

**STAKEHOLDERS' PERCEPTION ON EARLY BRIEFING TOWARDS
THE REDUCTION OF STRATA DISPUTES IN MELAKA**

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ABSTRACT

Strata living in strata development has become a new lifestyle trend: good common facilities, common areas, club house, swimming pool, playground, etc. However, the notion of living close to each other and shared facilities may induce inevitable strata disputes. Owing to the rising number, the government has taken more initiatives where Strata management Act 2015 (Act 757) guides stakeholders for better managing strata issues. This research determines to identify the probable strata disputes that can be prevented at the early stage thus examining the level of awareness among strata living regarding the strata disputes, and to recommend the most suitable time to conduct the early briefing so that it can effectively reduce strata disputes; explore early briefing awareness that can reduce the strata disputes hence to seek the best suitable time to conduct the early briefing session. A mixed method approach was conducted where survey research using questionnaires was conducted with residents and in-depth interviews with three subject matter experts in strata management. During two townhall with 80 respondents, indicated the types of strata disputes as well as the awareness on strata disputes based on the opinions of strata living residents. The data was analysed using Descriptive Statistical Analysis in the Statistical Package for Social Sciences (SPSS) software and were then triangulated with thematic analysis. Pearson Correlation was used to determine the level of awareness among strata dwellers on the types of disputes, resolutions, and the Strata Management Act. The results: residents are keen to participate in an early briefing and have demonstrated understanding of the nature of strata living, rules apply in strata management and with property managers as well as shared facilities. Further enquiry made with subject matter expert agrees that early briefing should be done at the earliest to address residents' concerns hence may reduce probable strata disputes in the future, confirms the results from residents survey. Therefore, it is envisaged that an early briefing approach can be adopted as a new standard practice adopted by property managers to lessen strata disputes in strata development and management.

ABSTRAK

Kehidupan strata di dalam pembangunan strata telah menjadi trend gaya hidup baharu: kemudahan bersama yang baik, kawasan bersama, *club house*, kolam renang, taman permainan, dll. Walau bagaimanapun, tanggapan untuk tinggal berdekatan antara satu sama lain dan kemudahan berkongsi mungkin menyebabkan pertikaian strata yang tidak dapat dielakkan. Disebabkan bilangannya yang semakin meningkat, kerajaan telah mengambil lebih banyak inisiatif di mana Akta Pengurusan Strata 2015 (Akta 757) membimbing pihak berkepentingan untuk menguruskan isu strata dengan lebih baik. Kajian ini menentukan untuk mengenal pasti kemungkinan pertikaian strata yang boleh dicegah pada peringkat awal sekaligus mengkaji tahap kesedaran di kalangan hidup strata mengenai pertikaian strata, dan mengesyorkan masa yang paling sesuai untuk menjalankan taklimat awal supaya dapat mengurangkan pertikaian strata secara berkesan; meneroka kesedaran taklimat awal yang boleh mengurangkan pertikaian strata justeru untuk mencari masa terbaik yang sesuai untuk menjalankan sesi taklimat awal. Pendekatan kaedah campuran telah dijalankan di mana kajian tinjauan menggunakan soal selidik telah dijalankan bersama penduduk dan temu bual secara mendalam dengan tiga pakar di dalam bidang pengurusan strata. Semasa dua townhall dengan 80 responden, menunjukkan jenis pertikaian strata serta kesedaran tentang pertikaian strata berdasarkan pendapat penduduk yang hidup berstrata. Data dianalisis menggunakan Analisis Statistik Deskriptif melalui perisian *Statistical Package for Social Sciences* (SPSS) dan kemudiannya ditriangulasi dengan analisis tematik. Korelasi Pearson digunakan untuk menentukan tahap kesedaran penduduk strata tentang jenis pertikaian, penyelesaian, dan Akta Pengurusan Strata. Hasilnya: penduduk berminat untuk mengambil bahagian dalam taklimat awal dan telah menunjukkan pemahaman tentang sifat kehidupan berstrata, peraturan terpakai dalam pengurusan strata dan dengan pengurus harta tanah serta perkongsian kemudahan. Siasatan lanjut yang dibuat dengan pakar bidang bersetuju bahawa taklimat awal perlu dilakukan seawal-awalnya untuk menangani kebimbangan penduduk justeru boleh mengurangkan kemungkinan pertikaian strata pada masa hadapan, mengesahkan keputusan tinjauan penduduk. Oleh itu, pendekatan taklimat awal dijangka boleh digunapakai sebagai piawaian amalan baharu yang digunapakai oleh pengurus harta tanah untuk mengurangkan pertikaian strata dalam pembangunan dan pengurusan strata.

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LIST OF ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
AGM	-	Annual General Meeting
BOVAEP	-	Board of Valuers, Appraisers, Estate Agents and Property Managers
CCTV	-	Closed-circuit Television
COB	-	Commissioner of Buildings
DBKL	-	<i>Dewan Bandaraya Kuala Lumpur</i>
GACOS	-	Gated & Guarded Community Schemes
JMB	-	Joint Management Body
KPKT	-	<i>Kementerian Pembangunan Kerajaan Tempatan</i>
MC	-	Management Corporation
SOP	-	Standard Operating Procedure
SPSS	-	Statistical Package for the Social Sciences
STB	-	Strata Titles Board



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CHAPTER 1

INTRODUCTION

1.1 Research Background

Strata properties characterise the real estate development in most major cities due to the scarcity of urban land, high urban land prices and persistent demand from the city population (Hamzah & Abdullah, 2018). Strata developments which started as a necessity for those who live in ever-expensive metropolitans have evolved and have now become a lifestyle trend among the urban professional community in Malaysia (Che-Ani et al., 2010). According to KPKT Annual Report 2019, 8.7 millions people were occupying 2.1 parcels/units in strata developments. The uniqueness of strata living is that it has facilities and common areas, which may encompass a multi-purpose hall, playground, lift, corridors, etc. These facilities and common areas are shared among the residents (Ismail, 2014). The pull factors resulted in many strata buildings being built in the country, especially in major cities. The high number of strata units with many occupants who stay close to each other has resulted in many disputes among strata dwellers, which always involve by-law breaches, inappropriate use of common property, issues with repairs and maintenance, and concerns about the strata managing agent. The government was aware of this and had tried to address the problems. Although a few Acts were introduced, there were still many reported disputes among strata residents.

According to the Department of Statistics Malaysia's official portal, Malaysia's population in 2021 is estimated at 32.7 million as compared to 32.6 million in 2020 with an annual growth rate of 0.2 per cent. To meet the ever-increasing demand for accommodation/residential in major cities, strata buildings were built to meet the needs in major cities, and to cater for the growing number of populations especially in areas that land value has increased tremendously over the years (Aziz et al, 2014). Stratified development in Malaysia has increased and became typical in optimizing land sources (Sal et al., 2020). In this fast-paced

developing property market, strata developments have been the choice of developers and buyers alike (2019 KPKT Annual Report).

According to the Annual Report 2019 by KPKT, the number of complaints forwarded to the Strata Management Tribunal (TPS) doubled to 5,675 compared to only 2,642 cases that were lodged in 2016. A total of 4,456 cases or over 78 percent of cases reported have been successfully solved while another 22% is still in progress. At a first glance, the statistics look good but are there any proactive ways that can be introduced to lower the statistics even further, a new method or a way that can be used to solve disputes before they even happen.

Therefore, this research will study whether an early form of communication to buyers at an early stage will help to educate and hence reduce strata disputes in Malaysia. Communication, as we know, plays a key role in guiding public expectations that influence whether the tensions behind the violent conflict are heightened or ameliorated (Hoffmann and Hawkin, 2015). This statement explained that by communication, it steers public expectations towards an amicable solution. According to DBKL Property Management and Valuation Department deputy senior director Zaleha Abdul Rahman, many owners at such residences are not keen to take up the management role due to a lack of knowledge (Wahab, 2023). The briefing, one of the tools of communication, can be used as a platform to educate buyers. The briefing can be an early intervention in managing conflicts, however the organization of the briefing and its details are crucial to ensure its effectiveness to fulfill the primary objectives of the briefing, which is communicating the idea in the first place.

1.2 Problem Statement

There have been numerous studies on the types of disputes and causes of disputes. Mohamad (2015) categorised disputes into a few main categories such as disputes that are related to meetings, administrations, maintenance, finance & enforcement. Whereas Baum (2010), categorised strata disputes into quality of life disputes, violations of rules & regulations, financial disputes and, unprofessional property managers. There may be conflict between those who rent and those who own lots, as tenants are often concerned with amenity and most owners are concerned with return on investment (Douglas et al., 2016). Christudason (2004) in her study grouped disputes that mainly related to daily operational issues such as leakages and demarcation. Past researches have pointed out and categorised strata

disputes in their studies, however there was no in-depth study on what type of disputes can be tackled at the very beginning, before the strata living begins. Strata living is based on the concept of self-governance where the owners are required to jointly manage and maintain the common property, regulate the conduct and behaviour of residents and resolve any issues or problems arising between the stakeholders with regard to the maintenance and management of the strata building (Kamarudin, 2014).

In light of the increasing number of strata developments in Malaysia and also the disputes normally entailed, the government has taken the significant step by introducing Act 757 in tackling matters related to maintenance & management in strata developments (Mohamad, 2015). De Cruz (2013) agreed that Act 757 was timely to better regulate the maintenance and management of strata properties and also to address certain procedural shortcomings. Mohamad et al. (2015) concurred and stated that Act 757 will address disputes more expediently without the need of going to court. The Act was definitely the right way to move forward in managing strata properties but what if there can be a 'way' in formulating and summarising the substance and essence of the Act and conveyed to all would be strata dwellers in Malaysia.

De Villiers (2011) emphasized the importance of resolving strata disputes as it can affect the soul of the scheme, he added that the settlement, where and if possible, must restore and build relationships. Baum (2010) recommended Alternative Dispute Resolution (ADR) in solving strata disputes because litigation can be very costly, time consuming, and lack flexibility. The ADR such as arbitration and mediation are often used to resolve disputes. Mohamad (2015) in her study also agreed that ADR such as mediation and conciliation are more appropriate to solve disputes and restore relationships. Previous research often only considers solutions and best steps to be taken to address the disputes when they happened and not how to prevent the disputes from happening.

Dissemination of information is important so that owners understand their rights and obligations. This educational component is preventing the occurrence of disputes (Bugden, 2005). Mohamad (2015) agreed that education is important in the process of dispute avoidance. Besides, Cradduck (2013) opined that the importance of educating people to live in close proximity is always overlooked and therefore will bring a negative impact on all concerns. Past studies collectively agreed that education is an important aspect in reducing strata disputes, however, there was not much

mention on how to educate the strata dwellers and more importantly when should one be educated on strata living. Kamaruddin (2014) has proposed in his study to introduce early briefing as one of the processes to minimize dispute in strata living. Act 757 & Rules and regulations were available however there was a missing link between the Act and the strata buyers/dwellers in terms of probable disputes in strata living. Thus, not much study has been done in Malaysia in educating strata buyers.

1.3 Research Questions

For the research aim to be achieved, the following questions were generated:

1. What are probable disputes among strata living that can be prevented at the early stage?
2. What is the level of awareness among strata living regarding the strata disputes?
3. When early briefing can be a platform to educate stakeholders in order to reduce disputes among strata living?

1.4 Research Aims and Objectives

The primary aim of this study is to determine whether a briefing prior to strata living can help to reduce strata disputes and enhance strata buyers' quality of living. Thus, this research will evaluate and list down common strata disputes in Malaysia that can be addressed through an early briefing.

Based on the aims of this research, the following research objectives are formulated. The following objectives will be used as guidelines for this research:

1. To identify probable strata disputes that can be prevented at the early stage.
2. To identify the level of awareness among strata living regarding the stratadisputes.
3. To recommend the most suitable time to conduct the early briefing so that it can effectively reduce strata disputes.

1.5 Research Scope & Limitation

This research is confined to a new strata building namely Atlantis Residence Condominium which consists of 1360 units of 4 towers. This building was chosen in the state of Melaka due to the significant impact of residential development here specifically on the development of strata buildings in Melaka. The respondents involved are the stakeholders of strata buildings itself, which were buyers, developers, COB, Strata Management Tribunal, as well as owners.

1.6 Significance of The Study

This research tries to complement Act 757 and is looking forward to formulating an education tool to brief all to be strata owners before they start their strata living. Early dissemination of essential and relevant information to the dwellers will reduce strata disputes and enhance strata living quality in Malaysia.

As lifestyle variables change alongside broader socio-economic developments, Malaysian developers offer lifestyle housing that have more design elements, building features and lifestyle facilities that may consequently increase the volume and complexity of strata disputes in the future (Hamzah & Abdullah, 2018).

This research will be expected to produce effective briefing information and guidelines where it can be used to benefit many parties such as developers, managing agents, homeowners associations, local authorities, and the public.

The briefing can also be adopted and adapted for use in other types of properties such as the gated & guarded community schemes (GACOS).

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

Chapter 2 presents the literature related to the research objectives discussed in the previous chapter. To begin with, the types of disputes that commonly arise in strata living are identified and discussed in more detail before discovering the causes of disputes in strata living. It is then followed with a discussion on the causes of strata disputes in Malaysia. The types and causes of strata disputes are reviewed to provide a deeper understanding on the concept of strata disputes. Apart from the types and causes of strata disputes, dispute resolution processes are emphasized in the local context to provide the best practices for resolving strata disputes in Malaysia. This chapter ends up with a conclusion based on the findings of previous studies that have been discussed.

2.2 Types of Strata Disputes

Disputes will inevitably arise in strata living. In Malaysia, the major complaints on strata properties have been reported mainly on the management issues (Mohamad, 2015a). Administration and management issues are the most common types of disputes to arise in strata living. These disputes related to the administration and management issues such as general meeting, passing of resolutions, maintenance and repair issues are common in strata living. An effective administration and management body is essential in managing and maintaining the sharing of common spaces, for example, lifts, gardens and car parks (Leshinsky & Mouat, 2012). Although the Building and Common Property (Maintenance and Management) Act 2007 was

introduced to provide guidelines on how to manage the common spaces administratively, disputes over maintenance issues in strata management arise from time to time (Tiun, 2009). The researcher, Baum (2010) has figured out that the potential disputes in strata living are related to the financial issues involving maintenance and repair fees, common charges and fines or penalties.

Apart from the issues relating to financial matters, conflicts usually occur because the strata owners are unaware of the procedures and restrictions before performing renovation works for their units (Fortino, 2017). Based on a study done by Mohamad (2015a), it revealed that the disputes in strata living revolved around several issues such as security, pets, noise and garbage as well as attitude. Based on the previous studies, the most common disputes in strata living were related to management issues, maintenance issues, financial issues, by-laws, pet issues and committee issues (Franzese, 2002; Baum, 2010; Toohey & Toohey, 2011; Mohamad, 2015a). Hence, the strata disputes can be categorised into the six types of strata disputes which are financial issues, renovation issues, personal issues, security issues, maintenance issues and management issues. These strata disputes that commonly occur in strata living will be further discussed in the following subsections.

2.2.1 Financial Issues

In managing and maintaining strata buildings, it requires the payment of maintenance fee by the residents to provide the routine management and regular maintenance works (Tawil et al., 2012). According to a study of problems faced by property management in managing the high rise condominium in Malaysia, Noraziah (2006) indicated that it is required a high maintenance cost to maintain the common facilities such as lifts, swimming pool, gymnasium, landscaped garden and security services in strata buildings. Nowadays, the owners and residents in the strata buildings are very concerned with the transparency and accountability in the management system. These owners and residents have their rights to know what management fee they should pay and how the sinking funds collected are utilized (Tiun, 2009).

Most of the strata residents argued that the maintenance fees imposed are too high without knowing the uses and flows of maintenance fees they have paid (Tawil *et al.*, 2012). Therefore, lack of transparency in the management of sinking fund often complained by the strata residents in the Malaysian practice (Mohd-Noor *et al.*, 2011). Thus, the disputes over financial issues are one of the frequent complaints received by the Malaysian Commissioner of Buildings (COB) (KPKT, 2016). The common problem faced by JMB/MC is poor collection of maintenance fees (Tawil *et al.*, 2012; Musa *et al.*, 2015). On the other hand, Tiun (2009) stated that there is a lack of proper financial planning practiced in the Malaysian management system.

These problems happened due to the misconception of sharing facilities and sharing responsibility towards maintenance of the common areas (Tawil *et al.*, 2012). Some residents insist on not paying the maintenance fee because they did not use the facilities. Therefore, maintenance works cannot be carried out because of the insufficient funds (Musa *et al.*, 2015). The reasons why the strata owners do not pay the maintenance fee regularly are that they are not satisfied with the quality of maintenance service provided by the appointed contractors and they suspect that JMB/MC of the strata buildings are misusing the sinking funds for other purposes (Tiun, 2009).

Mohamad (2015a) summarised that the complaints related to finance matters are breach of trust and misuse of money. Based on the report on property management of condominiums by Liew (2018), online direct bank transfers cause many problems, for example, the unit owner sends an old transaction slip to the management and the management issues an official receipt without checking the transaction date. Besides, the payment made by the strata owners in the management office without getting official receipts will be misappropriated by the unscrupulous staff (Liew, 2018). The property managers used the sinking fund to cover the management expenses without the approval of residents (Tiun, 2009). Therefore, poor financial management may lead to the disputes among the unit owners and strata managers (Mohamad, 2015a).

Disputes over financial issues such as poor collection of maintenance fees and poor financial management are common in strata living. The disputes over financial issues are normally arising between unit owners and the management corporation. Due to the lack of professionalism in the property management of strata buildings, the

property managers fail to prepare a yearly management and maintenance expenditure planning that can predict the costs of future repairs and maintenance works. The issue of defaulters cannot be resolved easily since there is a lack of financial management transparency.

2.2.2 Renovation Issues

In strata living, there are restrictions on renovations of private units. The unit owners are required to get the prior approval of the Management Corporation (MC) before making any physical renovations or improvements of individual units. This means that an owner of a strata unit cannot carry out the renovation of his unit unless the management approves it (The Edge Property Malaysia, 2017a). It is illegal to renovate the balcony of strata units such as installing window panels or sealing it up with concrete (The Edge Property Malaysia, 2017b). All the renovations of strata units must be approved by the management and complied with the bylaws. However, there were still illegal renovation works carried out by the unit owners or residents of private units (Che-Mida et al., 2016).

Renovation issues are frequent conflicts between unit owners and the management arising in strata buildings (Fortino, 2017). The renovation works may create noise that causes discomfort and interference with the peaceful enjoyment of other residents of the building (Strata Community Association (NSW), 2011). Although the renovation works are restricted to the working hours, noise nuisance problems cannot be avoided during the renovation period. There are still many complaints about noise issues caused by the renovation.

Before renovation of a private unit is carried out, residents have to give a renovation deposit upon approval from the Management (Palmiera @ Kinrara Residence Joint Management Body, 2015). This deposit can be deducted if any necessary cleaning work is to be carried out by the Management and any damages caused to the common property. Yet, the construction debris or rubbish left behind by the appointed contractors at the common areas such as corridors and stairs.

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