

# **A STUDY OF SELECTED HOUSING ISSUES IN THE HOUSING INDUSTRY**

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# A STUDY OF CURRENT HOUSING ISSUES RELATE TO POLICIES, REGULATIONS AND CONCEPTS IN THE HOUSING INDUSTRY

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## ABSTRACT

The declared Vision 2020 has compelled Malaysia to adopt proactive policies and regulations for the housing industry. The vision would see the country to be fully developed with its society living under home owning democracy. It is also with the firm belief that the housing industry can be a catalyst in the economic resurgence and sustainability. As such, the proactive policies and regulations relating to the housing industry over the last few years are meant to be in boosting the economic recovery. The government incentives provided for this sector to house buyers and the industry has actually been instrumental in stimulating economic growth, creating employment opportunities and boosting the demand for residential properties. With no doubt, the housing policies and regulations of this country are dedicated towards providing adequate, affordable and quality shelter for the citizens particularly for the low-income groups. It is obvious as it is reflected through various housing programs and strategies, which outlined in the country's development plans. The National Housing Department, land development agencies, the state economic development agencies and government departments are involved in housing delivery activities. Strong emphasis is placed on the provision of low-cost housing for the low-income group.

However, we need more attention to the housing industry. Currently, all sort of housing issues have slowed down the housing development. The housing issues have been identified to be form a combination of factors which involving the legislative, policy, financial, political and technological issues. This research has attempted to study and discuss how do these housing issues relate to the existing policies, regulations and also the future concepts, which introduce by the government. This is because the most hot-debated housing issues for nowadays are mostly related to provision of housing and the local authorities. Although there are rules and laws to be followed throughout the whole process before the starting of one housing project until the completion and handing over to buyers, we must bear in mind that those good laws only work under enforcement. Same with all types of housing policies, which the government has put in effort to solve the existing and also the foreseeing housing issues.

**Keywords:** Housing Issues, Policies and Regulations, Government, Future Concepts. Provision of Housing, Local Authorities

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### 1.1 The Background of The Housing Issues

In the late 1970s and early 1980s, Malaysia was beginning to move from import-oriented industry to export oriented development, industries and factories. Because of this kind of development, it created a lot of attraction for the people from the countryside to migrate to the city for business opportunities and jobs in the factories that were springing up. However, these have also created a lot of housing issues such as many slums and squatter areas have occurred especially in Kuala Lumpur and State of Selangor. Besides that, due to demand exceeded supply, the house prices were escalating. Not many people can afford to own a house and in general, there wasn't much support from the Government for housing during that period of time.

Then in the mid of 1980s, there was an economic depression which ended up with a lot of retrenchment. It took 4 years to end the depression and when during the process of recovery, the land under settlements became a commodity. From end of 1980s to 1997 crisis, there was a ten-year period where Malaysia's economic really leaped very high and Kuala Lumpur was very fast expending then. That was the time when a lot of migrant workers started to come into the country to work, especially in the construction sector.

At that time, squatter were happening quite rapidly as city expended and land costs rose dramatically.

When the economic crisis struck in 1997, there were a lot of empty buildings in Kuala Lumpur. Until today, we could see houses, high-rise apartments, flats, shop houses, which are not occupied at all. They were over-built. At the same, many projects had been abandoned which involved thousands of innocent buyer suffered huge financial losses.

In fact, for the first two years of the Asian Financial Crisis, there was a drop in sale performance of about 30% from the pre-crisis level in 1998 and 10% in 1999. Corresponding to this drop in sales, the unsold units increased in such proportions that for the first time in Malaysia history, the term 'overhang' became a buzzword in the property industry. The Government tried very hard to overcome the overhang issue through the National Economic Recovery Plan which was launched in August 1998 and facilitate the private sector to sustain demand.<sup>1</sup> The recovery has created business confidence among many developers and prompted them to anticipate a recovery in 1999 and 2000.

As a result, many submissions for development and building approvals were made in the interim period in 1998 and early part of 1999, which materialized into approvals and more new launches from 1999 until now. The number of houses has been increased tremendously through various housing programs and strategies that outlined in the country's development plans.

In 2000, the population and housing census showed that there were 5.547 million housing units that cater for estimated 23.275 million people or 4.655 million households. Refer to the Eight Malaysia Plan, which has been targeted to build another 615,000 units from the year of 2001-2005. During the first 2 years in the 5-year plan period, there were 400,000 units have been completed.

According to the housing data which released by the National Property Information Center (NAPIC), it shows that a stable supply of about 205,000 units that have been approved in 2003, compare with the average of 211,000 units approved each year from 2000 to 2003.<sup>2</sup>

During that period of time, housing reform in Malaysia raised four major issued that need to be addressed.

- (1) House prices today are generally not cheap. Housing costs in many economies are inflated as a result of inadequate urban planning, a lack of proper coordination of infrastructure and utilities, inefficient construction and project management as well as the various taxes and charges imposed by different parts of the Government.

In fact, it is quite impossible for housing costs to be reduced. With the increase compliance and regulatory costs involved in the whole value chain of housing production, prices are unlikely to go any lower. Besides that, the significant increases in labor costs,

materials and upfront deposits and capital contributions, add on to production costs – which will be inevitably reflected in the house prices. With all these demands in tow. Developers will find it difficult to keep pricing low. These increased costs of compliance which is on the upward trend, if left unchecked by the authorities, will one-day result in homeownership being too prohibitive for the general Malaysia public.

- (2) The second issue relates to the income side and concerns about the housing affordability. Malaysia is a developing country and majority of the nation is still under the low-income groups. Housing developers have apparently shown more inclination to catering for the middle and higher-end priced houses, which give higher profits unlike the low cost houses with low profit margin or even none.

As such, the 30% quota for LCH needs to be set as a requirement for developers. However, the location, price and the quality have ended up many unsold LCH, which is resource wastage. Besides that, we all agree that the responsibility to provide affordable housing should not only rely on private sector.

- (3) Third, how can the housing delivery be improved? From the moment a developer decides to develop a housing scheme until obtaining the CFO, the general perception of the public is that all these process will be controlled, monitored and inspected by the

relevant authorities and the professionals. This trust is misplaced then house buyers encounter problems and find it hard to have it resolved expediently.

Those complaints range from late delivery, no CFO, shoddy workmanship, defects not attended to, no strata titles, deviation from agreement/plans/sales brochures, etc – proves that the delivery system is not adequate enough. All these are challenges to the integrity of the industry and to the professionalism of those who operate within it.

- (4) The fourth issue is the balance interests among the various parties involved in the housing market. For example, home buyers would like to ensure that housing is built and completed to agreed standards, while the financial institutions want to be protected against developers' default and that mortgages are repaid on time. This is what happening now in the "Build-and-Sell" concept. The house buyers see this proposal will be a move to forming a consumer-based society where the consumers can exercise their rights. However, developers felt that there is some miscommunication on this issue.

## 1.2 The Other Survey Results

According to a research which was done by a local Chinese newspaper as to seek the opinion of what are the most occurring issues in housing industries in this nation. The result was published in the newspaper on June 27 and July 4 2004. Out of the 200 people who were interviewed, it is so obvious that the most top the occurring housing issues which voted by them were closely related to both the developers and local authorities.<sup>38</sup>

Through this survey, we have a good view on most of the housing purchasers are very concern on how the local authorities and Government in helping them by enforcing the regulations and at the same time, to warn or punish those developers who are lack of responsibilities.

In fact, through this survey, we can understand that there are 30% to complain developers delaying the handing-over of the houses. Although there is an agreement of Sales & Purchases Agreement between developer and the purchasers when buying a house with the completion time framing of 24 months or 36 months, there are a lot of developers out there fail to deliver the houses on time.

And the most frequent reason that has been given by developers is they fail to fulfill certain requirements which requested by the local authorities. Because of this, some changes need to be made and the progress of work at site has been delayed. Some of them even face difficulties to obtain the Certificate of

Fitness for Occupation (CFO) although the Vacant Possession has been issued out. Although temporary CFO might be issued out by the authority, it needs to be renewed in every 6 months. In fact, 5% of the respondents complain about the disadvantage of the temporary CFO. They claimed that developer will normally drag to obtain the permanent CFO due to financial problem. This is very unfair to the purchasers as although they can dwell in the house but no renovation for extension of the house can be made, as it will affect the CFO in future.

Besides that, there are 20% of the respondents complain the developers has abandoned the related project. They claimed that this usually happens when there is a downturn in economy as most of the projects will be affected. Most likely it will take a long period to get those projects to move on back again. Referring to this issue, for those developers who abandon projects or fail to settle their disputes with buyers, compelling them to seek the intervention of the Housing Tribunal, the revised Housing Developers (Control and Licensing) (Amendment) Act 2002 will provide protection to house buyers as it calls for the scrutiny of Developers' background and financial records. Only those with clean records will be granted licenses for new projects. However, this doesn't stop the number of abandoned projects to be decreased.

From the results stated above, we should have a clearer picture that the housing issues are not only haunting the house buyers. In fact, the Government has a real headache in trying their best to solve those issues at once.

### 1.3 The Housing Policy & Laws

In Malaysia, the national housing policy is emphasized through housing strategies and programs listed out in the country's development plan which is revised every five years. Towards achieving the objective of the national housing policy, the Government has formulated necessary legislation, established public institutions and instruments to assist the housing sector.

The Ministry of Housing and Local Government plays the vital advisory role and through the Town and Country Planning Act 1976, provides the policies and framework for urban planning by considering land allocation, population density, layout plans and overall physical development. Overall, the main legislation governing the construction of buildings is the Uniform Building By-Laws 1984 (UBBL), which is based predominantly on British Standards. Besides that, the Ministry also enforces its policies through various other Acts such as :-<sup>5</sup>

- (1) Arbitration Act 1952 (Revised 1972), Act 93
- (2) Drainage Works Act 1954, Act 354
- (3) Housing Developers (Control and Licensing) (Amendment) Act 2001 (Bill)
- (4) Construction Industry Development Board Act 1994, Act 520
- (5) Local Government Act 1976, Act 171
- (6) Fire Services Act 1988
- (7) Quantity Surveyor Act 1967 (487)

- (8) Sewerage Services Act 1993, Act 508
- (9) Street, Drainage and Building Act 1974 (Act 133)
- (10) Town and Country Planning Act 1976, Act 172
- (11) Town Planners Act 1995, Act 538
- (12) Strata Title Act 1985

In fact, the basic important of the housing policy of Malaysia is dedicated towards providing adequate, affordable and quality shelter for the citizens particularly the low-income groups.<sup>3</sup> The establishment of the Low Cost Housing Fund in 1993 and the Special Low-Cost Housing program both reflect the Government's commitment in ensuring that the housing resources are equally distributed and benefit the poor.

The Federal and State Governments have been co-operated, assisted by the Ministry's National Housing Department in the supervision of the physical implementation and delivery activities of housing projects.<sup>3</sup> Besides that, the Government also encourages active participant of the private sector. However, the private housing market is regulated. The Government needs the co-operation from the private sector as to build more affordable houses, which will be cross -subsidized from the sale of medium to high cost units.

In order to make sure that the number of houses built and delivered will meet the targets, Malaysia has permitted the "Sell-then-Build" approach. Although this has helped to deliver a large number of houses, the system has serious

flaws. The numbers of abandoned projects have been increased and affected thousands of house buyers.

Furthermore, the homeowners are forced to accept poor quality houses with bad finishing and complaints have been made that the homes are not even safe to occupied even though they have been completed. Due to the bad quality of houses constructed, the issuance of Certificate of Fitness normally gets held up and delayed the house buyers from moving into their newly acquired homes. This is not only a disaster for the housing sector, but also will have a significant effect on the economy as a whole.

That's why the Government should be encouraged to adopt policies that enable housing markets to work. We want housing policies and regulations that will ensure economic growth and development. In fact, The Government macroeconomic policies often affect the performance of the housing sector in more powerful ways than direct housing actions by Government.

There are number of policies affect housing. The provision of infrastructure, the regulation of land and housing development, the organization of the construction and materials industry, and the involvement of the public sector in housing production – all have direct bearing on the production of housing and its responsiveness to shifts in demand. However, there are other policies that affect the security of tenure of housing real estate and the ability to use it as an asset for long-term financing – it has affect the amount of quantity of housing available to meet the needs of the buyers and the prices and hence

the affordability of housing. Many of these policies heavily influence the cost availability, quality and production of housing, which accommodates most of the population in this nation.

Besides that, policies also affect the responsiveness of the supply side of the market to changes in sector performance such as housing is less affordable and of lower quality. Moreover, when housing markets fail, it is the poor who tend to bear the impact of the failure. In fact, when housing costs and prices have been higher than necessary, they have negative macroeconomic consequences, affecting investments in other sector, inflation, interest rates, labor markets, productivity and also the balance of payments. Housing policymaking must thus move away from its previously narrow focus on a limited engagement of Government in the direct production of low-cost housing,

The Government must now guide the performance and improve the management of the housing sector as a whole, including that of the formal and informal private sector, with a stronger emphasis on its overall role in a national economics development. Those instruments are :-

- (1) To ensure the developing property rights;
- (2) To develop mortgage finance which will provide greater access to housing finance by the poor;
- (3) To ensure the subsidy programs are in a appropriate and affordable scale, transparent, and avoid distorting housing markets;

(4) To ensure the pro

development;

(5) To balance the costs and benefits of regulations that influence urban land and housing markets;

(6) To create greater competition on the building industry

These instruments should be supported and guided by developing the institutional framework for managing the housing sector, which oversee and manage the performance of the sector as a whole. It is our dream that the major public agencies, private sector and community-based organization to work together and to ensure that policies and programs will benefit the nation, especially the poor.

## 1.4 Statement of Opportunity

Malaysia Government has devised many policies to help the housing sector. Those policies are closely related to buyers, builders, contractors, consultants and also the authority departments. Unfortunately, but when come to implementation and enforcement of the policies, it is another matter.

It is important to understand one thing that is the growth of the country's housing industry is based on market-driven mechanism, such as the demand and the supply. Any new imposition of new conditions, restrictions or even just the concepts will lead the market to dis-equilibrium and this will be subjected to the consequences of property overhang.

Many of us would have the opinion that in Malaysia, the housing industry is already overly regulated. If we are familiar with the UBBL and CIDB procedure, we will understand that to get a building set up, to be sold out and to be occupied, it is not as easy as 'ABC'. From planning standards to the building control, design and the specification standards to controlled the house pricing and 'bumiputra' quota policies, the housing industry has played a pivotal role in supporting and responding to Government's social and economic policies and objectives which include the social integration and enhancement.

Unfortunately, we need to face the reality that there are Government policies that have been raised up many questions and enquiries if they are really ready to be exercised them. We have to accept the facts that even if we are not related to the industry directly, we are still playing the role indirectly as long as we are staying in this country.

This research aims to study the response of the housing issues towards the existing policies, laws and regulations in Malaysia. There are too many housing issues happening everyday. Through the research that has been carried out by the local Chinese newspaper, we can see that the most concern issues are the issues of CFO and also the abandoned houses. At the same time, we will study too the number-one intention of Malaysia housing policy – that is in providing houses for the low-income group.

As such, in my research, I will focus on the recent 3 major selected issues which need our attention the most – the issuance of Certificate of Fitness, the Build-then-Sell concept and the provision of affordable housing. The research will also take on a chance to find out that does all the well-meaning Government policies take off the ground and it is just a waste of the Government's effort.

## 1.5 Objective of Research / Thesis

The setting up responsibility of housing guidelines and policies should be built according to the needs and requirements of the house buyers. Thus, this responsibility should not only be pointed to the local Government but have to be shared mostly by developers and building consultants.

With the 3 selected housing issues in view – the issuance of CFO, the Design & Build Concept and the Affordable Housing, the aim of the present study were as follows:

- (1) To understand and look into more detail of the selected housing problems and issues which surrounding the construction industry in Malaysia. At the same time, to study the relationship between the selected housing issues and the existing laws and regulations. This will be able to have a clearer picture of the roles of the industry players and the local authority.
- (2) To measure the response of dissatisfaction of each of the industry players towards the other party – such as the complaints from developers towards the authorities or the misunderstanding from house buyers towards the consultants. The intention is to reflect the real situation, which has caused the selected housing issues.

- (3) To promote the idea of reviewing the existing guidelines and policies if necessary. It is important to ensure the Acts and Policies are adequate or providing protection to the house buyers. A complete review should be carried out on the existing Act that suits the present day conditions in order for it to take the housing industry through the new millennium.

## 1.6 Methodology of Research

With the intention to focus on the recent 3 major selected issues, the research methodology involved the following five stages. The major task for each stage was as follows:-

- (1) **Stage 1:** Study on the effectiveness of the issuance of Certificate of Fitness for Occupation (CFO) with the obstacles, which will be faced throughout the whole process of issuing it and have a strong understanding towards the proposal of Certificate of Compliance and Completion (CCC). Looking into the possibility of the CCC to be adopted by the Government very soon.
- (2) **Stage 2:** Study on the disadvantages of the “Sell-then-Build” concept and subsequently introducing the proposal of “Build-then-Sell” which based on a comprehensive study on write up articles that reported by the National House Buyers Association.
- (3) **Stage 3:** Study on the role of Government and the private sector in provision of affordable housing where are meant to be carried out in the spirit of ensuring houses to be built in a safe, healthy and comfortable environment as to benefit the socio-economic development of the country.
- (4) **Stage 4:** A survey via Questionnaire to gauge response of the respondents towards the three selected housing issues.
- (5) **Stage 5:** Synthesize results

## 1.7 Scope and Limitation of Research

The observations made in this thesis are based on information available to date. In fact, most of the housing issues stated in the thesis are still under monitoring and investigation of the Government. The Government is still reviewing the proposed solutions to these housing issues.

The scope and limitation of this research are as follows :-

- (1) The scope of this research is only to concentrate on the three major housing issues. Therefore, other issues will only be discussed briefly if they happen to relate to the three major issues.
- (2) The information of housing issues' solutions are limited to the published material found in newspaper and websites as some of them are still under the reviewing stage of the Government.

## 1.8 Outline of Research / Thesis

The thesis shall consist of 3 major chapters, which will discuss the three selected housing issues separately. Each of the chapters shall consist of 2 segments namely :-

(1) Understanding the Challenge : Issues faced by the Housing Industry in Malaysia

This segment undertakes to have a clear understanding of the selected problems plaguing the housing industry. This segment will try to probe the response of the players in the industry towards the existing issues and also their high hope for the new proposal by the Government. At the same time, this section will also try to understand the disputes within the players and try to figure a way to resolve them.

(2) Possibility of Implementation the new proposal/concept in solving the Issues

This section will reflect the point of views from each of the industry players with the help of the result of the research (through the questionnaires survey) on the understanding of the new proposal/concept, which introduced by the Government at this point of time.

## Chapter 2 : Certificate Of Fitness For Occupation (CFO)

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### 2.1 The Introduction

The efficiency and effectiveness in the certificate of fitness delivery system have always been questioned by all parties such as the industry players and also the house-purchasers. The late delivery of CFO seems like a common issue that happens so frequently. We always hear complaining that the buildings have been completed for such a long time, but the CFOs failed to be issued by the authority. This kind of cases happen so frequently till we have to question the CFO delivery system that we have currently and who should we point the arrow to as to take this matter seriously.

Most of the reason which has been given by the local authorities is the developers fail to comply some of the conditions that required by the authority. However, many claim that the current delay in CFO issuance is caused by the number of authorities involved in the process as well as the overlapping functions. Each authority departments (internal and external departments) have their own comments, which need to be fulfilled by the developers before any further action to be taken. This is a long process and it takes months or even years to do so.

In this chapter, we will discuss the connection of vacant possession and CFO and how they will be affected by the existing and amendment Regulations and

Acts. We will see how the Ministry of Housing and Local Government is taking a proactive lead role to speed up the issuance of CFO. At the same time, we will also study the consequences of the new proposed Certificate of Compliance and Completion (CCC) will be able to function as what we have expected.

## 2.2 The Significance of CFO

CFO is a very important document for the buyers, the developers and also the consultants. Without CFO, no buyers can occupy a building legally and permanently. Although the buyers still are able to occupy their houses with the temporary CFO, this is not that final solution as the temporary CFO needs to be renewed yearly and only can renew up to 5 years maximum. Besides that, a house without a CFO will not be covered by insurance especially those under the bank loans. And, no strata titles will be able to issue for sub-divided buildings such as apartments and flats.

As such, it is not a surprise that all the industry players such as the professional bodies, the Real Estate and Housing Developers Association, the National House Buyers' Association and some technical agencies are working in close collaboration with each other to provide the necessary input and feedback for the CFO issuance.

Under the new amendments to the Housing Developers (Control and Licensing) Act 1966, the developers need to submit the application for CFO in Form E before the vacant possession of the property can be handed to the house buyers.<sup>3</sup> Before submitting the stipulate Form E to the local authorities, the developers have to get letters of no objection from all the 14 to 15 external and internal departments.<sup>3</sup> This is definitely a long process and most of the time, the CFO has been delayed due to the failure to obtain one of these departments' no-objection letter.

To be able to submit Form E to the local authority is very important to the developer. Without the acceptance of Form E by the local authority, the architect won't be able to issue vacant possession. This means that the developer will not be able to collect 12.5% of the stage 3 payment of the purchase price from the house buyers.<sup>6</sup> And, if the developer fails to deliver the property to the house buyers within the time frame stated in the S&P Agreement, then he may be liable to pay liquidated and ascertained damages (LAD).<sup>6</sup>

Although most of us want the process of CFO issuance to be speed up, we also understand that the CFO will only be issued if the building is safe and has been duly completed with water and electricity supply. To ensure the buildings are being constructed in the above-mentioned condition, there are the provision of Acts and Regulations which have particular reference to CFO issuance.

(1) Housing Development (Control and Licensing) Act 1966

*“Section 7(h) – inform the Controller of the handing over of vacant possession of the housing accommodation to the purchasers and submit a certified true copy of his architect’s certificate certifying that the construction of the housing accommodation has been duly completed and that water and electricity supplies are ready for connection to the housing accommodation.”<sup>3</sup>*

(2) Housing Development (Control and Licensing) Regulations  
1989 – Sale and Purchase Agreements – Schedules G & H

Clause 24(2) of Schedule G –

*“The delivery of vacant possession by the Vendor shall be supported by:-*

- (a) a certificate signed by the Vendor’s architect certifying that the said Building has been duly constructed and completed in accordance with all relevant Acts, by-laws and regulations and that all conditions imposed by the Appropriate Authority in respect of the issuance of the Certificate of Fitness for Occupation have been duly complied with, and*
- (b) a letter of confirmation from the Appropriate Authority certifying that the Form E as prescribed under the Second Schedule to the Uniform Building By-Laws 1984 has been duly submitted by the Vendor and checked and accepted by the Appropriate Authority.”<sup>6</sup>*

Clause 24(3) of Schedule G –

- (3) “Such possession shall not give the Purchaser the right to occupy and the Purchaser shall not occupy the said Property until such time as the Certificate of Fitness for Occupation for the said Building is issued.”<sup>6</sup>*

Clause 25 of Schedule G –

- (5) “The Vendor shall, pursuant to the application for the Certificate of Fitness for Occupation under subclause 24(1), at its own cost and*