



Headline	Platform for strata woes
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Platform for strata woes

With the Strata Management Tribunal, the myriad of related disputes should be effectively dealt with.

Roger Tan

ON July 9 this year, 20 lawyers received their letters of appointment as presidents of the Strata Management Tribunal from Urban Wellbeing, Housing and Local Government Minister, Datuk Abdul Rahman Dahlan.

The much-awaited Strata Management Act, 2013 (Act 757), initiated by the previous minister, Tan Sri Chor Chee Heung, finally came into force on June 1, 2015, in the peninsula except for Penang which came into operation on June 12, 2015.

The Strata Management (Strata Management Tribunal) Regulations, 2015, came into effect on July 1, 2015. Act 757 also repealed the Building and Common Property (Maintenance and Management) Act, 2007 (Act 663).

In fact, the tribunal is the precursor of the Strata Titles Board set up under the repealed provisions of the Strata Titles Act, 1985 (Act 318) which really did not take off despite Act 318 being amended on Dec 1, 2000, and again on April 12, 2007.

permission of the tribunal.

Currently, the Tribunal can hear and determine any claims where the total amount claimed does not exceed RM250,000.

However, if proceedings over the same matter have been commenced in court, then the matter cannot be heard by the tribunal unless the claim before the court has been withdrawn, abandoned or struck out. Similarly, the tribunal will not deal with any matter which is within the jurisdiction of the tribunal for homebuyer claims established under the Housing Development (Control And Licensing) Act, 1966 (Act 118).

The benefit of referring the matter to the tribunal is that the Limitation Act, 1953 (Act 254) will not apply to proceedings of the tribunal. In other words, the claim cannot be statute barred due to effluxion of time.

In any event, the tribunal can entertain claims relating to matters such as:

> recovery of charges or contribu-

give consent to effect alterations to any common property or limited common property; and

> seeking an order to affirm, vary or revoke the Commissioner of Building's (COB) decision. Here, it is important to note that if any provision of Act 757 states that the matter is to be referred to the COB, the Tribunal will not entertain any claim to challenge the COB's decision unless the matter has been first referred to the COB and he has made a decision.

Having said that, the tribunal has no power to deal with any claim in which the title to or estate or interest in any land or any franchise is in question.

Apart from the above, orders which can be made by the tribunal include ordering:

> a party to the proceedings to pay a sum of money to another party or ordering the price or other sum paid by a party to be refunded to that

The tribunal's headquarters is based in Putrajaya whilst offices have also been set up in Penang, Johor Baru and Kuala Terengganu (See table). The chairman of the tribunal is Norhayati Ahmad.

With more than three million Malaysians living in various stratified buildings, it is hoped that this tribunal will be an effective forum for the various stakeholders to settle their disputes.

Persons who are entitled to file a claim to the tribunal are developers, purchasers, proprietors including an original proprietor, joint management bodies, management corporations, subsidiary management corporations, managing agents and any other interested person, with the

As regards making the award, the tribunal is required to do so without delay and, where practicable, within 60 days from the first day of the hearing by giving its reason for the award.

Any person who fails to comply with the tribunal's award commits an offence and shall, on conviction, face

tions to the sinking fund;

- > seeking an order to convene a general meeting or invalidate proceedings of any meeting or nullify a resolution where voting rights have been denied or where due notice has not been given or nullify a resolution passed at a general meeting;

- > seeking an order to revoke amendment of bylaws or to vary the rate of interest fixed for late payment of charges or contribution to the sinking fund or to vary the amount of insurance or to pursue an insurance claim;

- > seeking an order to compel a developer, joint management body, management corporation or subsidiary management corporation to supply information or documents or to

a fine not exceeding RM250,000 or imprisonment for a term not exceeding three years or both. If the offence continues after conviction, a further fine not exceeding RM5,000 for every day or part thereof may be imposed.

In the coming months, time will tell whether the tribunal can effectively resolve myriads of strata management disputes among the various

party;

- > payment of compensation or damages for any loss or damage suffered by a party;

- > rectification, setting aside or variation of a contract or additional bylaws, wholly or in part; and

- > costs to or against any party to be paid or interest to be paid on any sum or monetary award at a rate not exceeding 8% per annum.

It is also important to note that at the hearing, parties cannot be represented by lawyers unless the matter in question involves complex issues of law and one party will suffer severe financial hardship if he is not legally represented. Likewise, if one party is allowed to be legally represented, then the other party shall also be so entitled.

stakeholders, especially as for many years now, they have been bereft of an alternative dispute resolution mechanism which is affordable, speedy and effective.

> The writer, a former chairman of the Conveyancing Practice Committee of the Bar Council, is also a president of the tribunal.