher marks for energy conservation than the GBI. It is crucial to be aware that despite these rating systems' useful functions, they only partially encompass the key considerations in green design. For example, they are not ecologically inclusive or holistic (an aspect crucial to sustainable design), although there are token references in some.

Evidently, green design has now entered the mainstream of architecture. Virtually every architect, planner and designer today lays claim to being able to execute green design, although some do it with a greater depth of authenticity than others. There are various outcomes of this disparity; for example, an architect may place extensive solar photovoltaic collectors over his entire building and mislead his client into believing that this is a mark of green architecture. Another architect, having designed an exceptionally energy-efficient building with a high green accreditation rating, may conclude that this is a superior green building and worse, that this is all there is to green design. The public is, unfortunately, unable to discern the difference.

Having achieved the highest rating level in their projects, many architects and owners ask: what's next? How can we progress beyond accreditation? Is meeting ratings all there is to green design? This frustration has led many to devise their own rating systems, such as the Cascadia Green Building Council's "Living Building Challenge" in the US, which is performance-based rather than prescriptive-based. Nevertheless, the crucial point to note here is that green design is not just about efficient engineering, ratings and accreditation systems, even if the highest levels are achieved.

The contention is that green design is a complex endeavour that is not as easy to execute as it is perceived to be. Our sphere of design knowledge has to be expanded and green design must be the premise underlying all our design efforts, for which new methods and models for designing are needed.

The Malaysian public, building industry and community of developers have generally taken well to the idea of green ratings, although some prefer to seek LEED or Green Mark accreditation instead of GBI. There are also many who refuse to adopt the ratings unless they are mandatorily imposed by governmental regulation or legislation. In some countries, the local authorities do not issue planning approvals if a project's design does not at this stage achieve an acceptably high rating. Malaysian local authorities may choose to follow suit to ensure a sustainable future environment for all.

There may be a need for a "socio-technical" process that requires the Malaysian building industry's technical skill to improve eco-efficiency, as well as new social capabilities to facilitate cooperation among developers, owners, tenants, etc.

THE COST OF GREEN DESIGN

The most common concern is cost. Clearly, there is a premium to be paid for going green. Cost consultants (quantity surveyors) generally contend that to achieve a GBI platinum rating, it will cost the builder 4% to 8% more than the industry's average costs. This percentage goes askew as we head towards high-end building types where a large extent of the building's costs go to high-end finishing materials, expensive fittings and fixtures and articulated construction details. Much of these generally do not contribute to green ratings, and by being decorative they can be environmentally wasteful. With high-end buildings and their attendant overall higher construction costs, the premium for achieving high-accreditation ratings can drop down to around 2% of the building costs.

The opposite applies to affordable housing. With its tight costs and no-frills construction, there is essentially no leeway for any green features, never mind achieving even a certified level of rating. Here the cost premium for achieving green ratings can go up to 10% or even 20% of construction costs. The simplest, cost-free strategy for low-cost buildings is to make them passively low-energy. This means they must be designed bio-climatically to be responsive to local climatic factors such as the sun's path and prevalent winds. The proper built-form configuration, appropriate orientation, appropriate solar shading to the façades, adequate roof and wall insulation, and other climate-responsive devices can make affordable housing cool at passive mode and low-energy to operate without depending on costly environmental engineering systems.

The benefits of green building also concern the public. What value do green buildings bring? Life-cycle cost analyses show that a green building can offer significant energy and water savings that amortise the premium in the initial cost of providing its green features. Having amortised the initial premium, the subsequent cost saving reduces the service charges for its occupants. However, there is a misalignment between landlord and tenant interests when it comes to the costs and benefits of sustainability, particularly in energy efficiency measures. For example, building owners tend to seek to reduce their initial capital costs of installing green energy and water saving systems in their buildings, transferring the potential savings to high service charges to their tenants.

Studies by estate agents, meanwhile, have shown that green buildings appreciate in investment value over time (e.g. as a result of its energy and water savings), more so than non-green buildings. In addition, post-occupancy studies have shown that green buildings have positive behavioural effects on users, as enhanced wellbeing arises from biophilia and better indoor air quality, leading also to greater workers' productivity and reduced absenteeism. In developed countries such as the UK, estate agents recommend that developments at the design stage seek to be green as public awareness and concern accelerate.

Nevertheless, as mentioned earlier, building green is ultimately an ethical matter for all of us – it is the right thing to do for the sake of future generations. The Government's role has to be in encouraging and enforcing green buildings, developments and master planning. This can be done through incentives (e.g. faster planning and building approvals, less onerous conditions, etc.), providing tax incentives and grants for green buildings and developments, and inversely, imposing penalties for non-compliance. For a sustainable

future, we need stricter governmental policies and legislation. This can include a refusal of planning approvals for housing projects which do not demonstrate an acceptably high level of sustainability in design and construction (e.g. projects that do not achieve a GBI platinum rating). Ultimately, the Government's role must be to mandatorily demand that the building industry construct new buildings at the highest possible levels of green building, and offer incentives to retrofit the existing stock of buildings to similar levels.

The Government's role is also to introduce environmental protection and conservation at all levels of education and in its curricula, besides implementing an intensive public awareness programme and encouraging a culture of research and innovation.

DEFINING "GREEN DESIGN"

We would, of course, be mistaken if we were to think green design is simply about engineering. Engineering systems, ranging from the most basic forms to the latest in eco-engineering and clean technology engineering, are indeed important components of green design. Engineering technologies give us expediency of support for our habitation, ways of life and for protection in our environmental enclosures from external conditions. Meeting these needs makes our lives convenient, meaningful, comfortable and pleasurable. While engineering technologies are indeed rapidly advancing towards being ever greener and cleaner, it must be clear that efficient engineering energy systems and eco-engineering systems are not the only considerations in green design.

What, then, is green design? If we are to ensure environmental sustainability in our built environment, we need to elucidate this here. Simply stated, green design is designing to achieve a seamless and benign bio-integration of everything that humans make and do with the natural environment. It is the bringing together of society, ecology, water and engineering. "Society" represents our human communities, ways of life, commerce, production, mobility, recreation, leisure activities, etc. "Ecology" is the natural environment and bio-spherical context of our human activities. "Water" is included because it is vital for all organic life to exist and must be managed, while "engineering" is included because it provides the technological systems that support human life. We can refer to each of these as a set of physical armatures or "infrastructures", and "green design" is the bio-integration of these four sets of infrastructures into a system and as "constructed ecosystems".

This is essentially a flexible platform for green design (beyond for instance, the accreditation systems' lists of items, or just engineering). This platform is like the factors in F. Crick and J. Watson's model of DNA, which reduces its complexity to four simple sets of instructions. Here, our four sets of eco-infrastructures and their bio-integration provide the structure for a comprehensive approach to green design and planning. This, then, is a model for green design. Of course, successfully achieving this is easier said than done, but herein lies the challenge.

THE FOUR INFRASTRUCTURES

"Society" denotes human communities and our demands on the natural environment and resources: our patterns of use, ways of life, commerce, production, agriculture, built enclosures (buildings, houses, structures, etc.), hardscapes, regulatory systems (laws,

regulations, penalties, incentives, legislation, ethics, etc.) and other activities. This is the social and human dimension that is often missing in green design.

Green design must acknowledge that humans, being the most powerful species in Nature, have immense abilities to use non-renewable resources (fossil fuels, etc.) to radically change landscapes, to effect detrimental global climate change, and to effect the large-scale destruction of natural habitats with the accompanying extensive loss of biodiversity.

Green design has to start by reducing our demands on the environment and natural resources, and our exorbitant levels of material consumption. It must work towards eliminating wasteful ways of life, construction and production, and lowering the overly-extensive standards of living that the “haves” in our society enjoy. Society must change its polluting and high-energy consuming industries, unsustainable economies and commerce, and methods of production. We need to rethink and change all our activities on the natural environment in order for them to become sustainable. We need to radically change how we live, build, behave, work, make, eat, learn, buy and move about. All of this affects the extent of a building’s requirements – the less we need, the less we build and make, which in turn lessens the demand on the natural environment.

“Ecology” is the ecological or green infrastructure that is vital to every design and master plan. These are Nature’s utilities and “common services”, comparable to the usual urban engineering infrastructure of roads, drainage systems and other engineering utilities. These need to be ecologically functioning. This includes the interconnected network of green corridors, made up of natural areas of open green spaces and landscapes, which conserve an ecosystem’s values, biodiversity, clean air, water and others. It also enables green areas to flourish as a natural habitat for a diverse range of wildlife, and delivers a wide array of benefits to humans and the natural world alike, such as providing habitats linked across the landscape that permit fauna to move freely. This green infrastructure is Nature’s “functioning infrastructure”. In addition to providing cleaner water and enhancing water supplies, it can also result in some, if not all, instances of the following outcomes: cleaner air; a reduction of the heat-island effect in urban areas; a moderation in the impact of climate change; increased energy efficiency; the protection of source water, and other benefits.

In the design process, the designer identifies existing green corridors, routes and green areas, and possible new routes and linkages for creating new ecological nexus and connections in the landscape and the built environment. We need to emphasise that this physical linkage is crucial. It is at these points that additional green functional landscape elements or zones can also be integrated. This can be done by linking to existing waterways that also provide ecological services, such as drainage to attenuate flooding.

These green corridors connect existing green spaces and larger green areas within the locality and to the landscape in the hinterland. They can create new, larger habitats in their own right, or may exist in the form of newly-linked existing woodland belts or wetlands, or existing landscape features (such as overgrown railway lines, hedges and waterways). Any new green infrastructure must clearly also complement and enhance the natural functions of what already exists in the landscape.

Incorporating this green eco-infrastructure (as “abiotic” constituents) by design is thus vital to any green design and master planning endeavour. Without it, no matter how advanced a design’s eco-engineering systems are, it remains simply a work of inorganic engineering and can in no way be called an ecological architecture or master plan nor, in the case of larger developments, an eco-city.

This green infrastructure must take precedence over the engineering infrastructure. By creating, improving and rehabilitating the ecological connectivity of the immediate environment, the green infrastructure turns human intervention in the landscape from a negative into a positive. Its environmental benefits and values are a green armature and framework for natural systems and functions that are ecologically fundamental to the viability of the locality’s floral and faunal life and their habitats, such as healthy soil, water and air. It reverses the fragmentation of natural habitats (a consequence of urban sprawl and transportation routes, etc.) and encourages increases in biodiversity to restore functioning ecosystems while providing the fabric for sustainable living, safeguarding and enhancing natural features.

This design endeavours to connect the landscape must ideally extend to built forms, both horizontally and vertically. An obvious demonstration of horizontal connectivity is the provision of ecological corridors and links in regional and local planning that are crucial for making urban patterns more biologically viable. Connectivity over impervious surfaces and roads can be achieved by using ecological bridges, undercrofts and ramps. Vertical connectivity within built forms is also necessary since most buildings are multi-storey. Design must extend the ecological corridors upwards, with the eco-infrastructure traversing a building from the foundations and landscape at the ground to create habitats on the walls, terraces and rooftops, and within the built system.

The next infrastructure, “engineering”, includes the usual built system’s “mechanical and electrical environmental services”, and in the case of master plans it also includes urban utilities such as roads, drains, sewerage, water reticulation, telecommunications, IT, and energy and electric power distribution systems. To avoid obsolescence, we need not prescribe a specific engineering system. Green design, however, requires that these systems be clean technologies: with low-embodied energy, carbon neutral in nature with zero emissions as much as possible and energy positive. They must at the same time be integral with the green infrastructure rather than vice-versa.

Finally, “water” parallels the green ecological infrastructure which needs to be managed to enable the water cycle to “close the loop” as much as possible, although this is not always possible (e.g. due to evaporation, or at locations with low rainfall, or due to leakages and wastage, etc.). Rainfall needs to be harvested and the built environment’s grey water must be treated, reused and recycled. Excessive surface water from rain needs to be retained within the site so it can be returned to the land to recharge groundwater and aquifers by means of filtration beds, pervious roadways and built surfaces, detention ponds and bioswales. Water (both grey and black water) reused within the built environment should be treated using natural sustainable (as opposed to mechanical) processes.

Site planning must take into consideration the land’s natural drainage patterns and provide surface-water management so that rainwater remains within the locality and

is not lost by being drained away into rivers and water bodies. Combined with the green infrastructure, storm water management enables the stormwater to be harvested or infiltrated using natural processes such as detention ponds, filtration strips, rain gardens or bioswales, or through evapotranspiration on or near the site where it falls while potentially generating other environmental benefits. The built systems should also seek to close the water cycle by reusing and recycling grey water.

Waterways should not be culverted as engineered waterways, but should be replaced with “constructed wetlands” and buffer strips to ecologically functional meadows and woodland habitats. Impervious sealed surfaces tend to reduce soil moisture and leave low-lying areas susceptible to flooding from excessive run-off. Wetland greenways need to be designed as sustainable drainage systems to provide ecological services. Green buffers can be used together with linear green spaces to maximise their habitat potential. Black water (sewerage, etc.) can be naturally treated using “constructed wetlands”.

Eco-design must create sustainable urban drainage systems that can function as wetland habitats. This is not only to alleviate flooding, but also to create buffer strips for habitat creation. While the widths of the buffer may be constrained by existing land uses, their integration through linear green spaces can allow for wider corridors. Surface-water management maximises habitat potential. Intermittent waterway tributaries can be linked up using bioswales.

We need to ascertain the locality’s ecosystem structure, inherent energy flow, its species diversity and other ecological properties and processes. We need to identify which parts of the site (if any) can permit different types of built structures and human activities, and which parts are particularly sensitive. Finally, we must consider the likely impact of the intended construction of our buildings and their use over time. This is of course a major undertaking. It needs to be done diurnally over the year and in some instances over several years. To reduce this lengthy effort, landscape architects developed the “sieve-mapping” technique for ecological land use and landscaping mapping. We must be aware that this method is an abbreviated approach, and generally treats the site’s ecosystem statically and tends to ignore the dynamic forces taking place between the layers and within an ecosystem. Between each of these layers are complex interactions. This mapping needs to be monitored by checks on the ecosystem’s structure, species, energy flows, etc.

Much of housing development in Malaysia still takes place on large tracts of vegetated land, in the main on mostly old plantation estates where the original flora and fauna have been cleared for rubber or oil palm plantations. As such, the ecological land use planning technique discussed above has less influence on biodiversity than on the avoidance of waterway siltation and eutrophication through massive land clearance and the callous levelling of land. The impact of this includes consequences on the groundwater regime of the locality. Nevertheless, it is recommended that such mapping exercises be carried out as the basis for all site planning of housing layouts.

CONCLUSION

The above is a discussion of the issues that need to be addressed for all green developments and are specifically applicable for housing developments to ensure

environmental sustainability in our built environment. These are the aspects of green design and planning that have a bearing on our Malaysian built environment and its production.

As mentioned earlier, green design is a complex endeavour and not as easy to execute as it is perceived to be. The sphere of knowledge of our building industry's players – the professionals and the various parties who make up the design and building industries – has to be expanded. Green design and construction must be the core premise underlying our housing industry, for which new methods and models for designing and construction are needed. Crucially, green design demands changes in the way we design, construct and use the built environment. For our design community, in-depth knowledge, together with the skills to build green, can provide it with the key opportunity to help the nation address its environmental problems and stop creating new ones.

New Ways to Facilitate Housing Development and Ownership

I. Private Mortgage Insurance

Rosemarie A. Sabatino

INTRODUCTION

Mortgage insurance and mortgage guarantees have played an important role over the past 50 years in helping to expand homeownership in both developed and developing countries. They have helped expand the availability of homeownership to creditworthy people who have had difficulty saving for the full down payment required in many higher-priced or high-appreciation markets. Mortgage insurance also has provided credit enhancement to mortgage loans and portfolios for decades, thereby helping lenders mitigate credit risk.

This chapter provides an overview of mortgage insurance – what it is, how it differs from mortgage guarantees, and how it works. It discusses the mortgage market factors that are important for a successful mortgage insurance industry and presents the considerations that a lender should account for when deciding to offer mortgage insurance to customers and borrowers, as there are numerous operational details to consider (all of which have cost implications). Finally, it discusses the benefits that mortgage insurance provides to a mortgage market.

OVERVIEW OF MORTGAGE INSURANCE

Mortgage insurance protects a mortgage lender from risk of loss caused by protracted borrower non-payment on a mortgage loan. Similarly, it also helps compensate a mortgage lender for losses suffered when a defaulting borrower's property is foreclosed on by the lender. Typically, such losses are the result of unpaid principal, interest and any costs related to the lender's foreclosure action and resale of the mortgaged property. A mortgage insurance policy will cap the amount of losses that will be paid to the insured party (i.e. the mortgage lender), most typically as a percentage of the original mortgage loan principal, and, subject to this limit, will pay actual, documented losses. A mortgage insurance policy,

however, will typically require the lender to attempt to mitigate the loss to the greatest extent possible, for example, by contacting the borrower by letter, SMS, email, and so forth; by attempting to reschedule or rework the loan; or by foreclosing on and reselling the property as expeditiously as possible.

It is important to note what mortgage insurance does not cover, namely, lender loss in the case of the borrower's loss of employment, death or disability. It also does not cover a lender's loss due to property damage caused by natural disasters or hazards such as fire or flood. As will be discussed below, losses due to these unfortunate circumstances are covered under different types of insurance policy.

While the terms "mortgage insurance" and "mortgage guarantee" are frequently used interchangeably and have a number of similarities, mortgage insurance differs from a financial guarantee in several important ways. First, a financial guarantee is typically unconditional and irrevocable in its guarantee of payment of future principal and interest. By contrast, a mortgage insurance policy is an indemnity that covers borrower non-payment and will be honoured only if certain conditions are met by the lender. These are detailed in the mortgage insurance policy and consist of specific timelines that the lender must follow regarding, for example, contacting the delinquent or defaulted borrower, or commencing foreclosure proceedings. The loss paid by the insurer also is limited by the greater of either the indemnity cap or the actual loss suffered by the lender once a property has been foreclosed on and sold, and the terms of the insurance policy have been met by the lender. This could mean that the amount paid by the mortgage insurer for a claim could vary depending upon a number of key variables, including the amount of the lender's loss, the lender's costs of liquidating the property, and the amount recovered from the sale of the property. By contrast, a financial guarantee will typically unconditionally pay all amounts due on the loan payable immediately upon borrower default. Finally, the regulator of mortgage insurance companies is typically the regulator of insurance companies within a country, whereas the regulator of financial guarantors is often the country's central bank or banking regulator. This is the case in India, for example. However, there are exceptions: South Africa's Homeloan Guarantee Company, which has an insurance licence, is regulated by the Financial Services Board, the regulator of insurance companies, even though it offers a mortgage guarantee product.

A mortgage insurance policy is most often offered on a loan-by-loan basis, but in some markets, it is offered on the basis of a pool of loans as well. A policy can remain active for the entire term of the loan or it can "expire" once the loan balance outstanding has been paid below a particular loan-to-value (LTV) ratio, such as 75%.

There are a variety of ways that a mortgage insurance premium can be paid, and in some markets, a combination of approaches is available. Sometimes, the mortgage insurance cost is fully financed up front, and, if permissible within the LTV limits set by the mortgage insurance company and the mortgage lending regulator, it is financed within the loan amount, such as in the Palestinian Territories. Sometimes it is charged as an upfront fee that is paid at closing, and sometimes it is added into the interest rate spread charged by a lender – a particularly common method when mortgage insurance is paid by the lender and not disclosed to the borrower.

The premium amount ultimately paid for coverage is based on a number of factors. First is the LTV of the loan being insured: the higher the LTV, the less the down payment that will be contributed by the borrower, and thus the less the borrower has at risk. A borrower with more at risk (for example, several years of hard-earned savings) is more likely to meet mortgage payments even in times of difficulty. The less a borrower has to lose, the more likely he or she will default if the property devalues or if there are unexpected difficulties making payments. Another factor is the percentage of loss covered by the mortgage insurance policy. In the extreme, if the mortgage insurance policy is to cover 100% of all losses experienced by the lender, the coverage could be quite expensive. Such coverage not only removes incentives for the lender to originate sustainable loans, it also could mean that the mortgage insurer will pay out a high number of claims – its loss severity (or “loss given default”) could be high, too, particularly in markets where there is an illiquid property resale market or in a market where it takes years to foreclose on a property because of a lengthy judicial process. For these reasons, and to make the insurance premium affordable, the lender will share in a percentage of the losses, and it is this percentage that helps lower the cost of the mortgage insurance.

Premiums should be set on an actuarial basis, taking into account risk of loss severity and incidence of loss over time. They should be set in such a way that the business is sustainable. Hence, for an emerging market, there are two “chicken-or-egg” problems. The first involves the existence of data about mortgage-loss severity and incidence of loss. The best way to ascertain risk of loss is to analyse data over different economic and political cycles. However, by definition, an emerging market rarely has a significant amount of data. Nevertheless, a sustainable mortgage insurance business will require the reporting of a significant amount of data on the market and on loan level performance – information that can help establish a more transparent and robust mortgage market over time. The other factor that enables a mortgage insurance industry to be sustainable is volume: insurance premiums paid on the volume of performing loans enable the company to operate and be profitable even though it ends up paying claims. Mortgage insurance has often been advocated on the basis that it will broaden the mortgage market enabling lenders to increase lending volume. However, as will be discussed in the section below, there are a number of factors that also impact whether a mortgage market will expand or be constrained, notwithstanding whether a mortgage insurance programme or company has been established.

The mortgage insurance provider will specify eligibility criteria for a loan or a portfolio of loans under its policy, such as borrower eligibility (for example, formal employment for a minimum number of years as well as being below a certain age, which are common in markets where life insurance policies expire once an individual reaches a certain age and hence, no longer provide protection to a mortgage lender against risk of borrower death), property eligibility (for example, primary residences only; condominium/apartments versus detached homes), and characteristics of the mortgage loans to be covered under the policy (for example, term, LTV ratio, type of loan). The policy will also specify what other conditions must be met, such as certain coverage for the borrower (e.g. a life and disability policy) or the property (hazard insurance).

Because policy eligibility is often verified or re-underwritten by the mortgage insurer, mortgage insurance can provide a second level of scrutiny over how a mortgage lender is conducting its business. It serves as a validation of lender underwriting practices and methodology and provides an independent second opinion as to whether the loan should have been originated. For example, if a loan is rejected for coverage by the mortgage insurance company, it will be because the mortgage insurance company determined that the loan did not meet the origination criteria set forth as being an acceptable risk to the mortgage insurer or it was outside what was allowed by the negotiated policy. In some markets, a loan will not receive mortgage insurance until after the mortgage insurance company has fully reviewed the loan origination file. In others, the lender will be required to provide data about the loan to the mortgage insurance company, demonstrating that the policy's quantifiable criteria have been met (for example, LTV ratio, debt-to-income ratio), and then the mortgage insurance company will conduct an *ex post facto* review of every loan, or just a random sampling of loans.

While a borrower's default can be caused by a number of factors (including death, or a disability that renders the borrower unable to work or to continue to earn an income sufficient to repay the mortgage loan), these eventualities are assumed to be covered under a different policy, namely, a disability and life policy. It is very common in an emerging market for a lender to require that the borrower possess (or the lender will procure on the borrower's behalf) a life insurance and/or disability policy at least equal to the loan amount so that in the event of disability or death, the insurance policy pays off the loan and the family retains the property. Additionally, mortgage insurance does not replace hazard insurance, which covers damage to a property from such occurrences as a fire.

MORTGAGE INSURANCE MARKET PREREQUISITES

The prerequisites for a successful mortgage insurance industry are similar to those necessary for a sustainable mortgage market. These include the presence of mortgage lenders who are willing to lend prudently and have the capacity to manage their mortgage business operations. Interest rates also must be affordable to borrowers – high interest rates have constrained the growth of mortgages in countries such as Turkey and Ghana. The legal and regulatory environment must permit the expeditious transfer of real property ownership and the recording of title, which implies the development of land registries where a mortgage lender can record its lien. Rule of law must permit a lender to seize and resell its collateral in a timely manner. In Jordan, a defaulted borrower has a year from the sale of his or her foreclosed property to fully repay his or her loan. This serves as a significant deterrent to a homebuyer considering purchasing a foreclosed property because a potential homebuyer, when faced with the decision to buy a property that can be owned outright, versus one where the prior (defaulted) homebuyer has the right to repay his or her loan and reoccupy the home, will usually not choose to buy the foreclosed property. As a result, the timeline for a lender to sell a foreclosed property is unnecessarily elongated, increasing the loss severity of a defaulted loan. There must be a reasonably liquid residential property resale market so that when the lender or the mortgage insurance company has to sell a foreclosed property, it can recoup some of the lost interest, loan principal, foreclosure and sales costs in a timely manner, for the longer a lender has to hold a property, the more it can expect to pay out in property management fees, maintenance

expenses, and legal fees, all of which will contribute to loss severity.

There must also be a sufficient volume of mortgage lending. For a mortgage insurance or guarantee company to be sustainable, it must collect premiums that more than offset the claims that will be paid out. There should be a more formalised property sales market where there is a good deal of transparency of property transactions as well as volume of transactions that supports a “comparative sales” methodology of valuing a property. A market also must have housing priced to be affordable to those who would be target mortgage-market borrowers. A lack of affordable housing stock has served to constrain the growth of many mortgage markets, including those in South Africa, Tanzania, and the Palestinian Territories.

Finally, there must be a formalised property appraisal and valuation profession. This last factor is often ignored or downplayed when governments, international financiers and multilateral institutions consider ways to increase mortgage lending in a market. But mortgage lending is premised on a lender taking the property in the event of default, which implies that, at the outset, the lender must know the value of the collateral both at loan origination and upon borrower default so that the value of the collateral can be calculated to offset losses on a mortgage loan. While many mortgage markets have developed without having a formal credit registry or bureau – Thailand had an established mortgage market years before it had a credit registry – over time, the lack of one will also serve to constrain a mortgage market’s growth, as a lender will not feel comfortable entering into a longer-term debt obligation with a borrower if it cannot verify what other debt obligations the borrower already has.

When considering whether to establish a mortgage insurance industry, it is important to keep in mind which segment of the population it is most useful to help become mortgage borrowers. First, the very wealthy in a market typically do not utilise mortgage finance, and if they do, they are able to meet the required cash down payment for a mortgage loan without difficulty. It also will not help those who are typically not banked – the very low income segments that often make up a large percentage of an emerging market’s population. If a borrower does not have a banking relationship, is self-employed or part of the informally employed population (often very significant segments of a country’s population), mortgage insurance will do very little to expand mortgage finance to those segments as they are not typically targets for mortgage finance. However, in emerging markets where there is an emerging middle class of formally-employed workers, mortgage insurance can be of benefit in helping this population segment purchase a home sooner and start accumulating equity – assuming that there is affordable housing to be bought. While the middle class may be a relatively small segment of the population, such as in India, the actual numbers may be quite substantial and significant enough to represent a business opportunity for lenders to expand mortgage lending and for a mortgage insurance company to operate sustainably.

OPERATIONALISING MORTGAGE INSURANCE

Before a mortgage insurance company will agree to insure a mortgage lender’s mortgage loans, it will undertake a detailed due diligence investigation to understand how the lender originates, services, and manages the business. This will include analysing data

about the lender's existing mortgage portfolio – how it has performed, what losses have been sustained over time, how the performance of loans with differing characteristics or located in different cities or regions vary, and so forth. It will then negotiate specific terms and conditions that must be followed by the lender or incorporate the lender's existing policies and procedures into the policy, with or without revision.

A mortgage lender will enter into a mortgage insurance “blanket” or “master” policy with its mortgage insurance provider, which will specify the terms under which the mortgage insurance company will pay a claim on either a loan-by-loan basis, or on a portfolio of loans. These contracts will contain a good deal of detail, including the underwriting parameters to be used and loan documentation to be obtained from a borrower during the origination process; the servicing protocols to be followed by the lender; as well as protocols for when the lender must consult with the mortgage insurance company, such as in pursuing loss-mitigation strategies, and the kind of documentation and notification to be provided to the borrower in the case of borrower default. If the provisions of the master policy are not followed, then the mortgage lender runs the risk of having its claim denied by the mortgage insurance company. A mortgage insurance company is no different from any other type of insurance company. For a claim to be paid, losses must be realised and defined processes must be followed and carefully documented, per the terms of the policy. Otherwise, the insured party runs the risk of having the insurance claim denied or not fully paid.

When considering whether to utilise mortgage insurance, a lender must fully analyse and understand how implementing a mortgage insurance policy will affect the lender's operations along the full continuum of the mortgage loan process.

I. Marketing vs disclosure

Among the earliest steps taken in the loan origination cycle is that of marketing the lender's loan products to customers. At the marketing stage, a lender must consider whether its loan officers will disclose that mortgage insurance exists on the loan, particularly if there is no regulatory requirement to do so. While a lender may market lower down payment mortgage loans to its customer base, the mortgage insurance will come at a price that is passed on to the borrower and may be reflected in how competitive a lender's mortgage products are vis-à-vis its competitors. Market practices vary across countries as to whether lenders disclose the existence of mortgage insurance to homebuyers, and sometimes practices vary within the same country, as in Mexico. In Hong Kong, the Hong Kong Mortgage Corporation Limited's (HKMC) website very clearly states that the borrower pays the cost of the mortgage insurance premium, making it completely transparent to all borrowers. However, not disclosing the existence of mortgage insurance to a borrower could pose a number of operational and perhaps ethical dilemmas for a lender: if a lender does not let the homebuyer know that he or she is paying for mortgage insurance when they repay their loan, what happens if the policy is denied by the mortgage insurance company, particularly in the case of an upfront premium? Must the lender refund the previously paid premiums to the borrower or adjust the interest rate downward, or does the lender take that premium as added profit? If the premium is not reimbursed to the lender, or the homebuyer's rate not adjusted downward, then the lender is charging the borrower for protection that he or she does not have. While perhaps legal, this situation could pose a customer relations

issue for the lender, if not an ethical one, too.

II. Loan application

At the loan application stage, there may be documents that the lender will be required to collect from a mortgage loan applicant, or specific pieces of data about borrowers and their past history of honouring financial obligations that the lender will be required to consider per their mortgage insurance policy. This may include verification of salary and employment (which may also need to be re-verified right before loan closing or settlement) for a prior period of time, documentation of the borrower's assets, and copies of bank account statements if the mortgage lender is not also the bank into which the borrower's salary is paid. The lender will also be required to obtain a property appraisal or valuation, which values the collateral by both the "cost" and "sales comparison" approach.

III. Borrower confidentiality

A mortgage lender must consider how the country's privacy policies impact on its relationship with both its customers and its mortgage insurance provider. During the borrower disclosure or origination process, must the lender disclose that the lender will be sharing the customer's information with a third party? If so, the lender must disclose that it will be sharing the borrower's confidential financial information with an outside party and obtain the borrower's prior written consent to do so. This documentation should be kept in the lender's loan file.

IV. Timelines

In some markets where the mortgage insurance company requires that the loan be submitted for pre-approval prior to loan origination, lenders must build this additional period into the timelines it provides to customers, as pre-approvals are an additional step that may also serve to make a lender's insured loans less competitive vis-à-vis other lender products in the market. Also, loan officers must be trained to be able to properly set borrower expectations relating to loan closing timelines so that they do not enter into a purchase contract without enough time to have the loan underwritten by the lender and also by the mortgage insurance company. A mortgage lender also must have systems in place to manage the information demands and process requirements of the mortgage insurance company. These may include loan level data that the lender does not normally collect, ways to track interactions with the mortgage insurance company, as well as the premiums paid or refunded.

V. Collection and payment of premiums

A lender must work into its processes the collection of the insurance premium from the homebuyer, as well as the payment of the premium to the mortgage insurance company. If the premium is to be collected monthly with the mortgage loan payment because it has been added as an additional spread into the interest rate, and the loan is a fully-amortising loan, then the amount collected each month will differ because as the unpaid principal

balance reduces, so does the interest rate spread – and this includes any fees worked into the interest rate. Additionally, in the case of borrower default or delinquency (depending on the policy), the lender will usually be required to remit the premium to the mortgage insurance company even if it was not collected from the borrower, just to keep the policy in effect. This means that the lender will need to have a ready source of funds with which to pay these premiums, even though they are not collecting them from the borrower.

VI. File management and quality control

In some markets, the lender sends the completed loan file to the mortgage insurance provider before the mortgage insurance company will agree to insure the loan. If this is the case, then the lender needs a way to copy and organise the loan file to be sent so that required documents can be readily identified by the mortgage insurance company underwriter and so it can be readily apparent that the loan file meets the minimum requirements of the mortgage insurance company's policy. In either case, the mortgage lender must have a robust quality control process to ensure that the provisions contained in the master policy are followed so that the loan can be insured.

Additionally, the mortgage insurance company needs a way to track the loan file (when it was sent for approval, questions posed by the mortgage insurance company as a result of the file review, when it was returned). To facilitate this process, the lender may need to dedicate staff to assembling loan files, receipts, and other documentation required by the mortgage insurance company in order to pay a claim. Strict quality control regimes ensure that documentation is properly collected, stored and transmitted.

Once a loan has been approved for the lender's insurance policy, in markets where a paper certificate is used, the lender must keep the paper in a secure place along with other valuable legal documents. The lender should also be able to track the policy number in its loan tracking system so that loan administration employees can distinguish between loans that have mortgage insurance and those that do not. As these are the employees who will be handling loans, they must know what special steps they must take and document when a borrower fails to pay, so that should the loan go into default and should the lender need to file an insurance claim, the staff will be able to adhere strictly to the mortgage insurance policy's requirements.

VII. Staff training

Operationalising a mortgage insurance policy also requires that staff handling mortgage loans – particularly underwriting and servicing – fully understand the provisions of the mortgage insurance policy so that they can ensure that the policy's minimum standards are being met. This means that a lender will not only need to augment its policies and procedures to include any extra steps that must be taken when dealing with a loan that is insured, they must also ensure that staff receive the requisite training and access to the policy requirements, such as underwriting and servicing standards. Far too often, lenders complain that mortgage insurance companies are not interested in paying claims once a loan defaults. However, rarely do lenders fully train their staff in the intricacies of the claim requirements, nor do they give staff access to the relevant policy documents to use as a

reference should a procedural question arise.

All staff who receive calls from the mortgage insurance company's claim adjusters must be trained so that they are knowledgeable about lending as well as the mortgage insurance policy in effect. They also should receive negotiation training so that when they interact with the mortgage insurance company to challenge a claim denial or claim reduction, they are able to argue the lender's case effectively.

VIII. Information systems

Mortgage insurance clearly has information technology implications. A lender must be able to capture all of the data required by the mortgage insurance company and transmit it to the company in a format useable by the mortgage insurance company. A lender also needs a way to track which loans carry mortgage insurance in its portfolio, as not every loan will qualify and not every borrower will need mortgage insurance.

A lender must also be able to analyse, on an ongoing basis, whether the additional operational requirements of utilising mortgage insurance are cost-effective when compared to the value of premiums paid up front once a borrower has defaulted and the claim payments have been received.

BENEFITS OF MORTGAGE INSURANCE

Mortgage insurance benefits mortgage lenders and homebuyers alike, as well as the housing sector in general.

Homebuyers are able to purchase properties with smaller down payments. This enables them to begin to build up equity (and savings) much earlier than they otherwise would be able to do. And in high-inflation or price appreciation markets, purchasing a home sooner enables the homebuyer to purchase a property before price appreciation outstrips his or her ability to save for a 20% or 30% down payment.

A mortgage lender benefits by being able to originate a mortgage loan to a homebuyer who has not been able to amass the savings for the large down payment that is typically required (20% to 30%) but who is still perceived to be "a good risk". This enables the lender to capture the homebuyer's other business as well, particularly in markets such as the Palestinian Territories, where banks typically require mortgage borrowers to have their salary accounts at the same bank as a condition of obtaining a mortgage. Mortgage insurance also provides lenders with a way to manage their credit risk by transferring all or a portion of the credit risk to the third-party mortgage insurer. Additionally, in some markets, regulators have provided lenders with capital relief when they have transferred credit risk to a mortgage insurer with real capital behind it. In short, mortgage insurance provides a mortgage lender with a way to access new target customers – people who earn lower incomes and have the ability to make a monthly mortgage payment, but who lack the ability to save for a 20% to 30% down payment, as is often the case in emerging markets. It also provides a lender with a way to help disperse its credit risk, particularly if it bears risk in certain concentrations. These could include risk exposure to a particular developer, geographic area, or mortgage originator or broker. Additionally, a mortgage insurer entering

a new market, particularly one which has successfully operated in other foreign markets, will frequently introduce best practice mortgage loan underwriting and servicing standards in its market, and may help train a mortgage lender's staff on those practices, too.

There are also benefits to the housing sector at large. Mortgage insurance, through the policy provisions that stipulate the underwriting and servicing guidelines that must be followed for a mortgage loan to be insured, helps standardise mortgage lending origination and servicing practices across those lenders that utilise mortgage insurance to mitigate credit risk. Mortgage insurance also helps disperse credit risk away from the banking sector and into the insurance sector. Additionally, because a mortgage insurer will make a clear determination of which risks it is willing to take relating to mortgage finance, and what processes and procedures a lender will take in the case of borrower default, mortgage insurance serves to encourage lenders to offer certain products because their management knows they will be covered. Conversely, it also discourages lenders from extending low down payment loans to certain borrowers on riskier terms, because lenders know they will have to absorb 100% of the loss should a borrower default. An important part of the additional discipline that a mortgage insurer brings to the market is the uniform application of rules, standards and guidelines in underwriting loans and mitigating losses. Finally, mortgage insurance companies have, in many markets, developed tools to educate prospective homebuyers about whether they are eligible for mortgage financing. This is as true of established markets like the US as it is of emerging markets, such as Hong Kong. The HKMC's website, for example, has a number of online tools that enable a potential homebuyer to determine whether he or she is eligible for mortgage financing under the HKMC's mortgage finance programme.

CONCLUSION

Mortgage insurance is an important, internationally-tested tool for helping mortgage lenders expand lending to new borrowers without exposing themselves to significant credit risk. When operationalising mortgage insurance, a lender must consider the impact on all aspects of its mortgage business, from marketing and loan origination, to servicing and foreclosure, just as it would when incorporating any new product into its offerings. Mortgage insurance can also expand homeownership, particularly to an emerging middle class – those who have not been able to save for the full, required down payment but who otherwise would be a good credit risk. Thus, mortgage insurance can be an important tool in helping those seeking to save and accumulate wealth to do so through homeownership, and the lending industry to meet this demand while growing their lending portfolios and mitigating credit risk.

INTRODUCTION

In the past two decades, public-private partnerships (PPPs) and private finance initiatives (PFIs) have gained popularity with governments as a means of procuring public-sector infrastructure in sectors such as water, electricity, roads, airports, railways, hospitals, schools and social housing. Many countries have used PPPs and PFIs as important tools to improve economic competitiveness and infrastructure services, with varying degrees of progress. Other countries have used them to create “additionality” for projects that would otherwise not be implemented due to a lack of federal funding.

PPPs and PFIs may appear to be the answer to governments’ infrastructure funding problems but they are not magic bullets. They could be double-edged swords if not handled properly, as evidenced by the many failed and lopsided PPP/PFI projects around the world. Politicians and international consultants have touted them as magic bullets to break the logjams on projects, and in doing so may have contributed to the many fallacies surrounding the use of PPPs or PFIs.

While the terms PPP and PFI have often been used interchangeably, it is important to make a distinction between the two. Technically, PFIs are a form of PPP. However, it is now widely acceptable to refer to PPP projects as PFIs when payments to the private company in the partnership come from the public sector. PPPs are popular in developing economies, while PFIs are popular in developed economies where social housing, schools, hospitals, prisons and other public facilities developed by the private sector are paid for by governments over the period of a concession. A PFI is not normally an option for many developing countries due to the lack of fiscal space that allows long-term payment commitments, and for this reason it should be used cautiously in these countries.

Though there is no widely accepted definition of a PPP, the definition used by the Government of Mauritius (2003) encapsulates the essence of a PPP:

A PPP is a contractual agreement between a public entity and private entity, whereby the private entity performs part of a government organisation's service delivery functions, and assumes the associated risks for a significant period of time. In return, the private entity receives a benefit/ financial remuneration according to predefined performance criteria, which may be derived:

- Entirely from service tariffs or user charges
- Entirely from government budgets
- A combination of the above.

WHAT ARE THE DIFFERENT TYPES OF PARTNERSHIPS?

There is a wide range of public-private business models that bring both public and private sectors together to deliver public goods or services (see Figure 1). There is no single accepted definition as to which of these models technically constitutes a PPP. Some countries, including Malaysia in the past, have termed PPP as privatisation. Others, including the UK, have referred to privatisation as the outright sale of state-owned enterprises, while restricting the use of PPP to refer to projects where there is a long-term relationship between the public and private sectors. In Malaysia, the PPP Unit in the Prime Minister's Department, Unit Kerjasama Awam Swasta (UKAS), applies the term PPP to projects where the contract period exceeds seven years. At present, UKAS has not implemented any housing PPP projects but the UK's housing PPP models may possibly be adopted later.

In most PPP models, the assets of the projects are transferred to the public sector for its continued use. The same private company may be asked to continue running the project through a new operations and maintenance (O&M) contract. The private company is usually responsible for the design, construction and financing of the project. The public sector's contribution to the partnership can come through the offer of public land for the development, relaxing regulatory requirements (such as plot ratio for the development) to help bridge the project viability gap, and providing assistance in approval processes. Some PPP models have maintenance elements built into the contract, ensuring that the private company maintains the assets throughout the duration of the agreement. All PFI models have these maintenance elements built into the contracts, as they are the "value-for-money" drivers.

The PPP models used in housing tend to be of shorter duration than traditional infrastructure projects. The partnership between the two sectors usually ends when the private company surrenders the committed number of units to the public agency for its use, whether for sale or rent to low-income tenants. In the PFI model, the partnership lasts longer, as in the case of the UK's Housing PFI, which lasts about 25 years, during which the private company has to maintain the units to standards that have been agreed upon.

MANAGING A PUBLIC-PRIVATE PARTNERSHIP

A major driver of the PPP model is the underlying principle of optimal risk allocation, which means that risk is allocated to the party best able to manage that risk. Certain risks, such as construction, should be borne by the private partner, while others, such as land acquisition, should be borne by the Government, which is in a position to acquire or provide

Figure 1: Range of public-private business models

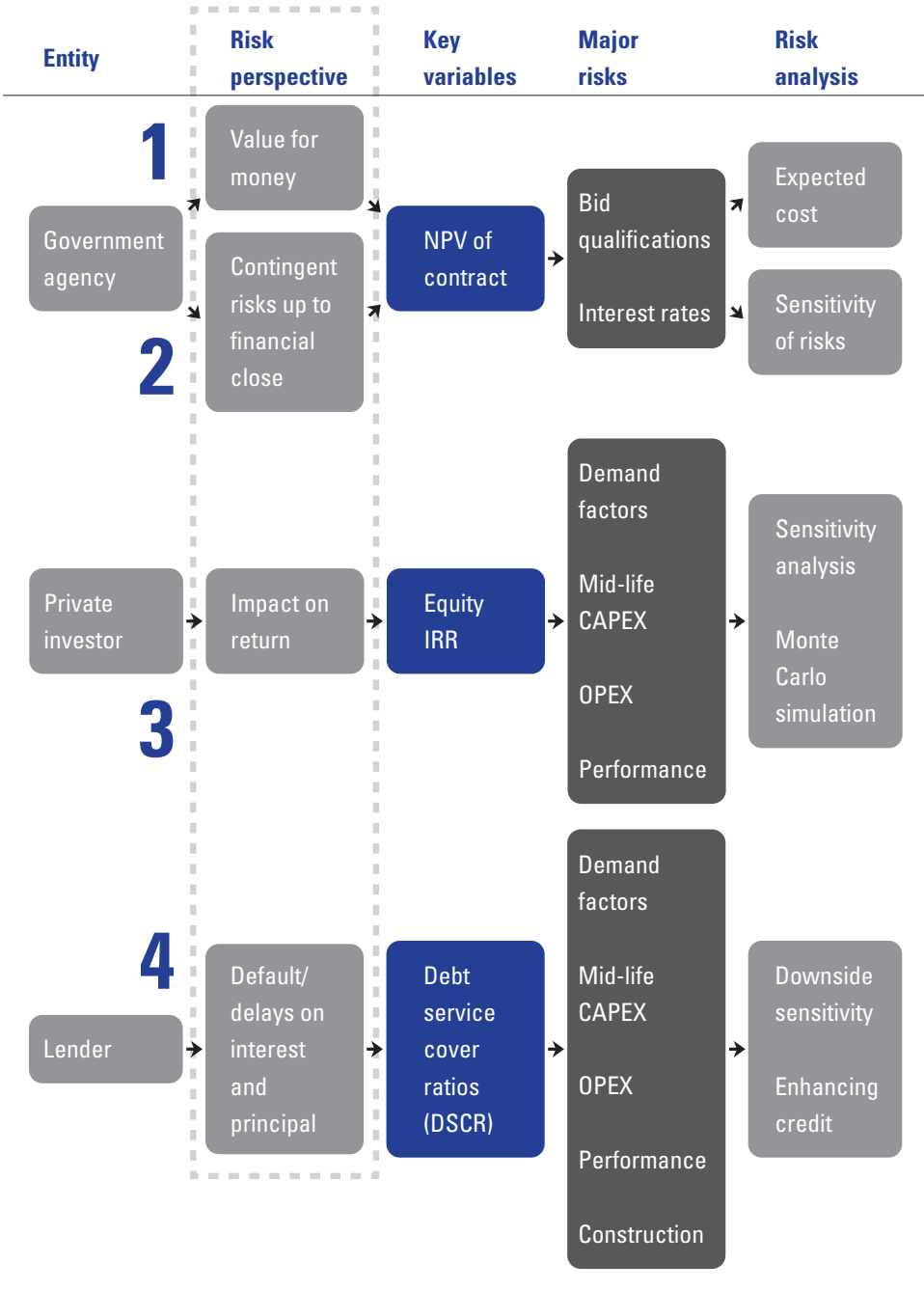
- PPP modalities**
- > Public provision of collective goods
 - > Service provision contracts
 - > Outsourcing/contracting
 - > Design and construct (D&C)
 - > Sale and leaseback
 - > Operate and maintain (O&M)
 - > Operate maintain and manage (OM&M)
 - > Build transfer operate (BTO)
 - > Build operate transfer (BOT)
 - > Build lease transfer (BLT)
 - > Build lease transfer maintain (BLTM)
 - > Build own operate remove (BOOR)
 - > Build own operate transfer (BOOT)
 - > Lease renovate operate transfer (LROT)
 - > Design build finance operate (DBFO)
 - > Design construct manage finance (DCMF)
 - > Design build finance operate manage (DBFOM)
 - > Build own operate (BOO)
 - > Franchise
 - > Concession
 - > Joint venture (JV)
 - > Regeneration partnership
 - > Outright privatisation

Source: Grimsey and Lewis, 2004.

land for the development. Attempts to pass on to the private company risks that it is not suited to bear will only result in the private company pricing them into the project; ultimately, it is the taxpayers or end-users who will pay for them. The public sector should be trained to ensure that risks allocated to the private company are not inadvertently transferred back to the public sector. All too often, such situations (i.e. privatising the profits and nationalising the losses) arise due to a lack of capacity within the public sector to negotiate good PPPs. It is crucial for the public sector to understand the risks and their impact on each of the stakeholders. Figure 2 shows the risk perspectives of each of the three major stakeholders (government agency, private investor and lender) in a PPP project.

The government agency's main focus is to ensure that the project is successfully completed and that risks are not inadvertently transferred back to the Government by the private investor. If the project is a PFI, the agency should ensure that the private partner is offering the Government value for money, i.e. the cost to the Government of the private partner developing the project must be lower than if the Government were to do the project

Figure 2: Risk analysis – balancing the differing perspectives



Source: Grimsey and Lewis, 2004.

itself. The private partner, on the other hand, is focused on maximising its profits from the project. It would have a minimum profit benchmark, below which it would not undertake the PPP project.

All PPP projects require private funding and it is unlikely that the investor will fund the PPP project entirely from his own funds. He is likely to borrow to partially finance the project. The risk perspective of lenders is driven by the risk of default or delay in repayment by the private partner. There are many risks that may impact the cash flows of the PPP project, including timing and the quantum of revenue from the sale of the units. Lenders will look for certainty of project cash flows, which would enable them to be repaid in a timely manner. In the case of a housing PPP, the cash inflows could come from the sale of units to the public or payments, if any, from the government agency. It is important to understand that lenders hold the key to the success of a PPP programme. For this reason, PPP policymakers must engage with the lender market or capital market right from the outset to enable them to gain an understanding of any potential limitations to their proposed PPP projects.

PPP projects are regulated through a contract in the form of a PPP agreement, which details the roles and responsibilities of each of the parties. Good contract design dictates that the processes and procedures for the PPP project are clearly spelt out and that measures for evaluating the PPP's performance are clearly laid out. It is also prudent to ensure that the other stakeholders are educated on the intricacies of PPP projects so they are equipped to provide the supplementary checks and balances. In many countries, this has been done very effectively through educating interest groups, society at large and politicians on the potential leakages of value in PPP projects, either due to political capture or lack of public-sector competence in safeguarding the interests of the nation. Sensitising the public to the details of PPPs will enable stakeholders to provide constructive feedback as well as checks and balances.

THE PPP MODEL IN MALAYSIA'S HOUSING DELIVERY

One of the country's earliest examples of PPP in housing is the Wangsa Maju township project in Kuala Lumpur, launched in 1987 (Wan Nor Azriyati *et al.* 2007). It was developed as a new township to accommodate the increasing demand for housing in Kuala Lumpur. The private partner, PGK Berhad, was part of the Peremba Group. In this partnership, Dewan Bandaraya Kuala Lumpur (DBKL) acquired the former rubber plantation estate at market value. This was used as DBKL's equity contribution to the project. The private partner was responsible for the design, construction and financing of the project and was given a free hand to optimise development profits within the master plan for the area. A total of 7,791 low-cost housing units were developed and surrendered to DBKL at no cost, and a certain number of medium-cost units were also given to DBKL for use as staff quarters. The private partner made their profits through the sale of the other units to the public.

DBKL has been very proactive in facilitating partnerships in the provision of affordable housing in Kuala Lumpur. The support and incentives given include easier access to DBKL land for partnerships, reduced parking space ratios, exemption from development charges and service funds and the use of a one-stop section to fast-track the approval processes (Abdullahi and Wan Nor Azriyati 2011). Other examples of DBKL's PPP projects (known as privatisation projects) include Bandar Baru Sentul, Kepong Magna Park and Pantai Hillpark,

all of which were squatter resettlement projects. These were quite similar to the Wangsa Maju project in which DBKL was paid in kind, in the form of free units that were either sold or rented out to qualified persons. The Bandar Baru Sentul project developed almost 4,000 units of low- and medium-cost flats, while the Kepong Magna Park project had 1,800 residential units. Both helped to transform the landscape of the former squatter colonies. In the Pantai Hillpark project, DBKL received more than 1,000 units at no cost upon completion of the project in 2000. These were sold to eligible purchasers. Similar models have been used in other states – partnerships have been formed between state agencies such as state economic development corporations (SEDCs) and private developers, with the former providing land for the projects and the latter taking the risk on sale of some of the units to the public.

The PPP model in developing housing is also used at the federal level. The Government set up a national housing corporation (Syarikat Perumahan Negara Berhad or SPNB) in 1997 to expedite the supply of low-cost housing. SPNB's role is to identify and provide financial support to eligible private developers to construct low-cost housing in their developments (funding is provided by the Government). Another federal agency involved in providing affordable housing is Perumahan Rakyat 1Malaysia (PR1MA) Berhad, which was established under the PR1MA Act 2012 to plan, develop, construct and maintain affordable lifestyle housing for middle-income households in key urban centres. Under this scheme, private developers support the scheme by committing to build a certain number of units of affordable housing. PR1MA may provide a subsidy to bring down the selling prices of these units to affordable levels.

PPP IN HOUSING – THE INTERNATIONAL EXPERIENCE

I. The UK

The UK has a long history of using PPP to deliver housing through various government agencies. Some of the activities of these agencies were consolidated in 2008 through the formation of the Homes and Communities Agency (HCA), which merged the functions and assets of English Partnerships; the investment functions of the Housing Corporation; and several programmes that had previously been undertaken by the Department for Communities and Local Government, and the Academy for Sustainable Communities (Homes and Communities Agency 2013). Later in 2010, the social housing regulation functions previously undertaken by the Tenant Services Authority were also transferred to the HCA. The HCA is currently the national housing and regeneration agency for England. It has wide-ranging powers that enable it to achieve its objectives of improving the supply and quality of sustainable housing, and to initiate regeneration of land. These abilities include the power to acquire land and new rights under the Acquisition of Land Act 1981 and the Compulsory Purchase Act 1965.

The HCA works in collaboration with many partners, including local authorities, the central government, housing associations, private-sector builders and developers, lenders, and voluntary and community sectors. It has a capital investment budget of about £4 billion for the period 2012–2015. Together with the use of PPP and other investment models, the HCA hopes to contribute to economic growth beyond its allocated budget. The models include:

- Joint ventures (for example, English Cities Fund, Priority Sites and Network Space).
- PPPs with local housing companies (LHC) where the local authority typically contributes the land while the private company provides the building expertise and financial investment. The LHC is jointly owned and both parties share in the risks and rewards of the development process. These include not-for-profit Housing Associations and the former Community Development Trusts. Peabody, one of the oldest not-for-profit Housing Associations, currently owns and manages more than 20,000 homes across London, providing social housing, leasehold, shared ownership, supported housing, key-worker accommodation and commercial units.
- Private rental-sector initiatives (the Build to Rent scheme), to which the Government committed £200 million (increased to £1 billion in 2013) for equity investment and private-sector loan guarantees of up to £10 billion. The HCA would co-invest with the private developer of housing built to let. Upon all the units being fully let out, the development is either sold to a long-term investment fund or refinanced, and the returned equity and loan is recycled back into the market to encourage more units to be built. This scheme is aimed at increasing the rental housing stock. Today, more than 15% of the population live in rented accommodation. Developers bid for these funds through open competition.
- The Affordable Homes Programme 2011–2015 (AHP), which is aimed at increasing the supply of new affordable homes through the Government’s investment of £4.5 billion in new affordable housing and existing commitments from the previous National Affordable Housing Programme. These are in the form of grant funding to developers. Emphasis is given to projects that create affordable rental housing. The AHP is similar to Malaysia’s PR1MA except that the emphasis is on increasing the affordable rental housing stock rather than homeownership. Developers bid for these grants through open competition.
- Housing PFIs (social housing grants used to pay the private company over 25 to 30 years for building and maintaining the housing).
- Shared Ownership schemes where the purchaser buys a percentage ownership of the unit based on his ability to pay, while paying rent on the remaining portion not owned by him.

Policies are also in place through Section 106 agreements, which compel developers to build a certain percentage of affordable housing in new developments. This is a form of cross-subsidisation, with some of the profits from the higher-value housing units being used to subsidise the affordable housing units. This scheme is similar to those used in many countries, including Malaysia.

The PFI scheme, popular until recently, has come under heavy criticism and has now been replaced with a new programme, Private Finance 2 (PF2). The UK House of Commons Treasury Select Committee on PFI published a report (2011) following a lengthy enquiry process that saw industry experts and stakeholders giving evidence. To quote MP Andrew Tyrie, Chairman of the Select Committee:

PFI means getting something now and paying later. Any Whitehall [government] department could be excused for becoming addicted to that. We can't carry on as we are, expecting the next generation of taxpayers to pick up the tab. PFI should only be used where we can show clear benefits for the taxpayer. We must first acknowledge we've got a problem. This will be tough in the short term but it should benefit the economy and public finances in the longer term. PFI should be brought on balance sheet. The Treasury should remove any perverse incentives unrelated to value for money by ensuring that PFI is not used to circumvent departmental budget limits. It should also ask the OBR (Office of Budget Responsibility) to include PFI liabilities in future assessments of the fiscal rules. We must also impose much more robust criteria on projects that can be eligible for PFI by ensuring that as much as possible of the risk associated with PFI projects is transferred to the private sector and is seen to have been transferred.

Generally, PFI projects are more difficult to manage than PPP projects as they require a greater amount of detailed monitoring and have inherent "on balance sheet" liabilities (deferred liabilities to the Government).

II. The US

In the US, PPPs are the country's main source of social housing (Moskalyk 2008). Most of the measures and mechanisms focus on the financing aspect of the project. There is a heavy reliance on mechanisms to reduce debt costs so that breakeven rent is relatively affordable (CMHC 1998). Programmes include housing block grants provided to state and local authorities, effective interest rate subsidies and mortgage insurance.

The Low-Income Housing Tax Credit (LIHTC), created in 1986, is the most notable source of government funding for social housing in the US. Under this programme, which is estimated to increase the housing stock of affordable units by 100,000 per year through PPP, tax credits are provided to local non-profit housing authorities; these local authorities can then sell the credits to private investors for cash (Moskalyk 2008). It is an indirect federal subsidy used to finance the construction and rehabilitation of affordable rental housing by providing the incentive for private developers and investors to provide more low-income housing. Without the incentive, affordable rental housing projects do not generate sufficient profit to warrant the investment. Rental properties that qualify for the LIHTC tend to have both lower debt-service payments and lower vacancy rates than market-rate rental housing. Novogradac's online Affordable Housing Resource Center (Novogradac 2013) notes that "LIHTC properties typically experience a relatively quick lease-up and offer strong potential economic returns, primarily due to the existence of the credit. LIHTC properties are often packaged as limited partnerships such that they afford limited liability to their investors." Philanthropic foundations are also involved in housing PPPs in a less significant way, their participation being mainly through contributions to social housing funds.

The use of tax credits to encourage private-sector involvement in affordable housing has not been tried before in Malaysia. The efficiency of this type of scheme compared to other direct grant- or equity-funding schemes should be studied carefully before it is introduced.

III. Canada

PPP in housing in Canada is driven by the need to bridge the gaps in availability of affordable housing arising from the contraction of federal and provincial support for the provision of these houses. The main private-sector participants are non-profit and cooperative bodies, though there are numerous cases of partnering with profit organisations, which allows cross-subsidisation for affordable housing. The Canadian Centre for Public-Private Partnerships in Housing (renamed the Affordable Housing Centre) was established in 1991 to assist in the development of these partnerships. In all the partnership projects, the public sector provides one or more of the following:

- Land (or property for refurbishment) at below market rates, or deferred payments or leasehold
- Grants or low interest loans
- Debt or project financing.

The schemes used in Canada are similar to the various schemes already used in Malaysia.

IV. India

The redevelopment of slum areas through PPP has been used in India. The selection of the preferred private company partner is through an open tender. The winning bid is usually based on agreed parameters, for example the number of units transferred to the public agency at no cost. Examples of slum redevelopment PPP projects are the Dharavi Redevelopment Plan Project and the Ahmedabad Rehabilitation and Redevelopment of the Slums Project. All Indian housing PPP projects are subject to open tendering exercises.

V. Australia

PPP in housing in Australia is driven mainly at state level, where land supply for affordable housing is largely the responsibility of the state governments. In most partnerships, the public agency provides the land while the private company assumes all commercial, design, construction and financing risks. Housing PPPs in Australia include the Emmaus Community Housing Project, the Victoria Harbour Affordable Housing Proposal, the Kensington Public Housing Estate Redevelopment and the Bonnyrigg Living Communities Projects. These are partnerships between the state bodies and the private sector. In the case of the Emmaus Community Housing Project, it also involves a church.

MOVING FORWARD

The PPP schemes currently used in Malaysia are similar to those found in many other countries. At the basic level, Malaysia already has an inclusionary housing policy, which uses regulation to require private developers to build affordable housing. Under this partnership

model, the viability of the project can be enhanced with the relaxation of plot ratio and other requirements by the regulators. Assistance through the fast-tracking of approvals is commonly applied to these PPPs. Profits from the sale of medium- and high-cost housing are used to cross-subsidise the construction of these affordable housing projects. In addition to this policy, Malaysia has several initiatives to grow the stock of affordable housing, the main ones being those undertaken by SPNB and PR1MA (both funded by the Government). PR1MA is relatively new but one can see the resolve of the Government to increase the stock of affordable housing for the lower-income population. Both these schemes are similar to those currently promoted in the UK, notably the Build to Rent scheme and the Affordable Housing Programme. The main difference is that in the UK, there is a greater emphasis on increasing the affordable rental housing stock.

The use of PFIs for infrastructure development, including social housing, has been limited in Malaysia. To date, it has been used mainly in the healthcare and education sectors. In a number of developed countries including the UK, PFIs have been used to increase the stock of social housing. However, the PFI model has inherent problems that may make it unsuitable for Malaysia. PFI projects are more difficult to manage than PPP projects as they require a greater amount of detailed monitoring and have “on balance sheet” liabilities.

The PPP model involving “monetising of idle government assets” has been used fairly successfully to increase the affordable housing stock in Malaysia. This model is suited not just to Malaysia but also to most developing countries as it does not require the Government to allocate funds to create a stock of affordable housing. This model can be improved further by making it mandatory for all potential PPP projects to be subject to open bidding. This will ensure that the government agency is able to extract the best value for the land asset. An alternative to this model, though not a PPP in the strictest sense, involves the Government selling the surplus land to private developers through an open-bidding system, and the revenue being used for social services including providing social housing or subsidies for affordable housing. The choice is dependent on which option offers the best value to the Government.

CONCLUSION

Countries face significant challenges in meeting the huge demand for affordable housing. These include the severe constraints on public finance and the capacity to deliver sufficient supply to meet demand. Many governments have resorted to the use of PPPs and PFIs to accelerate supply. Various PPP models are used in Malaysia to increase the affordable housing stock, including the inclusionary housing policy that mandates private developers to provide affordable housing as an integral part of their developments. The PR1MA initiative is similar to the UK’s ambitious Affordable Housing Programme 2011–2015 where the UK Government provides grant funding to private developers to make their affordable rental housing projects more viable. Managing PPPs requires a different skill set on the part of the public sector compared to that used in traditional procurement. A way forward in managing future PPPs in housing in Malaysia is to subject all PPP projects and funding to open bidding, thus ensuring that the best value is extracted for the Government and the people.

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III. The Shared Ownership Model

Stuart MacDonald**INTRODUCTION**

The development of hybrid housing tenures has contributed to the advancement of an intermediate housing market in a number of countries. Known broadly as shared equity models,¹ these hybrid tenures are categorised by financial instrument innovations that challenge the traditional understanding of housing tenure as either rented or owner-occupied. These models are advanced under ideological commitments to the promotion of homeownership in the context of declining affordability (Bright and Hopkins 2011) and through economic arguments of reduced costs for the public purse and a general winding back of large-scale direct public provision of housing (Bramley and Dunmore 1996).

Public housing in East Asia has traditionally been distinguished from Western social housing where a unitary system stems from a conception of social welfare that aims to provide housing at affordable prices for the population as a whole. On the other hand, a dualist system found in East Asia has assumed that housing needs will largely be met by the market, and social housing interventions are thus extended only to those on the very margins of society for whom the market is unable to deliver decent or affordable housing (Forrest and Lee 2003).

More and more Malaysians are, however, unable to afford homes on the open market that meet their needs and aspirations; house prices have moved beyond their reach and continue to do so. The key urban areas that serve as employment centres are typified by increasing levels of housing stress,² and pressures on housing affordability in Malaysia are growing. House prices continue to rise faster than incomes and, combined with a tightening of end-financing (Bank Negara Malaysia 2011),³ the housing affordability challenge continues to increase. The conditions that have given rise to this intermediate market in many countries around the world are clearly visible in Malaysia and show no sign of abating.

WHAT IS SHARED EQUITY?

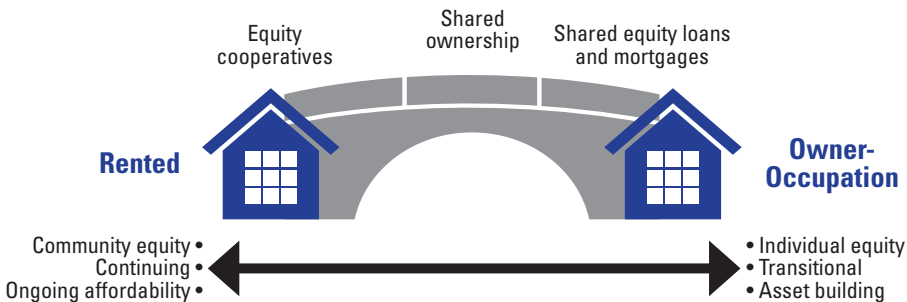
The essential feature of shared equity is that the household shares the capital costs of purchasing a home with an equity partner, thereby permitting households to buy into a home with lower income and equity than would be required under conventional mortgage lending conditions. The rationale for promoting such models is that they enhance housing affordability by lowering deposit requirements and monthly mortgage payments.

Shared equity models have developed most significantly in countries such as the US, the UK and Australia. However, in all these countries their application has been relatively modest in scale. In Australia the number of shared equity units is estimated in the tens of thousands (Pinnegar *et al.* 2008). Community Land Trusts number around 250 in the US where the total stock under management is also in the tens of thousands, while in the UK, the supply of new shared equity units has been around ten thousand per year, which still only makes up a tiny share of all housing, accounting for approximately 1% of the total housing market (Bright and Hopkins 2011).

There is, however, no standardised shared equity model. In different locations (between and within countries) models have been developed in different legal contexts, where property rights differ, to suit differing policy objectives and targeting differing groups at different price points (e.g. from first-time buyers struggling to bridge the “deposit gap”, to low-income households with unrealistic opportunities of entering into homeownership, and to middle-income groups/key workers in areas of high housing stress).

The current range of shared equity models can be viewed along a continuum, or bridge, between the two established housing tenures (see Figure 1) and can be broadly categorised into three groups: shared equity loans, shared ownership and equity cooperatives. Shared equity loan models are designed explicitly to support the movement towards owner-occupation and household asset accumulation, while equity cooperative models are closer to rented tenures in their design, limiting the householder’s ability to accumulate capital to support longer-term recycling of affordable homes. Shared ownership models sit somewhere in the middle. The following sections, working backwards over this bridge, outline the features of these different models.

Figure 1: Shared equity approaches



Source: adapted from Jacobus and Lubell, 2007.

I. Shared equity loans

A shared equity loan is typically provided by an equity partner (e.g. government, housing agency or private finance⁴) in return for a minority equity share in the property (typically up to 30%). Commonly, a capped interest rate (typically 2% to 3%) is charged on the equity loan, with many offering a fixed period interest-free, e.g. the first five years. The cost of the mortgage and the interest on the loan combined are lower than an outright mortgage of the same value. A 30% equity loan on a RM400,000 property will reduce the required net household income by 16% and the deposit requirements will fall from RM40,000 to RM28,000 (see Figure 2). The household is provided with an option to buy out the equity partner, in stages and over time, so as a household's income increases and a larger amount can be dedicated to cover housing costs, the household can increase its equity share. This is known as "staircasing" and allows the household to eventually move to the position where they own 100% of the property, at which point the equity partner no longer has any role. This model is typically viewed as a transitional model to support individual equity building and move households into full owner-occupation.

Any capital gains realised at the point of sale are shared between the household and the equity partner relative to the proportion held at the point of sale, and any staircasing is conducted at the prevailing market valuation of the property. This has been the predominant approach in the development of an intermediate housing market in Australia (Pinnegar *et al.* 2008; Yates 1992) and has developed most rapidly since the mid-1990s. In these shared equity models the household typically buys the full legal title of the home using the equity loan to fund the part they cannot afford with mainstream mortgage finance, which is then secured as a charge against the property.

Figure 2: Standard mortgage finance vs shared equity loan finance

	Standard	90%	80%	70%
Household share	RM400,000 ⁵	RM360,000	RM320,000	RM280,000
Equity partner share	-	RM40,000	RM80,000	RM120,000
Deposit payment (@ 10%)	RM40,000	RM36,000	RM32,000	RM28,000
Mortgage	RM360,000	RM324,000	RM288,000	RM252,000
Monthly repayment (6% over 30 years)	RM2,158	RM1,943	RM1,727	RM1,511
Interest charge on equity partner share (3%)	-	RM100	RM200	RM300
Total monthly repayment	RM2,158	RM2,043	RM1,927	RM1,811
Household "net" income required	RM6,474	RM6,129	RM5,781	RM5,433

Source: Author and iProperty.com mortgage calculator.

II. Shared ownership

Shared ownership models extend the range at which an equity partner can invest, moving beyond minority shares into majority shares and even up to 75% of the equity. Instead of an interest rate being charged on the equity share, a rent is levied (also typically 2% to 3% of the annual value of the share) leading to a common description of this model as “part buy” and “part rent”, placing this model in the centre of the continuum in Figure 1. This extension of equity shares has a more significant effect on affordability, and a household with 50% of the equity in a RM400,000 home could expect the required net income to be reduced by 27% and the deposit requirement halved, while a household share of 25% would see income requirements drop by 40% and deposit requirements drop by 75% (see Figure 3).

In shared ownership, the housing provider owns the freehold while the purchaser is granted a long lease (e.g. 99 years) that records the amount paid on the purchase (the share bought), and the rent payable under the lease is based on the “share” retained by the housing provider (Bright and Hopkins 2011). This is the predominant approach in the UK, and was first introduced in the mid-1970s, when they were known as “half and half” schemes (Bramley and Dunmore 1996).

Shared ownership models typically have stronger social objectives than shared equity loans and are designed to retain the properties in shared ownership status in the longer term and recycle them for social use. So while staircasing options exist in the same way as in shared equity loans, commonly greater restraints are placed on resale conditions, such as requiring first refusal in the event of a sale, restricting staircasing to a level below 100% or requiring sales to only restricted (eligible) populations.

III. Equity cooperatives

Equity cooperatives are designed with a more explicit aim to develop housing that is affordable in perpetuity. While house prices continue to rise faster than incomes, the subsidy required to support a household increases over time. Equity cooperatives address this problem by fixing resale prices based on growth in incomes rather than growth in house prices, therefore ensuring that a household in the same position in the future will be able to buy the same home. Legal covenants are applied to restrict resale, which limits the capital gains made by the household and places this housing model in more of a social housing context where ownership is for the common good as opposed to what is financially best for the individual (Moore and McKee 2012).

Based on house price growth over the past decade in Malaysia (6.2%), in a further decade from now, the RM400,000 home will cost RM687,000. The household that can today afford a 75% share (e.g. RM300,000), will in a further decade (if household income continues to grow at the slower rate of 4.7%) only be able to afford a 66% share. A subsidy retention model will restrict the resale price to RM605,000, which is 12% below the projected market value, but this remains affordable for the same household (see Figure 4).⁶

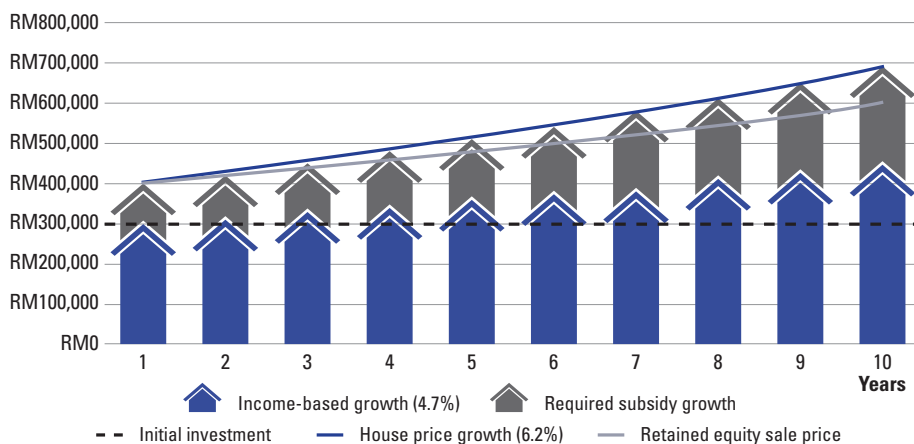
In the US, the most dominant of these models are Community Land Trusts, i.e. non-profit organisations that acquire and manage land with the intention of holding it in trust and developing affordable housing that remains affordable over time (Davis 2010).

Figure 3: Standard mortgage finance vs shared ownership finance

	Standard	75%	50%	25%
Household share	RM400,000	RM300,000	RM200,000	RM100,000
Equity partner share	-	RM100,000	RM200,000	RM300,000
Deposit payment (@ 10%)	RM40,000	RM30,000	RM20,000	RM10,000
Mortgage	RM360,000	RM270,000	RM180,000	RM90,000
Monthly repayment (6% over 30 years)	RM2,158	RM1,619	RM1,079	RM540
Interest charge on equity partner share (3%)	-	RM250	RM500	RM750
Total monthly repayment	RM2,158	RM1,869	RM1,579	RM1,290
Household "net" income required	RM6,474	RM5,607	RM4,737	RM3,870

Source: Author and iProperty.com mortgage calculator.

Figure 4: House price against income growth



Source: NAPIC, *Malaysian House Price Index*; Department of Statistics Malaysia (requested), *Household Income 1970-2009*.

COSTS AND BENEFITS OF SHARED EQUITY MODELS

Shared equity can bring significant benefits, not only to households in terms of meeting their housing needs but also more widely to support government strategies in social and economic development that benefit society as a whole. However, the basic tenet of all subsidised access schemes is the relinquishing of some aspect of the purchasers' use and occupation rights in exchange for lower entry costs to homeownership. As such, they

inevitably involve a number of trade-offs in terms of rights and responsibilities, which set them apart from either rented or owner-occupation.

I. Households

The primary benefits for households are lower entry costs and lower monthly financial commitments. By increasing affordability the household also has greater access to housing, increased choice and higher quality than the open market can otherwise offer. This can allow for a better location – closer to work or school, for example – which itself can have significant social and economic benefits for the household. Shared equity provides financial benefits associated with the dominant tenure of owner-occupation, and while this is limited to only part of the benefits, none of the financial and capital gains from the appreciation of a home's value and/or the amortisation of the mortgage accrues to tenants. Housing equity represents an important, and often the only, source of personal wealth for many homeowners.

Being more closely associated with owner-occupation, shared equity brings psychological benefits associated with the dominant tenure. Tenure conveys a sense of pride, status and advancement for many people and there is general agreement that the home is an important source of ontological security in modern society, providing a sense of the reliability of things and place (Bright and Hopkins 2011). Those unable to access this dominant tenure feel increasingly detached from the mainstream, and even partial ownership allows households to demonstrate that they are part of this mainstream (Wallace 2012; Bright and Hopkins 2011).⁷

Shared equity products potentially provide greater flexibility and present less risk than outright owner-occupation. Risks of market fluctuation and interest rate rises are shared with an equity partner. Within shared ownership products downward staircasing options are being developed, which may allow a household to adapt to a change in circumstances without having to leave their home by reducing their equity share. Government-backed schemes provide added security for households, and resale processes and transactions can be faster and cheaper when selling back to the equity partner.

There are however a number of trade-offs and the benefits may, consciously or otherwise, mask the attributes that are less well aligned with traditional homeownership. Equity partners will retain a right to inspect the property to ensure it is being kept in good condition, yet no physical alterations to the property may be allowed. A shared owner may own only 50% of the property but is responsible for 100% of the maintenance and repair, presenting a much more restricted sense of ownership than traditional owner-occupation. Restrictions on the use of the property may be in place, with restricted subletting or fixed time periods in which you cannot sell. Grounds for repossession contained in leases or scheme regulations can mean that owners are actually less secure than traditional owner-occupiers (Bright and Hopkins 2011).

This lack of control extends to the utility of housing as an asset. Equity tied up in a shared purchase becomes “economically sterile” and unable to support business enterprises, for example (Bright and Hopkins 2011). Considered as a transitional tenure, these models have overall higher costs – full ownership costs less in the long run – and rent or equity interest

charges are still “dead money”. Bramley and Dunmore (2011) estimate it is more expensive by the order of 20% to 25%, and there is a general perception that households will get more money on resale on the open market, and so models with strict resale restrictions are less likely to be popular with households.

II. Society

Supporting first-time buyers and widening access to owner-occupation presents social and economic benefits for society as a whole. It promotes mobility and wealth creation and reduces reliance on welfare. Shared equity models can support key worker recruitment and retention in high-pressured housing markets, which contributes to a stable economy and society. Shared equity models are suggested to have the potential to play a role in limiting the social and economic polarisation that continues to arise (Yates 1992), limiting the divide between those on the ladder, and those not, which contributes to growing inter- and intragenerational inequalities (Wallace 2012).

A counterargument suggests that shared equity models can actually limit social mobility – as households become trapped in the tenure, with the majority unable to staircase out (about 25% of shared owners staircase to 100% ownership (Bright and Hopkins 2011)), they may never reach full owner-occupation. If a household wants to move house to a new location where shared equity is not an option, they may be forced into the private rented sector, having not accumulated enough equity to move into homeownership. However, no capital would have been accumulated in the rented sector.

III. Government

For government, these models allow an efficient use of public funds and can meet housing needs at a lower subsidy cost than the provision of social renting, as subsidy outlays are repayable with interest and capital accumulation. It is estimated that if 10% of shared owners staircase each year, the recycled proceeds could fund a 3% addition to housing stock each year (Bramley and Dunmore 1996). While significant government commitment will be required in the form of public subsidy, it is conceivable that a steady state can be reached which is self-financing from an evergreen, revolving fund of staircasing receipts and capital accumulation from sales.

These schemes can also meet housing needs indirectly by releasing social rented units (read: low-cost units) and relieving pressure on social housing (Graham 2010a, Wallace 2012). In the past five years in the UK, 5,000 social tenancies have been released due to shared equity models, while 17,350 households have been removed from the social housing waiting list (Graham 2010b).

IMPLEMENTING SHARED EQUITY IN MALAYSIA?

Implementing a shared equity model in Malaysia will require a detailed consideration of the roles to be played by government and the interface with private equity. A willing equity partner also needs to be found and a culturally acceptable model developed.

I. Role of government

Developing a shared equity model at a national level will require strong federal Government facilitation, with new regulations, a clear legal framework and significant public subsidy to stimulate development. While shared equity models do not require heavy ongoing management resources, they require adequate input at the development and marketing stages. To promote these models the Government needs to take a strong role in providing advice, guidance and support, given that these products are targeted at buyers who are generally inexperienced in house purchases and housing finance. Shared equity models also need to be clearly communicated to developers, private equity holders, solicitors, estate agents and financial advisors.

II. Role of private equity

Equity markets need to be convinced for shared equity products to become mainstream. Clear investor returns and confidence are key to building scale, and this can only flow from strong government commitment and a setting of the framework. While it is argued that it is not significantly riskier than lending to any other segment of the housing market, the lack of familiarity on the part of private equity causes it to be judged as a higher risk. Regulators typically require lenders to set aside higher capital against shared equity lending, requiring higher levels of “capital adequacy”, while staircasing injects an additional element of uncertainty regarding the repayment profile of loans (Bramley and Dunmore 1996). Owners are more likely to be “marginal” where even a small change in household finances may prevent them from meeting their monthly payments. However, shared-purchase households in fact have a greater support network in terms of their equity partner, who can support action to prevent repossession.

III. A willing partner?

A willing partner should be drawn from the point where the property market and social housing meet, which in Malaysia potentially requires a new kind of housing provider. The “Housing Trust” established in 1950 marked the beginning of direct intervention in housing in Malaysia. It had the power to lease, purchase and hold land and buildings. It was empowered to acquire land in accordance with the existing law, and to borrow and raise capital or make loans. It was also given the power to require the owners of vacant land to develop them or, in default, to pay a special “development rate”, which would be accrued to the Trust. A modern version of such a provider can come from a Public-Private Partnership between private developers experienced in handling development risk, and government authorities experienced in the management of housing. It would require financial backing from a major institution such as Cagamas Berhad or the Malaysia Building Society Berhad. Penang, for example, is in the process of establishing a Housing Board in the model of the Singapore Housing and Development Board which could, with sufficient funding, become a provider of shared equity.

DEVELOPING AN ACCEPTABLE EQUITY MODEL

Subsidised homeownership schemes are more acceptable to purchasers the closer the models fit their perceptions of what homeownership means (Wallace 2012). In Malaysia, a largely owner-occupied society where home equity has traditionally played a large role in family welfare, this suggests that shared equity loans have the highest level of acceptance. While households (and lenders) prefer the shared equity model, as it is typically a simpler arrangement, it dictates a higher price point in targeting and supports those already on the margins of homeownership rather than significantly broadening access.

Shared-ownership models, however, provide a greater range of households with opportunities to address their affordability challenges. In Selangor, the average house price is RM372,499, a price-to-household-income ratio of 5.4 (Department of Statistics Malaysia 2012), which is considered severely unaffordable and only within the reach of the top 40% of income earners.⁸ A 30% shared equity loan will bring the average house within the affordability range of 50% of households, while a 50% shared ownership model can potentially extend access to up to 70% of society (Department of Statistics Malaysia 2009).

Where there are severe land constraints, ensuring homes remain affordable in perpetuity is perhaps more important. On Penang Island for example, where the average house price transaction is double that of the mainland (NAPIC 2012) and incoming supply and housing under construction have been falling, there is little to protect affordable housing from the rising market, and some form of price control and resale restriction will be required. A subsidy retention model will be useful in this context.

A PRIVATE SECTOR ALTERNATIVE?

Given the challenges involved in changing legislation, developing new financial instruments, shifting market attitudes and developing a new type of housing provider, a private-sector model with no direct public subsidy could be explored. In a “retained” ownership model a developer retains an equity share in the property to be cashed in on resale. The developer charges an annual fee on the retained share and will gain a return through capital growth on its retained equity share over time.

State governments in Malaysia have long enforced housing quotas on private-sector development, with developers required to build 30% low-cost units. However, these quotas need to be revised as they are contributing to the problems of affordability. With a more intelligent understanding of housing requirements at a state level, the conditions placed on development can be shaped to accommodate the application of a private-sector shared-equity model with no direct public subsidy. For example, developers can be required to offer retained equity units for the state to allocate in lieu of providing low-cost housing (where appropriate).

CONCLUSION

The private rented sector is typified by a lack of security, and rent is “dead money”. “A homeowner has autonomy, control, stability and a wealth asset. A renter has none of these” (Bright and Hopkins 2011). As the divide between those who can access the mainstream

and those who cannot continue to grow, a continued dichotomous presentation of housing tenure as either owner-occupation or rental is no longer useful.

Federal affordable housing schemes such as the My First Home Scheme and the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) provide higher loan-to-value ratios (LTV) and guarantees on a fixed deposit (10%) to lower the cost of entry, and while 100% mortgages effectively address the "deposit gap", they remove any requirement that the household entering owner-occupation have an equity stake (Bramley and Dunmore 1996). This creates a problem of adverse selection and moral hazard, which shared equity avoids. These schemes look attractive to those on middle incomes; however, nearly half of applicants (up until January 2012) were found to be ineligible for loans while just one third were approved and one quarter had their 10% deposits guaranteed by Cagamas (Bank Negara Malaysia 2012).

The desire for homeownership is being challenged and new models will need to be considered to continue to support this ideal moving forward. The rise of the intermediate housing market has displayed a need for a more diverse understanding of the relationships between people and their housing, and shared equity models present an additional option in addressing the challenges of housing affordability.

Endnotes

¹ This paper is limited to the discussion of shared equity models and does not include a discussion of a range of other innovative housing models such as "rent to buy", "rent to own" and "route to ownership" models.

² Defined as where the cost of housing (either as rental, or as a mortgage) is high relative to household income. Traditionally, households with rental or mortgage payments in excess of 30% of disposable income are defined as in housing stress and extreme housing stress where more than 50% of disposable income is devoted to rental or mortgage payments.

³ Bank Negara Malaysia issued guidelines in November 2011 aimed at promoting prudent, responsible and transparent retail financing practices; however, most lenders had already adopted tighter lending criteria. Banks reduced the standard loan-to-value (LTV) ratios, with 100%, 95% and 90% mortgage financing deals being removed, and, critically, moving from gross to net in monthly income assessments. "Financial institutions must make appropriate enquiries into a prospective borrower's income after statutory deductions for tax and EPF, and consider all debt obligations, in assessing affordability."

⁴ The shared appreciation mortgage (SAM) is a private-sector, unsubsidised version of this model. SAMs commonly provide interest-rate reductions in exchange for a contractually-specified share of the appreciation of the home (Caplin *et al.* 2007) but take a larger share of equity when terminated. These mortgages have a chequered history and were withdrawn from the US and UK markets in the mid-1990s after being roundly criticised following a period of rapid house price appreciation which resulted in homeowners paying out the majority of the profits made to lenders (Caplin *et al.* 2007). These are, however, now reappearing in more restricted forms.

⁵ RM400,000 has been selected as an example as it is at the top end of the range of federal affordable home programmes, such as the 1Malaysia People's Housing programme (Perumahan Rakyat 1Malaysia or PR1MA) and the My First Home Scheme; however, the extent to which this is affordable for the majority is another discussion.

⁶ In Malaysia as a whole over the past 10 years (2002-2012), property prices have grown at an average of 6.2% per year (Malaysian House Price Index, NAPIC) while household income has grown at 4.7% (based on an estimated household income in 2012 of RM4,415 monthly or RM52,981 annually). This in turn is based on trend data from 1989.

⁷ Clarke found that shared owners considered themselves to be "homeowners" regardless of their often minimal shares in the property, and that they felt they benefited from a greater social status as a result (Wallace 2012, 217).

⁸ Demographia conducts an annual housing affordability survey that covers more than 200 markets including Australia, Canada, Ireland, New Zealand, the UK and the US. Its Housing Affordability Rating Categories assess that housing is affordable where the price-to-income ratio (PIR) is 3 or less, moderately unaffordable between 3.1 and 4, seriously unaffordable 4.1 to 5 and severely unaffordable 5.1 and over. See <http://www.demographia.com/>.

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At a time when housing issues are of great concern to Malaysians, housing and housing-related policies are continuously being revised. While every effort has been made to ensure that this book includes the latest policy developments, much has taken place between the completion of the final drafts and the publication of this book. These pages serve to summarise some of the important updates and developments that readers should be mindful of as they go through the chapters of this book.

One of the most notable developments has been the Federal Budget 2014 that was tabled on 25 October 2013. Many measures to address housing affordability and accessibility were announced. Of these, four measures are worth highlighting. First is the revision of the real property gains tax (RPGT) rates, which was mentioned in Part II of Chapter 4, but bears repeating here. Prior to the Budget, gains on disposal of properties within two years were taxed at 15%, while disposals within three to five years were taxed at 10%. No taxes were payable for disposals after the fifth year. The Budget consequently raised the rate to 30% for disposals within three years of holding, 20% in the fourth year and 15% in the fifth year.

The second proposed measure in the 2014 Budget concerns the regulations governing developers' incentives to housebuyers. Brief remarks were made in Chapters 5 and 6 on these incentives, which include developer interest-bearing schemes (DIBS) and benefits such as the absorption of legal fees and stamp duty, cash rebates and free gifts. The 2014 Budget has stipulated that the costs of such benefits and incentives be disclosed, thereby increasing the transparency of house prices in the primary market, as recommended in the second part of Chapter 6. Projects that feature characteristics of DIBS have also been prohibited, and financial institutions are no longer allowed to provide final funding to housing projects with DIBS.

The third noteworthy measure proposed by the Budget is the promotion of greater provision of private low- and medium-cost housing. Included in these are the new Private

Affordable Ownership Housing Scheme (MyHome) that will subsidise the cost of private low- and medium-cost housing, and a RM1 billion allocation for the Housing Facilitation Fund, under the Public Private Partnership Unit of the Prime Minister's Department, that will provide private developers with access to financial assistance to implement more affordable housing projects. Finally, the Budget featured the establishment of a National Housing Council to play a coordinating role and to ensure a speedier and more efficient housing provision and delivery system. The Council will comprise members of both the public and private sectors and will ensure that housing policies, strategies and action plans are developed more holistically.

The second major development that took place was the announcement by the Ministry of Urban Wellbeing, Housing and Local Government on 15 November 2013 that it will not approve applications for housing development licences and advertisement and sales permits for developments offered under any permutations of interest capitalisation schemes (ICS), including DIBS. On the same day, Bank Negara Malaysia (BNM) released a policy document restricting financial institutions from end and bridging financing to these developments. Apart from the ruling against ICS, the BNM policy document also provided detailed guidelines on the loan-to-value limits that financial institutions may impose on housing loans extended to both individuals and non-individuals.

The final major development is the steps that are being taken by state governments, in addition to the measures at the federal level, to mitigate rising house prices. Some state governments, such as Johor and Penang, are considering a levy on foreign property purchases of between 2% and 5%.

The above are only some of the changes in housing that have taken place of late. In a rapidly evolving environment, it would be impossible to capture all the latest developments. In fact, readers can expect more revisions to housing policies in the near future. Regardless of the changes to come, it is hoped that this book will still have achieved its objective of documenting the ongoing dynamics in the field and presenting the views and perspectives of the various stakeholders.

Abdul Mutalib Alias

Dato' Abdul Mutalib Alias was appointed the Chief Executive Officer of Perumahan Rakyat 1Malaysia (PR1MA) Corporation Malaysia on 15 July 2011. Prior to this, he was the Special Officer to the Malaysian Minister of Works, Datuk Shaziman Abu Mansor. He was also Special Officer to Shaziman when the latter was the Minister of Energy, Water and Communications. Prior to that, he served as Political Secretary to the former Minister of Science, Technology and Innovation, Dato' Sri Dr Jamaluddin Jarjis as well as the former Minister of Finance Tun Daim Zainuddin. Before joining the Government, Abdul Mutalib worked for 15 years in investment banking, where he held various positions including Vice-President for Investment Banking at Chase Manhattan Bank (1985-2000). Abdul Mutalib holds a BSc in Accounting (Northern Illinois) and an MBA (Governors State University, Illinois).

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Dr Abdul Mutalip Abdullah is an Associate Professor in the Faculty of Social Sciences, Universiti Malaysia Sarawak (UNIMAS), and is also a Senior Visiting Research Fellow at the Sarawak Development Institute. He started his academic career in the School of Housing, Building and Planning, Universiti Sains Malaysia in 1982. From 1997 to 2002 he was seconded to the Sarawak State Government where he first assisted in the establishment of the Housing Developers' (Control and Licensing) Unit for the State Ministry of Housing (1997-2000), after which he became Executive Secretary of the Social Development and Urbanisation Council at the State Ministry of Social Development and Urbanisation (2001-2002). At the end of his secondment, he joined UNIMAS and served as Dean of Social Sciences from 2004 to 2008. Abdul Mutalip Abdullah is a qualified urban planner and landscape architect. His doctoral thesis was on Sarawak's public housing policy in the 1990s.

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Dullah Mulok received his BSc in Resource Development and MSc in Resource Economics in 1984 and 1987 respectively from the University of Rhode Island, US. He is currently Senior Lecturer at the School of Business and Economics, Universiti Malaysia Sabah. He also serves as the head of programme (Planning and Development Economics) at the same university. Prior to this, he served and gained experience in both the government and private sectors. His research interests focus on economic development, rural and urban poverty, urban housing and more.

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Dato' Dr Goh Ban Lee is a Fellow at the Penang Institute and a columnist at *The Sun* focusing on issues related to urban governance, housing and urban planning. He received his bachelor's and master's degrees from Universiti Sains Malaysia (USM) and his PhD in Urban Planning from the University of California Los Angeles. He was previously an Associate Professor at USM and Vice Principal of Tunku Abdul Rahman College. Among his publications are *Buying a House in Malaysia* (1985), *Urban Planning in Malaysia* (1991), *Non-compliance – A Neglected Agenda* (2002), *Counselling Local Councils* (2007) and *The Lights' Legacies: George Town and Adelaide* (2010).

Goh Seng Toh

Brigadier General (R) Datuk Goh Seng Toh TUDM is Vice President of the National House Buyers Association. Previously he served the Royal Malaysian Air Force for over 36 years in various appointments including command, staff, instructional and tri-service. He began as a helicopter pilot on active service in Sarawak and the Thai-Malaysian border, and sustained enemy ground fire on two occasions but was not brought down. Prior to his retirement in 2000, he was Air Force Commander, East Malaysia. Goh is a graduate of the Malaysian Armed Forces Staff College and the Malaysian Armed Forces Defence College. He also attended several courses abroad, including the Qualified Helicopter Instructor's Course (UK), the Joint Warfare Course and the Mount Eliza Executive Programme in Australia.

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