



Persatuan Pemaju Hartanah Dan Perumahan Malaysia
马来西亚房地产发展商会
Real Estate And Housing Developers' Association Malaysia
"Towards Sustainable Development"
Responsive | Respected | Responsible | Relevant

MEMBERS' CIRCULAR 16/2020

To : All REHDA Members

From : Datuk Sr. Charlie Chia Lui Meng
Secretary General

Cc : REHDA Branch Chairmen
REHDA Branch Secretariats

Date : 8 December 2020

RE : **FRIENDLY REMINDER - Appointment of Legal Advisory Panel for Court Cases related to Appeal for Variations of the Standard Sale and Purchase Agreement (SPA)**

Dear Valued Members,

Reference is made to our circular 15/2020 dated 17 November 2020. To date, the response from members who are facing or expecting such cases are not forthcoming. As informed earlier, REHDA Malaysia is currently compiling information and details on a number of court cases involving amendments to the Schedule SPA under Act 118. As you all are aware, the Ministry of Housing and Local Government (KPKT), under Regulation 11(3) of the Housing Development Act (Control and Licensing) Act had granted approval to projects which have requested for variations to the standard Sale and Purchase Agreement (SPA) under Schedule G and H e.g. amendments to the time delivery of vacant possession, schedule of payment, moratorium and etc., prior to the sales of the project and execution of the SPA. The recent court decisions have ruled that the Housing Controller has no power to waive or modify any provisions in the Schedules which means that all the approvals granted by KPKT, including those approved prior to sales / launching, are ultra vires and null and void. The decision is seriously detrimental to all developers who are now exposed to possible claims for Late Ascertained Damages (LAD).

Due to the seriousness of the issue, REHDA Malaysia has formed a panel of Senior Lawyers and Legal Experts from our local Legal Community to be appointed to deliberate these issues and advise REHDA Malaysia on possible legal arguments and positions which will also assist the Developer's Advocates in the preparation of the defense of their cases in court. REHDA Malaysia will also participate in holding a watching brief in a number of cases whichever will appear in Court first and establish legal precedents which may assist the Member Developers in the resolution of their LAD Claims.

REHDA Malaysia have also set up an Legal Fund which can be used if want to engage a Senior Queen Counsel to advise on Contractual and Administrative Law which we feel is essential in providing the best legal advice in this specialized area of law.



RE : Appointment of Legal Advisory Panel for Court Cases related to Appeal for Variations of the Standard Sale and Purchase Agreement (SPA) (cont'd)

We hope that all affected REHDA members can join hands to contribute to this Special Fund and agree to join this initiative and enhance their preparation of their defence. Therefore, we would like to once again appeal to all members who have yet to contribute to come forward and join us in contributing RM10,000 per company towards defraying this legal cost. Your contribution would definitely assist the sustainability of this endeavor.

We target to collect a total sum of RM500,000 for this initiative and if the sum collected falls short of this target, we may not be able to proceed with this plan.

We sincerely hope that kind consideration be given to this initiative and we look forward to receiving your positive reply together with the attached Reply Slip latest by 31 December 2020.

Should you require further clarification, please do not hesitate to contact Ms Shirley Ho at 03-7803 2978 or email to shirley@rehda.com.

Thank you in anticipation.

Yours sincerely

REAL ESTATE & HOUSING DEVELOPERS' ASSOCIATION MALAYSIA



DATUK SR. CHARLIE CHIA LUI MENG
SECRETARY GENERAL

**Appointment of Legal Advisory Panel for Court Cases related to Appeal for Variations
of the Standard Sale and Purchase Agreement (SPA)**

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***REPLY SLIP***

Kindly fax the reply slip to 03-78035285 or email to [shirley@rehda.com](mailto:shirley@rehda.com) by 31 December 2020.

\_\_\_\_\_ (company name) would like to contribute **RM10,000** to support the appointment of the Legal Advisory Panel for Court Cases related to Appeal for Variations of the Standard Sale and Purchase Agreement (SPA).

Contact Person : .....

Contact No. : .....

Email Add. : .....

Company Add. : .....

.....

**Payment for Contribution Exercise is payable to:-**

**Bank draft / cheque : REHDA Malaysia**

**Public Bank Account No. : 3088280408**

*\*Please email the bank- in slip / copy of cheque to the above email.*