



Strata Management of Mixed Developments

Definitions, Current Landscape and Challenges

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What is a Mixed Development

- Residential property which is integrated with wider
 - commercial
 - retail
 - entertainment
 - transport facilities
- Integrated community
- In the Context of Strata Development – One Title

What is a Mixed Development



What is a Mixed Development



What is a Mixed Development



What is a Mixed Development



Why Mixed Development

Mixed Development

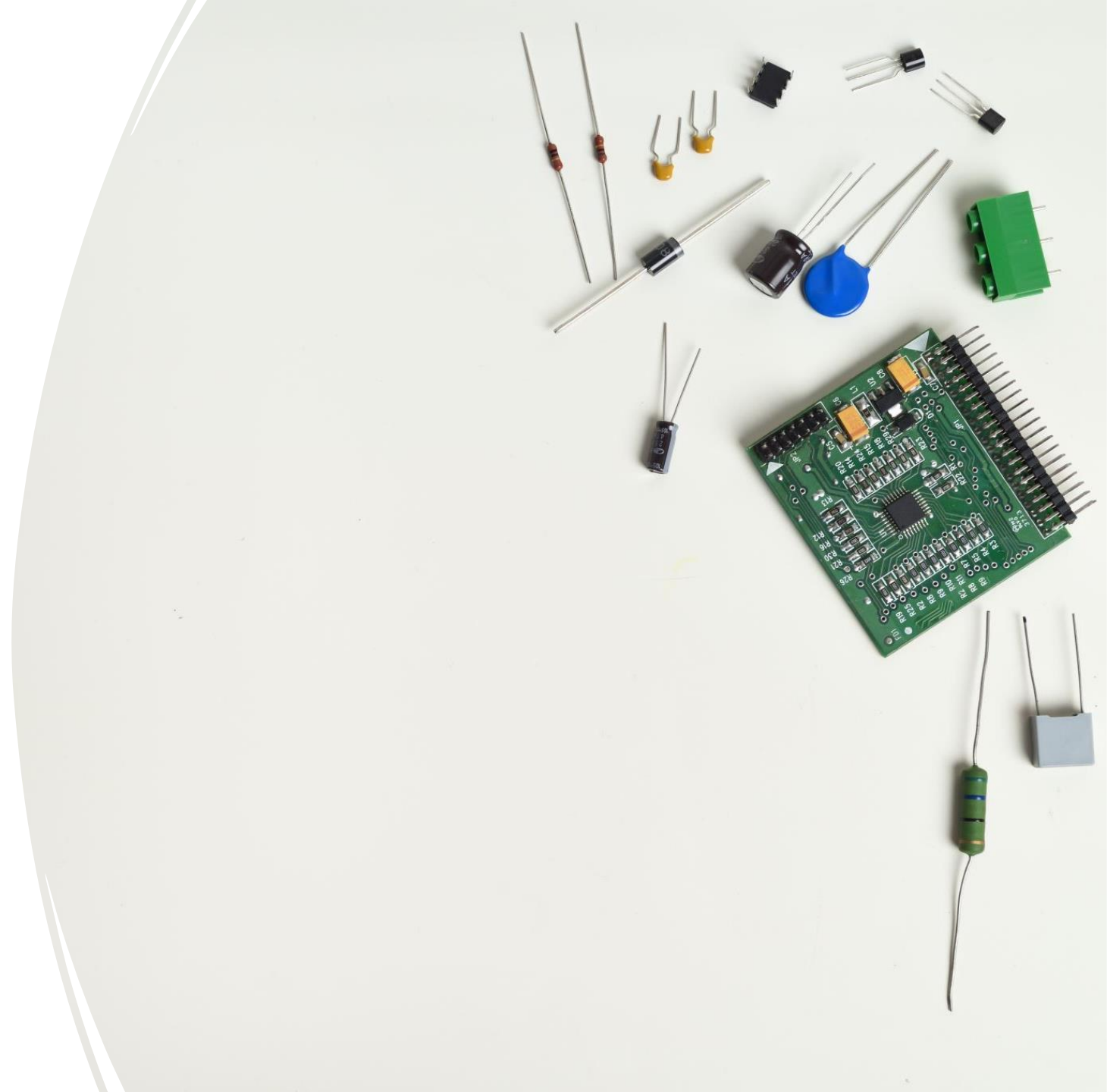
- Work, Live, Play
- Green Space Allocation
- Modern Environment
- TOD
- Developers: maximize car park usage

Residential

- Privacy
- Simpler to manage
- Less conflicting interests
- Safety
- Developers: Easier to design and construct

What is the Difference

- All functions of management are the same as residential development
- Main difference is differing maintenance charges for different components



What is the Difference?



Whats the Difference?

Developer's Management Period <small>(including 1 month after establishment of JMB)</small>	Joint Management Body (JMB)	Management Corporation (MC)
Developer is in control **Can impose different rates in certain conditions	Interim body comprising JMC and Developer Representative **Single rate Cannot take loans Maximum contract length of 12 months with service providers	Permanent body comprising Management Committee **Can impose different rates in certain conditions Can form Sub MC Can take loans Must engage service providers on a yearly basis

Share Units

1

A number assigned by developers licensed land surveyor for each unit

2

Based on Schedule of Parcels and Sijil Formula Unit Syer (SiFUS)

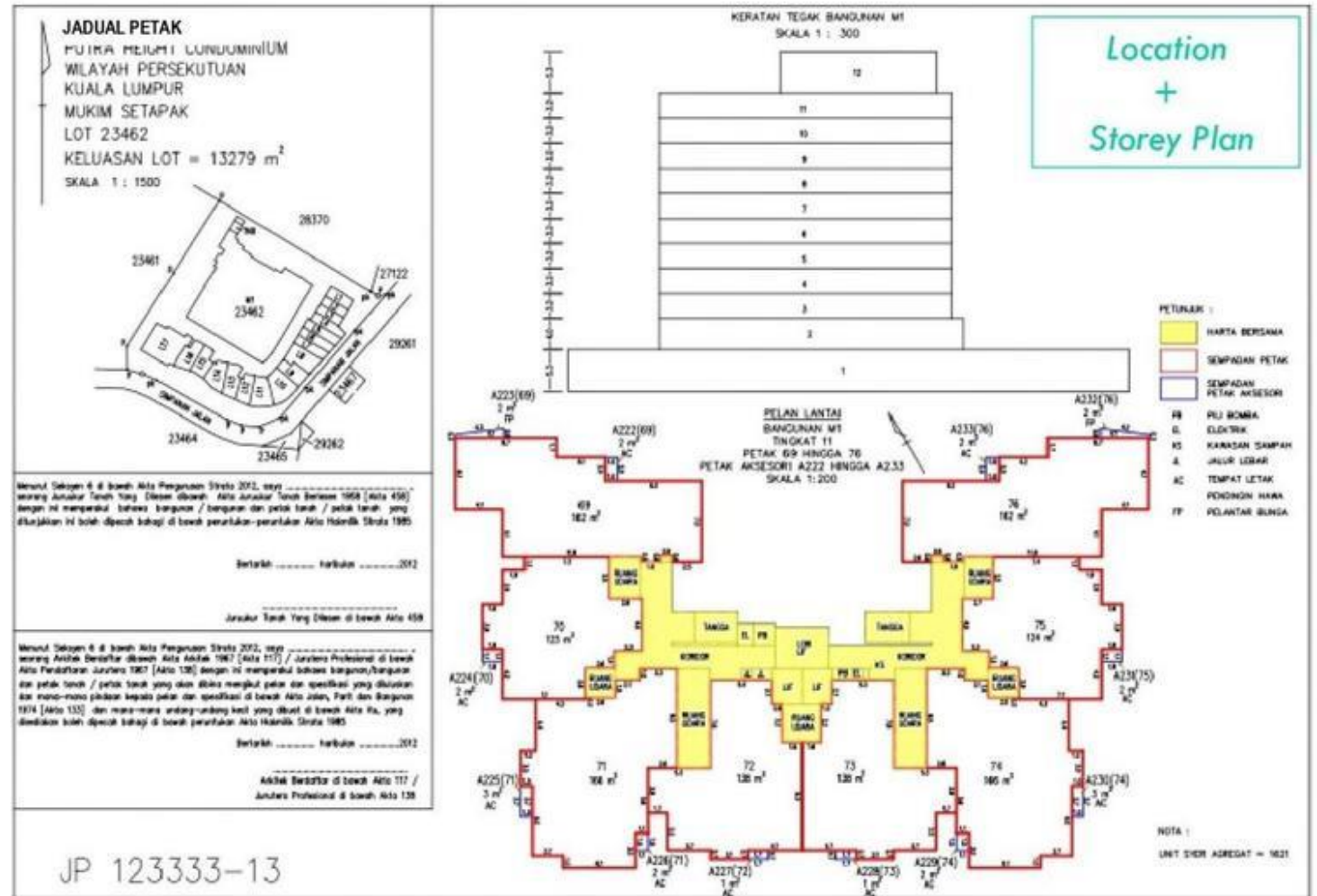
3

Determine

- maintenance fees and sinking fund
- votes in an AGM/EGM poll
- the number of individuals that may be nominated by an owner of two or more parcels, for election as a committee member

Schedule of Parcels

- Shows all the parcels with:
 - Dimensions
 - Areas
 - Share units
 - All accessory parcels
 - Common properties
-
- using the same format as the approved strata title plans.



Sijil Formula Unit Syer (SiFUS)

Formula for Calculation of Allocated Share Units

- Share Unit of a Parcel = $(A \times F^1 \times F^2) + (B \times F^3)$
- Share Unit of a Land Parcel: $(A \times 0.8) + (B \times F^3)$

Where

A = area of the parcel

B = area of the accessory parcel

F1 = weightage for the type of parcel as specified in Schedule A

F2 = weightage for the overall floor parcel as specified in Schedule B

F3 = weightage for the accessory parcel as specified in Schedule C

Sijil Formula Unit Syer (SiFUS)

TABLE A: WEIGHTAGE FACTORS (F_1) FOR TYPE OF PARCELS, REFLECTING THE FREQUENCY OF USAGE AND GENERAL MAINTENANCE

No.	Type of parcel	Without air-conditioning to common areas of corridors, lobbies and foyers		With air-conditioning to common areas of corridors, lobbies and foyers	
		F1 having benefit of common lift/escalator facility	F1 having no benefit of common lift/escalator facility	F1 having benefit of common lift/escalator facility	F1 having no benefit of common lift/escalator facility
1.	Apartment/Small Office Home Office (SOHO)	1.00	0.85	1.30	1.15
2.	Office/Institution (College) complex	1.00	0.85	1.30	1.15
3.	Retail complex	2.00	1.70	3.20	2.90
4.	Hotel/Medical centre complex	2.20	1.90	2.80	2.45
5.	Industrial complex	1.00	0.85	1.45	1.30
6.	Car park (whole floor parcel)	0.75	0.65	0.85	0.75
7.	Shop-houses, shop apartments & shop offices—				
	(a) Upper floor parcel	1.00	0.85	1.30	1.15
	(b) Ground floor parcel	0.85	0.85	1.15	1.15

Sijil Formula Unit Syer (SiFUS)

TABLE B: WEIGHTAGE FACTORS (F_2) FOR THE WHOLE FLOOR PARCEL & AREA $\geq 1000 \text{ m}^2$

No.	Parcel	F_2	Basis
1	<p>Whole floor parcel excluding area of vertical transportation core (lifts or escalators)</p> <p>Also include parcel with an area of 1,000 sq.m. to 3,000 sq.m.</p>	0.85	<p>(a) To reflect an equivalent net lettable area after taking into account its large circulation area only.</p> <p>(b) In a retail complex, its circulation area is much larger but is offset by the letting of such parts to retail kiosks.</p>
2	<p>Whole floor parcel including area of vertical transportation core (lifts or escalators)</p> <p>Also include parcel with an area greater than 3,000 sq.m.</p>	0.80	<p>(a) To reflect an equivalent net lettable area after taking into account its large circulation area and vertical transportation core (lifts or escalators).</p> <p>(b) In a retail complex, its circulation area is much larger but is offset by the letting of such parts to retail kiosks.</p>
3	Not whole floor parcel	1	Not applicable

Sijil Formula Unit Syer (SiFUS)

TABLE C: WEIGHTAGE FACTORS (F_3) FOR AN ACCESORRY PARCEL

No.	Accessory parcel	F_3	Basis
1	Outside building	0.25	To reflect a non-habitable open or enclosed area outside the building.
2	Within building	0.50	To reflect a non-habitable open or enclosed area within the building.

Sijil Formula Unit Syer (SiFUS)

SHARE UNIT	EXAMPLE OF APARTMENT PARCEL
Parcel no.	M3/3/52
Accessory parcel	A23 & A45
Parcel type	Apartment
Facilities	With lifts and without air-conditioning
Area of parcel	105 m ²
Area of accessory parcel	13 m ² (within building) 13 m ² (outside building)
Share unit	$(105 \text{ [area of parcel]} \times 1.0 \text{ [a]} \times 1.0 \text{ [b]}) + (13 \times 0.50 \text{ [c]}) + (13 \times 0.25 \text{ [d]}) = 105 + 6.5 + 3.25 = 114.75 = 115 \text{ (nearest whole number)}$

Step 1: Choose Formula

Share Unit of a Parcel = $(A \times F^1 \times F^2) + (B \times F^3)$

Share Unit of a Land Parcel = $(A \times 0.8) + (B \times F^3)$

A = area of the parcel

B = area of the accessory parcel

F1 = weightage for the type of parcel as specified in Schedule A

F2 = weightage for the overall floor parcel as specified in Schedule B

F3 = weightage for the accessory parcel as specified in Schedule C

Use Share Unit of a Parcel

Step 2: Find the Variables

A = 105 sqm

B1 = 13 sqm

B2 = 13 sqm

F1 = 1

F31 = 0.5

F32 = 0.25

F2 = 1

Step 3: Insert the Values into the Formula

SU of Parcel m3/3/52 = $(105 \times 1 \times 1) + 13 \times 0.5 + 13 \times 0.25$

= 114.75

= 115 (round to nearest whole number)



Residential Example

Calculation of Rate per Share Unit

Rate Per Share Unit – Residential

- Schedule H of Housing and Developers Act
- SPA (Building or Land Intended for Subdivision into Parcels)
- Fifth Schedule – Form of Service Charge Statement

No	Expense Item	Yearly Cost (RM)
1	Security	600,000
2	Property Management Fee + Staff Salaries	200,000
3	Cleaners and Landscapers	300,000
4	Utilities	60,000
5	Assessment	10,000
6	Insurance	20,000
7	Electrical System Maintenance	10,000
.		
.		
	Total Expenses	1,200,000
	Total Share Units	30,000
	Rate Per Share Unit	RM40/S.U./year RM3.33/S.U./month

Rate Per Share Unit – Residential

Strata Management Act 2013

Form 18 - Strata Roll

Unit	Share Units
A-01-01	110
A-01-02	105
A-01-03	100
.	
.	
Total Share Units	30,000

Sample Maintenance Charge

A-01-01 : $3.33 \times 110 = \text{RM}366/\text{month}$

A-01-02 : $3.33 \times 105 = \text{RM}349/\text{month}$

A-01-03 : $3.33 \times 100 = \text{RM}333/\text{month}$

Sample Sinking Fund

A-01-01 : $366 \times 10\% = \text{RM}36.60/\text{month}$

A-01-02 : $349 \times 10\% = \text{RM}34.90/\text{month}$

A-01-03 : $333 \times 10\% = \text{RM}33.30/\text{month}$

- All residents can use gym, pool and other facilities
- All common areas have no A/C
- All units install their own split unit A/C
- Similar traffic for all units (no retail or office portion which tends to have different traffic patterns)
- Any proposed variation in rate charged per shared unit needs approval in AGM



Mixed Development Example

Calculation of Rate per Share Unit

Two Scenarios During MC Period

Sub Management Committee

- Formal process to carve out the exact component areas to be managed by Sub MC
- One MK and Menara UOA Bangsar
- Main MC: Common Property
- Sub MC: Limited Common Property
- Some shared costs for “Common Common Property”

Without Sub Management Committee

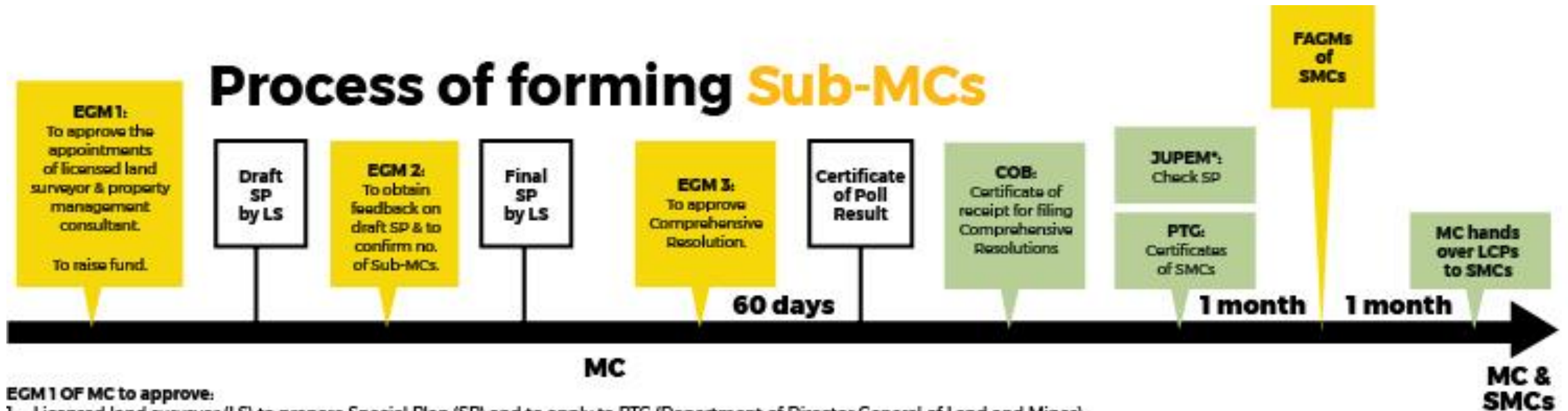
- Only one MC
- Different rates for different components



Sub Management Committee

- Very few Sub MCs formed
- Licensed Surveyors create Special Plan demarcating the Sub MC
- EGM required to obtain mandate, provide feedback on Special Plan and vote
- COB, Jupem and PTG to approve with Certificate of Sub MC
- First Agm of Sub MC And Handover

Sub Management Committee



EGM 1 OF MC to approve:

1. Licensed land surveyor (LS) to prepare Special Plan (SP) and to apply to PTG (Department of Director General of Land and Mines) for certificates of establishment of Sub-MCs.
2. Property management consultant to work with LS on the preparation of SP; to prepare, convene and facilitate EGM 2 & EGM 3; to set SOP and conduct poll on Comprehensive Resolution; to prepare the certificate of poll result; to apply to the Commissioner of Building (COB) for certificate of receipt for filing the Comprehensive Resolution; to commute rates of charges and sinking fund; to conduct First Annual General Meetings (FAGMs) of Sub-MCs and EGM of MC and to advise on handing over of Limited Common Properties (LCP) and funds.
3. Fund for setting up and establishing the SMCs.

*JUPEM: The Department of Survey and Mapping Malaysia
SOURCE: BURCESS RAWSON

Sub Management Committee

Cons

- Lengthy and costly formal process
- 2/3 majority
- increase cost of management due to separate PMs, management office and inter component billing

Pros

- Professional consultants
- Formal approvals obtained
- Less liability on MC
- More likely to have equitable divisions
- Less unforeseen scenarios



Without Sub MC

- Maintain one MC
- Draw up costing for each component
- Determine rate per share unit for each component
- Present resolution and vote in AGM

Without Sub MC

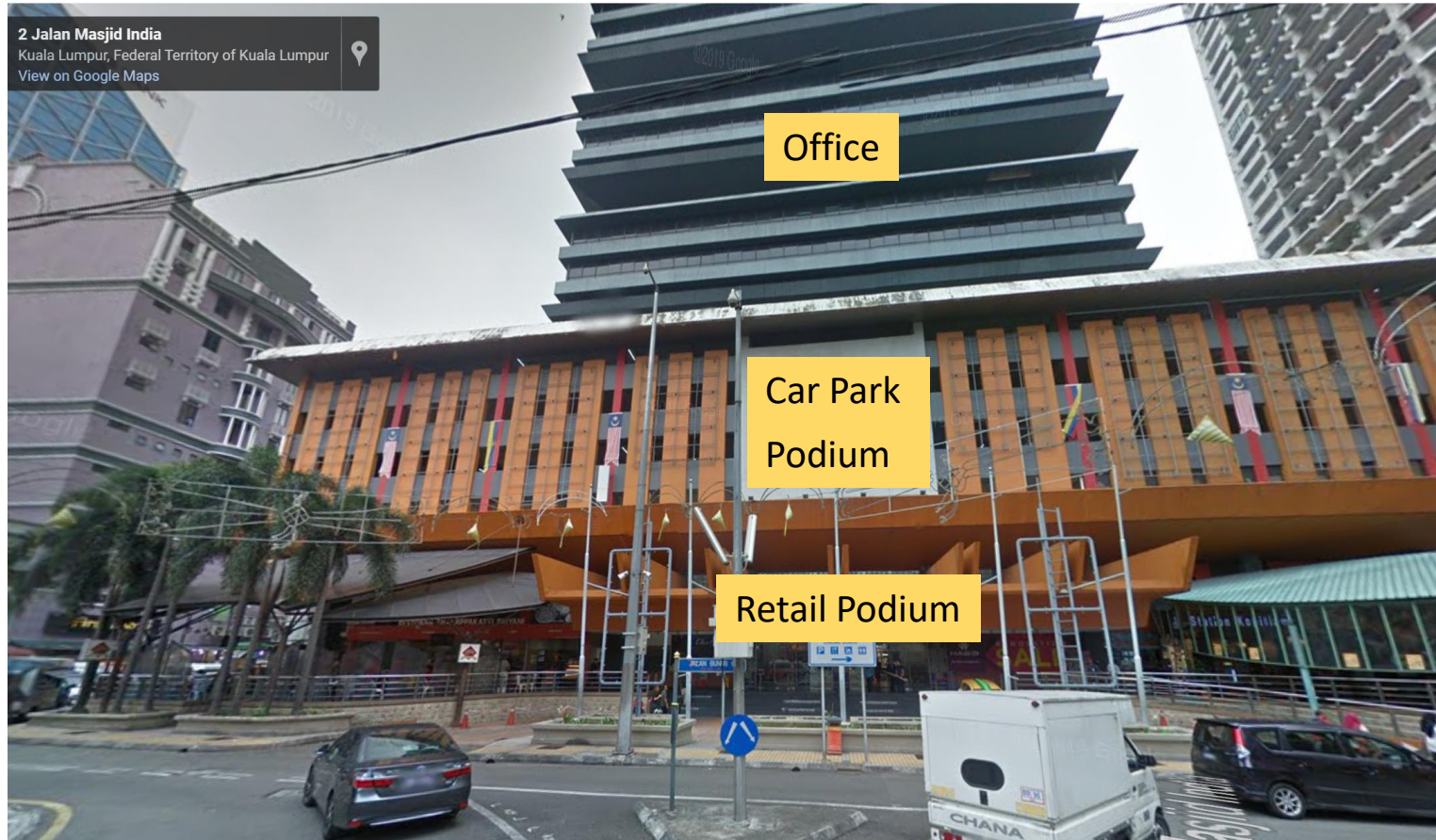
Pros

- Shorter process
- Lower cost
- Simpler management

Cons

- Challenges from owners
- Different rates may not prove to be equitable especially if original strata plan was not designed with different rates in mind

Rate Per Share Unit – Mixed



Office:

- Separate Lift
- Meeting room facility, and gym only for tenants/owners

Carpark:

- Shared with allocated season parking for each unit
- Visitor car parks

Retail Podium:

- Separate lift and escalators

Ingress/Egress:

- Shared

Rate Per Share Unit – Mixed

- Paid by BOTH OFFICE and RETAIL components

No	Expense Item	Yearly Cost (RM)
1	Security	500,000
2	Property Management Fee + Staff Salaries	400,000
3	Cleaners and Landscapers	300,000
4	Syabas	100,000
5	Assessment	300,000
6	Insurance	900,000
7	Electrical System Maintenance	50,000
	.	
	.	
	Total	2,550,000
	Rate Per Share Unit (Total 70,000 S.U.)	RM36.43/S.U./year RM3.04/S.U./month

Rate Per Share Unit – Mixed

Paid by OFFICE component ONLY

No	Expense Item	Yearly Cost (RM)
1	Maintenance of Gym	120,000
2	Management of Meeting Rooms	150,000
3	Lift Maintenance	240,000
4	Tenaga Nasional Berhad	400,000
	Total	910,000
	Rate Per Share Unit (Subtotal 50,000 S.U. for office)	RM18.2/S.U./year RM1.52/S.U./month

Paid by RETAIL component ONLY

No	Expense Item	Yearly Cost (RM)
1	Lift Maintenance	400,000
2	Escalator Maintenance	100,000
3	Tenaga Nasional Berhad	800,000
	Total	1,300,000
	Rate Per Share Unit (Subtotal 20,000 S.U. for retail)	RM65/S.U./year RM5.42/S.U./month

Rate Per Share Unit –Mixed

Type	Unit	Share Units
Retail	G-01-01	110
Retail	B1-01-02	105
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.		
Subtotal Retail		200,000
Office	6-1	50
Office	7-1	55
.		
.		
Subtotal Office		500,000
Grand Total Share Units		700,000

Sample Maintenance Charge

G-01-01 : $(5.42 + 3.04) \times 110 = \text{RM}930.60/\text{month}$
 B1-01-02 : $(5.42 + 3.04) \times 105 = \text{RM}888.30/\text{month}$
 6-1 : $(1.52 + 3.04) \times 50 = \text{RM}228.00/\text{month}$
 7-1 : $(1.52 + 3.04) \times 55 = \text{RM}250.80/\text{month}$

Sample Sinking Fund

G-01-01 : $930.60 \times 10\% = \text{RM}93.06/\text{month}$
 B1-01-02 : $888.30 \times 10\% = \text{RM}99.83/\text{month}$
 6-1 : $228.00 \times 10\% = \text{RM}22.8/\text{month}$
 7-1 : $250.80 \times 10\% = \text{RM}25.08/\text{month}$

- Only office tenant/owners can use meeting room facility and gym
- Retail and office corridors have A/C
- Carpark is shared
- Separate lifts for office and retail
- Only retail has escalators



Case Law

Developer Management Period

- ❑ Case Law: Pearl Suria MC 2017 Court of Appeal
- ❑ Decision: Different rates allowed
- ❑ Basis: Fifth Schedule, Schedule H SPA of HDA



Case Law

Joint Management Body

- Case Law: Rajawali 2019 Court of Appeal
- Decision: Single rate
- Basis: S 21(2)(a)), SMA 2013

(2) The powers of the joint management body shall be as follows:

- (a) to collect the Charges from the parcel owners in proportion to the allocated share units of their respective parcels;

Duties and powers of joint management body

21. (1) The duties of a joint management body shall be as follows:

- (a) to properly maintain and manage the building or land intended for subdivision into parcels and the common property, and keep it in a state of good and serviceable repair;
- (b) to determine and impose the Charges to be deposited into the maintenance account for the purpose of the proper maintenance and management of the buildings or lands intended for subdivision into parcels and the common property;
- (c) to determine and impose the contribution to the sinking fund to be deposited into the sinking fund account for the purpose of meeting the actual or expected expenditure specified under subsection 24(2);
- (d) to effect insurance according to this Act or to insure against such other risks as the parcel owners may by special resolution direct;

(2) The powers of the joint management body shall be as follows:

- (a) to collect the Charges from the parcel owners in proportion to the allocated share units of their respective parcels;



Case Law

Management Corporation

- ❑ Case Law: Springtide Residences 2023 High Court Penang
- ❑ Decision: Different rates allowed for significantly different purposes and provisional blocks
- ❑ Basis: S. 60(3)(b), SMA 2013



Maintenance account of the management corporation

60. (1) If the maintenance account in the name of the management corporation had not been earlier established under subsection 50(1), the management corporation shall open and maintain a maintenance account in the name of the management corporation, with a bank or financial institution.

(2) The maintenance account shall consist of all moneys specified in subsection 50(2), and all moneys in the maintenance account shall be used for the purposes specified in subsection 50(3).

(3) Subject to section 52, for the purpose of establishing and maintaining the maintenance account, the management corporation may at a general meeting—

(a) determine from time to time the amount to be raised for the purposes mentioned in subsection 50(3);

(b) raise the amounts so determined by imposing Charges on the proprietors in proportion to the share units or provisional share units of their respective parcels or provisional blocks, and the management corporation may determine different rates of Charges to be paid in respect of parcels which are used for significantly different purposes and in respect of the provisional blocks; and