



**PLANNING MALAYSIA:**

*Journal of the Malaysian Institute of Planners*

**VOLUME 21 ISSUE 3 (2023), Page 243 – 254**

## **GOVERNANCE OF STRATA BUILDINGS FOR URBAN CONSOLIDATION IN MALAYSIA**

**Kodieswary Radha<sup>1</sup> & Muhammad Najib Razali<sup>2</sup>**

*Faculty of Built Environment and Surveying*  
UNIVERSITI TEKNOLOGI MALAYSIA

### **Abstract**

The need for urban consolidation is very necessary in helping the cities to be more dynamic in term of transformation, transparency and technology. Although the role of strata buildings in Malaysia is increasing, nevertheless this issue has been less explored. The continuous growth of strata buildings indicates the need for effective property management system that promotes and nurtures value that would create high quality of living. Currently, none of Malaysia's city is listed in the City Momentum Index; which one of the criteria is strong governance and planning. Therefore, the need for strata building for urban consolidation is vital for governance and management in practice. The underpinning of this study is to assess the current law and practice at federal level and evaluate with the industrial practice. A key component of this research is to formulate the best practice of governance in term of policy for strata buildings in Malaysia. The issues that circling the governance matters will be identified and further researched. Moreover, the effectiveness of Strata Title Act 1985 (Act 318) and Strata Management Act 2013 (Act 757) are also needed to be evaluated in the current practice of strata buildings in Malaysia. Furthermore, the role of Commissioner of Buildings, Joint Management Body and developer as administrator who bears the responsibility to carry out the provisions of the Act also need to reconcile to ensure good governance of strata buildings in Malaysia.

**Keywords:** Governance, Strata Buildings, Property Management, Urban Consolidation

<sup>1</sup> Postgraduate Student at Universiti Teknologi Malaysia. Email: kodieswary84@yahoo.com

## **INTRODUCTION**

“Urbanisation and the need for urban consolidation is a global issue that raises significant economic, political, environmental and social challenges”

(Randolph and Easthope, 2007)

Diverse set of planning regulations and policies intended to make better use of existing urban structure has been generally progressing well in Malaysia. Urbanisation in Malaysia has fuelled the growth of rapid development of strata buildings. Over the years, the strata development schemes recorded a steady increase. According to the Commissioner of Building Division (COB) under the Ministry of Housing and Local Government, there are total of 1,589,1837 strata units in Peninsular Malaysia as at December 2020. With the increase in number of strata buildings in Malaysia, it is important to ensure proper governance of all those buildings. The question of how best to govern strata properties in an increasing rapid economy has received a significant amount of attention over the last few decades. Given the fact that the governance of strata buildings have an impact on a quarter of the population in Malaysia, it is valuable to provide an overview of some of the issues that have arisen in the governance of strata developments. As the majority of the strata buildings in Malaysia are located in major cities, it will consequently create a well-being lifestyle among urban communities in Malaysia. This understanding subsequently develops the importance of governance in strata management issues.

## **RESEARCH BACKGROUND**

Governance can be defined as a process of decision making and the process by which decisions are implemented or not implemented (JLL, 2004). Jessop (1998) indicated that the concept of governance implies a broader understanding that coordinating the activities affecting a system may involve many other actors and processes. It is further elaborated that governance plays a crucial part affecting business and investments in real estate which will, presently and continuously in the future, be the utmost important driving force of city competitiveness (Juanil and Razali, 2008). Good governance in strata aims to protect the property right of individuals and the building state by promoting accountability, efficiency and transparency in strata developments. Similarly, Hambleton and Gross (2007) argued that focus on governing is desirable as it can blend together an interest in using the legitimate hierarchical power of the state with an inclusive approach to partnership building of governance which may lead to a sharper focus on the desired outcomes. In recent times, the potential impact on governance patterns is also a noteworthy feature of growth of strata buildings. In Malaysia, although

governance that relates to real estate has already been defined, nevertheless, it has not been identified systematically. The literature background within this subject matter is quite limited which proves that investigation needs to be done.

Strata buildings comprises a building which is subdivided into parcels which includes accessory parcel. Strata ownership has been introduced into legal systems all over the world for basically similar reason, namely to cater the social, economic and psychological needs of society (Hussein, 2006). Stratified property development maximizes density within the allowable planning standards (Khalid et. al., 2017; Azmin N., 2006). Construction of strata buildings in the urban cities such as Kuala Lumpur, Pulau Pinang and Johor Bahru is a phenomenon due to scarcity of land and high land costs (Zan et al., 2018). Given the increasing number of stratified buildings in urban development, the concept of urban consolidation will enable us to get a better understanding of strata developments as an effective way of dealing with increasing urban populations and the problems of urban sprawl (Randolph and Easthope, 2007).

Rapid population growth with economic development fuels the urbanisation process. Urbanisation is a reflection of human activities affecting the land that has been threatened by enormous pressure from population growth (Hamad, 2020). Researchers have reflected urbanisation as a significance growth of people living in urban areas induced by social and economic factors (Vlahov and Galea, 2002; Antrop, 2004; Duflot, 2012). Accelerated urban growth is generally connected with and driven by the concentration of the population in an area (Jat, Garg and Khare, 2008). By observing the development trend, urban consolidation is regarded as one of the strategies for optimization of land use in urban areas. It increases the availability of services and facilities to ensure high quality of life by preserving the urban space. Burgess (2000) terms it as the process to increase built area and residential population densities to intensify urban economic, social and cultural activities. Researchers have highlighted that urban consolidation has been main planning policy since the 1980s and had emerged as the corner stones of prevailing urban planning (Kubler and Randolph, 2007; Searle, G., 2007). Thus, for urban consolidation to be successful, it is necessary to ensure that the governance of strata buildings to be feasible, comprehensive and prudent.

## **RESEARCH GAP**

Research about governance and urban consolidation are various, however, less research has been explored on the implications of governance and urban consolidation towards strata buildings in Malaysia and how different the urban process will influence the capacity and effectiveness of Commissioner of Building (COB), Joint Management Body (JMB) and developers as agencies of property governance and management in contemporary urban Malaysia. A study conducted by Easthope et al., (2012) provide important sights regarding the

widespread concern among strata owners on the quality of the management and governance in their schemes. It is further highlighted that a growing range of issues has emerged in recent years concerning the developments and operation of strata schemes in Malaysia (Tawil et al., 2012; Azian et al., 2020). According to Easthope, et al. (2014), one might anticipate that the strata building would operate smoothly because it has been embraced as a key enable of a country’s urban consolidation, but recent evidence has demonstrated the plight of owners about the quality of management and governance in their schemes. Thus, study on the governance of strata buildings for urban consolidation in Malaysia should be conducted because the real issues are not known yet. Therefore, this study bridges the gap and discovers the real issues by probing the property practitioners, government bodies and owners of strata schemes in Malaysia.

### **GOVERNANCE IN STRATA BUILDINGS**

Most strata scheme owners may be unaware of their rights in terms of strata scheme governance (Goodman and Douglas, 2008). Despite the growing importance of strata titles in our lives, little is known about how well the strata system actually functions to suit the preferences of persons who own and live in strata properties. The above statement is further supported by Easthope et al. (2012) who agreed that owners may not be aware of their rights with regard to the governance of strata schemes. From legal perspective, stratified properties are governed by several Acts such as Strata Titles Act 1985, Strata Management Act 2013 and Housing Developers (Control and Licensing) Act 1966 and its Regulations (Khalid et. al., 2017). Easthope et al. (2012) point seems to be that the interest in the governance and management of strata schemes has grown as a result of a variety of factors, which have been described in detail in Table 1.

**Table 1:** Factors influencing governance and management of strata schemes

| <b>Factors</b> | <b>Description</b>  |
|----------------|---|
| Consumer       | The efficient and equitable management of strata schemes is a topic that affects the lives of everyone who lives in or invest in strata properties. These are people’s homes as well as their primary financial investment in many cases                          |
| Political      | The developed environment includes a large number of strata properties. As a result, in some jurisdictions, the concerns of these strata residents and owners are becoming more vociferous, leading to increased government attention to the challenges they face |
| Planning       | The successful implementation of urban consolidation strategies in major cities that rely heavily on the expending distribution of strata properties is also dependent on the effective and equitable management of strata schemes                                |

| Factors    | Description   |
|------------|---|
| Business   | Some property management organisations, have begun to focus their businesses on delivering efficient management techniques that suit specific property and consumer types, owing to the rising strata sector’s prospects for specialisation and professionalisation of services |
| Investment | It is believed that with investors owning as many of strata properties, the sector represents a key asset class in which both investor and those who fund these investments have an increasingly vital stake  |

*Source: Easthope et al., 2012*

The directions above that have been clearly justified by Easthope et al. (2012) is in line with Leshinsky and Mouat (2012) who elaborated that strong governance practices are critical for assigning and managing community space, which is heavily reliant on an effective management bodies and relationships between and among various stakeholders. Regardless of the views that has been put forward by many scholars, the key issues lie in the mechanism through which the property practitioners participate in decision-making, how property companies and developers are accountable to its owner or buyer and the way the governing bodies obligate its members to follow its norms and regulations

On the whole, there is a need for a systematic understanding of what transpires in day-to-day management of strata schemes. It would then justify the principles of good governance in terms of policies, infrastructure and actions that assist the implementations of governance initiatives.

## **GOVERNANCE ISSUES IN STRATA BUILDINGS**

As a result of demand and supply from the home buyers, strata buildings are occupied by a large number of people. The role and function of regulators and the need for improved disclosure and good governance are among the issues that generate analysis and debate by the public (Buniamin et al., 2008). In the context of governance issues in strata buildings, it can be divided into four categories, which are; the state of the building, financial planning, people management and enforcement approach.

### **A. The State of the Building**

Adoption of high-quality building materials, provision of access to portions of the strata building that require regular maintenance and high quality workmanship that can decrease future management workload must all be taken into account during the design and construction stages. However, the consideration is only taken after the construction is completed. Hence, it could lead to many fatalities (Pheng and Wee, 2001). Christudason (2004) and Easthope

et al. (2012) have highlighted that building defects constitute a major concern in strata schemes. Beyond defect and design issues, the daily maintenance of strata schemes is also an important consideration. The maintenance works carried out in an individual unit is solely the responsibility of the proprietor himself, whereas the maintenance of common properties is a shared responsibility (Choon et al., 2016). As a result, the Strata Titles Act established MC to help with the effective governance and management of common property for the benefit of all proprietors. According to Horner et al. (1997), good emphasis should reflect the important aspects of the management of facilities to ensure continuity in the management of user needs with the goal of building an organization.

### **B. Financial Planning**

Based on data from the Housing and Strata Management Tribunal (TPPS), the number of complaints forwarded to the Strata Management Tribunal increased from 2,642 in 2016 to 4,964 in 2018. The data shows that the majority of cases brought before the hearings were connected to the collection of service charges, which is not surprising. Likewise, examining dispute management, Mohamad and Sufian (2013) highlighted that the reluctance of parcel owners to pay the service charges and other contributions to the developer are among the major complaints of strata properties. In addition, parcel owners whom have no control in the amount of service charges and the quality of services provided also contributes as one of the most common complaints about strata properties (Kamaruzzaman et al., 2010; Tawil and Goh, 2011; Abd-Wahab et al., 2015).

On the other hand, Izanda et al. (2020) undermines the position that due to lack of standard rules and regulations for determining the charges for strata scheme properties (Tawil and Goh, 2011), lead to developers took advantage of the situation and delayed the registration of strata titles in order to impose any regulations and additional fees on the building management system, causing parcel owners to be dissatisfied (Abd-Wahab et al., 2015). Another issue of concern highlighted by Easthope et al. (2012) would be the constant engagement of the developer in strata scheme can cause negative impact on the management of finances because they tend to set low initial level for service charges, resist spending on the building and misuse of funds. The failure of setting aside sinking fund during emergency situation will deter the need for the building to be maintained to retain the value. In the case of sinking fund is underfunded, the resultant impact on depleted amenities in strata schemes will undoubtedly result in poor maintenance, deterioration of common property, potential loss of real estate value and a lower rate of return for the property investor (Antoniades, 2010). Hence, long term planning and forecasting would reduce the expense of building upkeep and maintenance for future generation owners of strata schemes.

### **C. People Management**

Strata schemes, predictably have disagreements. One could not deny that disputes and concerns will develop at all hours (Zan, 2016). The underlying tension between individual property rights and community property ownership and obligations is at the basis of many of the issues that develop within strata plans (Easthope et al., 2012; Hamzah and Abdullah, 2018). It is allied with what Leshinsky and Mouat (2012) might describe that due to the shared social facilities, dispute prevention and containment techniques, community engagement and public participation may minimise but not fully eliminate disagreements in strata schemes. Disagreements can cause a lot of damage if attention is not paid towards them (Hamzah and Abdullah, 2018). As a result, it is vital to raise awareness and develop measures to reduce the likelihood of them occurring in the first place, as well as to devise tactics to effectively manage them if that fails (Mohamad and Sufian, 2013). Education is the first step in the process of avoiding conflicts, as Mohamad and Sufian (2013) highlighted. Thus, the Malaysian legislation amended STA 1985 in 2001 to provide for the establishment of the Strata Titles Board in order to avoid costly and time-consuming court procedure (Vern et al., 2019). As of to date, the Strata Titles Board has been replaced by the Strata Management Tribunal as a mechanism to settle disputes amongst the parcel proprietor and the Management Corporation (MC) or Joint Management Bodies (JMB).

### **D. Enforcement Approach**

Shukri and Ainul (2010) spotted the challenges in processing the issuance and transference of strata titles. Izanda et al. (2020) further elaborated that when a subdivision application is filed and no action is taken by the original proprietor to discharge the charge, the land becomes subject to a charge. On the other hand, Siang et al. (2015) added that Director of Land Office and Mines would not accept the application of subdivision of any building subjected to any charge. It would then cause delay in the issuance and transference of strata title. The scenario laid pinpoint the lack of enforcement that shows the importance of strata rights being neglected. Indeed, the competent authorities as a model of best practice management capabilities should be adopted in Malaysia (Nawi et al., 2017). The approach aims to ensure better protection of the rights and interests of the property players in the industry. Good enforcement covers all relevant process in stratified properties which include developing rules and regulations, consulting services and training programmes.

## **THE URBAN CONSOLIDATION PROCESS IN STRATA BUILDINGS**

Duflot (2012) argued that the emergence of major urban conurbations is a result of urbanisation, which has ramifications for people's lifestyles and habits. As a

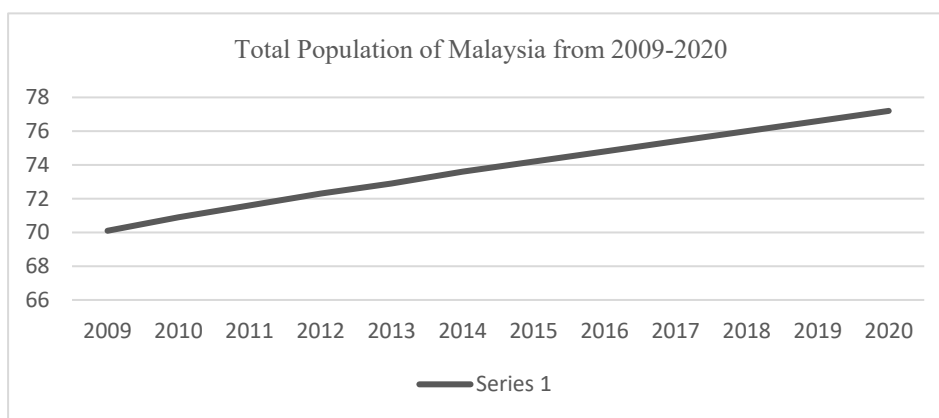
result of urbanisation pressures, rising real estate values and the effects of urban sprawl, a growing number of people began to live in strata buildings around the world (Easthope et al., 2014). Moreover, the adoption of strata title legislation permitted a major increase in private sector interest in establishing strata schemes comprises of apartment and condominiums (Easthope et al., 2012). However, little attention has been given on how the increase in strata buildings impacts the urban consolidation process.

Malaysia is one of the most urbanised countries in East Asia, as well as one of the world’s most quickly urbanising regions (O’Neil, 2021). The urban population of Malaysia increased from 34.3% in 1971 to 77.2% in 2020 growing at an average annual rate of 1.67% (World Data Atlas, 2021), as shown in Table 2 below. Based on the revelations below, the growth of urban population has been sustained since 2009.

**Table 2:** Population of Malaysia: 2009 – 2020

| Year      | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|-----------|------|------|------|------|------|------|------|------|------|------|------|------|
| Value (%) | 70.1 | 70.9 | 71.6 | 72.3 | 72.9 | 73.6 | 74.2 | 74.8 | 75.4 | 76.0 | 76.6 | 77.2 |

Source: World Data Atlas, 2021



**Figure 1:** Total Population of Malaysia from 2009 - 2020

Source: World Data Atlas, 2021

Natural growth, rural-urban migration and reclassification of rural regions and agglomeration of built-up regions are the three components of urban expansion that are important in determining the level of urbanisation in Malaysia, as investigated by Dufлот (2012). It is posited that the country’s economy developed as a result of urbanisation. However, Easthope et al. (2012) and Chu et al. (2013) argued that even if the primary benefits of urbanisation are to raise people’s living



standards, it can also have negative consequences on strata schemes. In response to continued housing shortages and worries about the alleged detrimental environmental, health and social implications of urban expansion, the Australian government supported urban consolidation (OECD, 2012). The main cities in Australia such as Sydney, Melbourne, Perth, Brisbane and Adelaide support urban consolidation to combat urban sprawl in the face of rising population and demographic change (Easthope et al., 2014). While urbanisation is a necessary step towards modernisation and progress for developing countries, it is a complex process that requires constant attention and monitoring by the government. In essence, urban consolidation should remain as the primary planning goal of Malaysian urban planning.

## CONCLUSION

This research continues the theoretical theme with a critical review of strata schemes which focuses on governance in order to accomplish the objectives of this dissertation. This is despite rising evidence of inadequate and poor management processes which have major ramifications for occupants' safety and well-being, as well as their financial investment. It is clear that this is worldwide phenomenon (Yip et al., 2007; Blandy et al., 2010; Chu et al., 2013).

Malaysia road map towards implementing urban consolidation efforts is still long way ahead. Ultimately, successful implementation of urban consolidation process shall depend on the effective cooperation and collaboration of all parties that are directly or indirectly involved in this strategy. In essence, it is foremost important to address development in a coordinated manner to promote good governance initiatives in strata living for urban consolidation.

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Received: 19<sup>th</sup> December 2022. Accepted: 19<sup>th</sup> June 2023