

Headline	EOT for developers should be on case to case basis
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'EOT for developers should be on case-to-case basis'

PETALING JAYA: A housing developer's right to extension of time (EOT) for late delivery of projects requires serious deliberation and should be decided on a case-to-case basis, say property industry players.

Property consultancy PPC International Sdn Bhd managing director Datuk Siders Sittampalam said a developer should be given extension only when it was justified.

"There must be justification in seeking an extension," he said, adding that purchasers should be compensated when a project was delayed.

Siders was commenting on the High Court's decision on Monday, which held that the Housing Controller has no power to modify the contract between a buyer and a developer.

"The decision should perhaps be made by a committee or tribunal appointed by the minister with a pre-determined set of criteria," he said.

Siders said there were cases where developers were unable to pay liquidated ascertained damages (LAD), or late delivery compensation, and went bust.

"This will further aggravate the loss to purchasers when the project is abandoned," he added.

MKH Bhd managing director Tan Sri Eddy Chen Lok Loi said certain projects required "extensive foundation work" which resulted in delays.

He added that the foundation works of some high-rise developments may take up to a year.

In such cases, Chen said an extension was justified if the developer informed the purchaser prior to the signing of the sale and purchase agreement (S&P).

"I would agree with the (High Court) judgement if the EOT is given to developers after the S&P is signed without the knowledge of the buyer.



Win for house buyers: Industry players say there must be serious deliberation before an EOT is given and any extension must be justified.

The decision should perhaps be made by a committee or tribunal appointed by the minister with a pre-determined set of criteria.

Datuk Siders Sittampalam

"But if the extension is given prior to any signing or before a project launch, then the EOT should be allowed as both parties enter into

an agreement with their eyes open."

Chen said the court's judgment could have ramifications on works-in-progress which already have the Government's approval for EOT.

"The High Court's judgment will have huge ramifications if it applies retrospectively," he said.

Siders said Section 11 of the Housing Development, Control and Licensing Act, which was ruled *ultra vires* (beyond the powers) by the High Court, should be studied further and revised to accommodate EOT on valid grounds.

Rehda national treasurer and Rehda Institute trustee Datuk Muztaza Mohamad said developers needed to plan their projects early to avoid EOT issues.

"Developers have to really plan

ahead, maybe construct up to a certain level and then start selling.

"Some developers start selling when they are 50% complete.

"As a developer, once we sign an agreement, it needs to be honoured.

"But I think we have to respect the court's decision."

In a landmark decision, the High Court (Appellate and Special Powers) on Monday allowed an application for judicial review by 71 buyers of the Sri Istana condominiums in Old Klang Road.

In their application for judicial review, the condo buyers stated that they wanted to quash the decision allowing BHL Construction Sdn Bhd an extension of time for the delivery of vacant possession from 36 months to 48 months.