Introduction

The Strata Title Act 1985 was the first piece of legislation passed to govern subdivision of buildings into parcels and the subsequent issuance of strata titles in Peninsular Malaysia. Over time, the Strata Title Act 1985 proved to be insufficient particularly in covering the various aspect of management of subdivided buildings. This led to the enactment of the Building & Common Property (Maintenance & Management) Act 2007 to specifically address issues of maintenance and management of high-rise buildings and their common properties by developers, Joint Management Body and Management Corporations.

On 1 June 2015, the Housing Development (Control & Licensing) Act 2012, Strata Titles (Amendment) Act 2013 and Strata Management Act 2013 came into effect. The implementation of these Acts is supplemented by the Housing Development (Control & Licensing) (Amendment) Regulations 2015 and Strata Management (Maintenance & Management) Regulations 2015. The combined effect of these legislation is to promote transparency and accountability in the housing development industry.

The new Acts require developer to fulfill certain pre-requisites before proceeding with any sale of strata property particularly in obtaining SiFUS and filing the Schedule of Parcels. SiFUS refers to the Certificate of Share Unit Formula (Sijil Formula Unit Syer - SiFUS) which is to be issued by the Land and Mines Office (PTG) prior to the commencement of the sale of strata properties. This is to ensure that the process for the application of Strata Title can be carried out efficiently and to achieve vacant possession with simultaneous delivery of Strata Title. It is also the duty of a developer to file the Schedule of Parcels with the Commissioner of Building (COB) and exhibit a copy of the Schedule at a conspicuous position at the office where the sale of strata property is conducted in order to promote transparency.

Once the construction of a development reaches the completion of its superstructure stage, the developer must begin the process of applying for subdivision of the building. A new provision under the Strata Title (Amendment) Act 2013, now requires the developer to apply and obtain a Certificate of Proposed Strata Plan (CPSP) from the Director of Survey in JUPEM. The developer needs to apply for Strata Titles within one month after the issuance of CPSP. Thus, upon the delivery of the vacant possession, the Strata Title will be simultaneously delivered to the purchaser.

The following flowcharts indicate the NEW work processes on strata development.
Flow Chart for SiFUS and Strata Title Application for Strata Developments

Planning Permission Approval

Building Plan Approval

SiFUS

Filling of Schedule of Parcels at COB*

AP / DL

Sale

Construction

Apply for Strata Title

Superstructure Stage

Strata Title Not Issued

Apply to Controller of Housing for a written certification

Certification Letter issued by Controller of Housing

Strata Title

Vacant Possession

Deliver to Purchaser

Note (*)
COB = Commissioner of Building
Application for SiFUS and Schedule of Parcels Prior to Sale

Planning Permission by LA*

Approved Building Plan (BP) by LA*

Developer to apply for Developer’s License (DL) and Advertising & Sale Permit (AP) from KPKT*

Submit application online on BLESS

Approval obtained

Approval Letter

Developer to open HDA* account

Developer to deposit 3% of estimated cost of construction (exclude land cost) into Housing Development Account (HDA (Amendment) Act 2012, S.6.1a & 1b)

KPKT* to inform developer on final approval

Developer to update details of HDA* on BLESS

Development to pay fees and collect AP and DL at KPKT’s counter

Developer to exhibit 1 set at Sales office

Sale

Developer to appoint Licensed Land Surveyor (L.LS) and obtain Sijil Akuan from Lembaga Juruk Tanah

Apply to JUPEM* to obtain Project Number

Prepare 6 sets of document for SiFUS* application

Developer to submit application to PTG* to obtain SiFUS* approval

PTG* Approval obtained

Develop to lodge SiFUS and 6 sets of Schedule with COB*

COB* to acknowledge, retain 1 set of Schedule and distribute others

3 sets to Developer

1 set to PTG*

1 set to JUPEM*

The application of SiFUS and Schedule of Parcels need to be filed with the COB before sale of any parcel or CPSP application (whichever is earlier). (Strata Management Act 2013, 58)

Documents required for SiFUS* application:
- All relevant land matters are settled (land conversion, payment of land premium, Qualified Title, etc.)
- Receipt of payment for Land Premium (if any)
- QT application letter certified by Land Office (if land is held under QT or FT yet to be issued)
- Receipt of Quit Rent for the current year
- Letter of appointment of Licensed Land Surveyor
- Receipt of surveying fees by Land Surveyor Board
- Share Unit Formula (Any changes due to any amendment to BP which has been issued with SiFUS, new application must be submitted to PTG for approval and new certificate to be issued)
- Schedule of Parcels signed by Licensed Land Surveyor and Architect/Engineer
- Approved Building Plans
- All plans to be signed by LLS and Architect. (Strata Management (Maintenance and Management) Regulations 2015, 59)

Documents required during collection of DL and AP:
- Approval letter from BLESS
- Form A1
- Bank Slip
- Certified calculation on GDC and GDV by Architect
- Bank draft for payment of fees

Any amendments to the Schedule of Parcels can be made only:
- as per the requirement of local authority; or
- with agreement of all purchasers of the development

In case of such changes, developers must submit within 30 days from the date of alteration or revision of building plans as amended schedule of parcels. (Strata Management (Maintenance and Management) Regulations 2015, 57)

A copy of the Schedule of Parcels need to be exhibited at a conspicuous position in any developer's office or branch office and at such place where the sale of parcels is conducted.

Documents required for DL and AP application:
- Copy of Land Title / Qualified Title documents
- Approval letter of Planning Permission
- Approval letter of Building Plan
- Form L2C
- Certification from the Board of Surveyors
- Copy of approved pre-computation plan
- Joint venture agreement (if any)
- Copy of Start Work Notice (Form B)
- Report from CCRIS / CTOS
- Copy of the draft advertisement (brochure) and other proposed advertisements. Brochure in Bahasa Malaysia.
- Price list of every unit of housing according to type
- Approval letter on the pricing for low cost housing from the State Authority
- Certificate of SiFUS
- Copy of Schedule of Parcel
- Certified calculation on Gross Development Cost (GDC) and Gross Development Value (GDV) by Architect

Note (*):
LA = Local Authority (Pihak Berkuasa Tempatan)
SiFUS = Certificate of Share Unit Formula (Sijil Formula Unit Syer)
PTG = Pejabat Tanah dan Galian (Land and Mines Office)
COB = Commissioner of Building (Penerbangan Bangunan)
KPKT = Ministry of Urban Wellbeing, Housing and Local Government (Kementerian Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan)
HDA = Housing Development Account
JUPEM = Jabatan Ukur dan Pemetaan Malaysia (Department of Survey and Mapping Malaysia)
Application for Strata Title Prior to Vacant Possession

The application of CPSP also applied on circumstances of:
- 3 months from the date of CCC for SPA signed before 1 June 2015
- 3 months from the date of CCC or SPA, whichever is later, for CCC/CFO or SPA after 1 June 2015
- 3 months from the date of enforcement of the Act (31 Aug 2015) for CCC/CFO and SPA signed before 1 June 2015
- 3 months from the date of SPA signed after 1 June 2015 but already obtained CCC/CFO before 1 June 2015

[Strata Titles (Amendment) Act 2013, S8 & S 20A (for provisional block)]

Developer must also ensure the below conditions before making an application for subdivision of building or land:
1. The land is held under final title
2. Use of the land is not contrary to the land category and conditions
3. The land is not subject to any charge or lien

[Strata Titles (Amendment) Act 2013, S9(2)]

Developer shall transfer Strata Title to the purchaser within 30 days from the date of issuance of strata title by the Land Administrator or any extended period approved by the COB upon the opening of the strata register.

[Strata Titles (Amendment) Act 2013, S19A]

Note (*):
LLS = Licensed Land Surveyor
PTG = Pejabat Tanah dan Galian (Land and Mines Office)
JUPEM = Jabatan Ukur dan Pemetaan Malaysia (Dept. of Survey and Mapping Malaysia)
VP = Vacant Possession
COB = Commissioner of Building

The exemption is granted with the reason is not attributed to the Developer including:
1. Notification of superstructure stage within 2 weeks
2. CPSP issued
3. Application to PTG* ≥ 100 days
4. Application to Controller of Housing before date of 1st VP*

[Home Development Act (Amendment) Act 2012, Schedule H, S28]