Planning Policies: Industry Challenges

Introduction

Property development is one of the most challenging and dynamic industries which is constantly challenged by issues of overregulation, increased costs of doing business and compliance as well as imposition of rigid and prescriptive laws and guidelines. Various policies and guidelines have been established by the Federal Government as well as State Governments to control the planning of developments by private developers. With the numerous constraints and compliances, developers are burdened with high cost in complying with the numerous guidelines and requirements imposed.

REHDA has been engaging with the relevant authorities, not only the Federal Department of Town and Country Planning (JPBD) and the State JPBDs but also the Ministry of Urban Wellbeing, Housing and Local Government (KPKT), the Ministry of Works, the Ministry of Women, Family and Community Development (KPWKM) and the National Landscape Department to name a few, on issues pertaining to planning policies and requirements. Some of the main issues of concerns discussed over the past months are shared here for the benefits of our readers:

Provision of Taska in New Developments

The Ministry of Women, Family and Community (KPWKM) has proposed for developers to provide sufficient and adequate Taska in new housing and commercial developments. For new landed terrace developments, developers are required to assign pre-plan one Taska unit (corner or end-lot). The corner unit allocated may be used for dual purposes which is as a Taska or for residential purposes. As for new apartments/flats developments, developers would be required to allocate one unit Taska for every 200 units to be located at the lower level.

REHDA commented that any new requirements introduced should not result in additional cost or allocation of additional land and local authorities should not impose further conditions or requirements on developers on the designation of Taska in their developments. The Ministry has taken cognisance of REHDA's view and will deliberate further the proposals to address the various issues raised.

Guidelines on Serviced Apartment

The Selangor State Government took on a measure to freeze the approval of all applications for serviced apartment on 1 January 2016 on the basis that the market was facing oversupply of such units and the high selling price. The Lembaga Perumahan dan Hartanah Selangor (LPHS) have then notified that the freeze has been lifted effective 1 July 2016 with the introduction of a new Guideline on Serviced Apartments in Selangor. Below are some the pertinent highlights of the regulation:

- Property developers are required to set aside up to 30% of affordable units for their boutique office and serviced apartment projects.
- Developers who build Small Office Home Offices (SOHO), Small Office Versatile Offices (SOVO), Small Office Flexible Offices (SOFO) and serviced apartments are required to allocate 10% for affordable units for projects with 500 units and below, 15% for those with 501 to 1,000 units and 20% for those with over 1,000 units.
- For transit-oriented development areas, the allocations for SOHO and serviced apartments will be higher at 20 to 30%.
- The SOHO/SOVO/SOFO and serviced apartments will have a minimum unit size of 450 sqf and 550 sqf respectively.
- Effective 1 September 2016, selling prices for affordable SOHO/SOVO/SOFO and serviced apartments are capped at RM230,000 and RM270,000 respectively.
- Applications for affordable units will have to be made via LPHS. Developers who refuse to sell affordable commercial boutique/apartments to buyers approved by LPHS will be fined 10% of the selling price. They will also pay an additional 5% if they fail to adhere to the Bumiputera quota provisions.

REHDA Selangor submitted an appeal to LPHS which was copied to the Chief Minister of Selangor requesting for consideration to revise the selling prices and requirements pertaining to the provision of controlled-pricing units for service apartments and boutique offices developments. LPHS in a letter dated 2 November 2016 replied that the decision made by the State EXCO is final and that the Circular issued in regard to this matter remains valid.

National Slopes Master Plan

JKR will be reviewing the implementation of the National Master Plan (2009–2023) to assist the Government in planning the mapping of hazard slopes. REHDA took the opportunity to convey to the relevant authorities that a "one size fits all" policy would not be the best solution to the problem and that any guidelines established should be flexible as every development should be treated individually on a case to case basis. REHDA also raised the importance of hazard mapping for hillslope developments as without the availability of sufficient data, developers would be purchasing land without realising the real risk involved.

Strata Development Issues Faced by Developers

Since the coming into force of the new Strata Management Act and Strata Titles Act in June 2015, numerous challenges and uncertainties have surfaced in the industry. Among the main issue currently faced by developers in complying with the new strata laws include the application of strata titles:

- Definition of Super Structure Stage
- Period to obtain Qualified Title (QT)
- Restriction to the changes and amendment to SiFUS for future developments
- Application of SiFUS and Schedule of Parcels (SoP)
- Amendments to Building Plan for existing block

REHDA has had various engagement sessions with the relevant authorities to put forward the issues faced by the industry which may ultimately cause delays in the issuance of strata titles resulting in late deliveries of vacant possession (VP). In such instances, the developers would be liable to pay Liquidated and Ascertained Damages (LAD) to the house buyers.

REHDA will continue to work closely with the Federal and State Governments as well as respective local authorities to convey the industry's point of view towards a more conducive business environment while safe guarding members' interest.