

STATE OF SABAH

**LAND (SUBSIDIARY TITLE)
ENACTMENT 1972
(Sabah No. 9 of 1972)**

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
Act 160	28, 1st Sch.	29-8-1975
4/1982	5,12 (2), 17A	26-8-1982
4/1998	2, 4, 4A, 6, 6 (7), 8 (2), 10, 14A, 14B, 15, 18, 18 (2A) (7), 19, 19 (7), 20A, 21 (1), 22 (6A) (7), 1st & 2nd Sch.	7-5-1998

An Enactment to facilitate the subdivision of building into parcels and for purposes connected therewith and incidental thereto.

[1st January 1974]

PART I
PRELIMINARY

Short title and commencement.

1. This Enactment may be cited as the Land (Subsidiary Title) Enactment 1972 and shall come into operation on such date as the Yang di-Pertua Negeri* may, by notification in the *Gazette*[±], appoint.

Interpretation.

2. In this Enactment, unless the context otherwise requires —

“accessory parcel” means any parcel shown in an index and storey plan as an accessory parcel which is used or intended to be used in conjunction with a parcel;

“architect” means an architect qualified to practise as such under any written law for the time being in force in Sabah;

“building” means any building erected on land and capable of being subdivided into parcels as shown or specified in any proposed index and storey plan submitted for approval;

“certified plan” means, in relation to a subdivided building, the certified plan prepared for the building under paragraph (b) of subsection (1) of section 8;

“Collector” means any Collector of Land Revenue or Assistant Collector of Land Revenue duly appointed under the Land Ordinance [Cap. 68.];

“common property” means, in relation to a subdivided building —

- (a) the land on which the building stands, together with so much of the building as is excluded from the parcels; and

* In this Ordinance “Yang di-Pertua Negeri” substituted for “Yang di-Pertua Negara” by virtue of Enactment No. 17 of 1976.

[±] In force 1st January 1974 – See G.N.S. 23/73.

(b) the remainder of the lot, together with any other buildings standing thereon;

“Director” means the Director of Lands and Surveys or the Deputy Director of Lands and Surveys;

“Government surveyor” means a Government surveyor as defined under section 2 of the Surveyors Ordinance 1960 [Ord. No. 22 of 1960];

“initial period” in relation to a management corporation, means the period commencing on the day on which the management corporation is established and ending on such day (not earlier than the day of the notification) as the registrar shall notify the management corporation that there are registered subsidiary owners excluding the original owner the sum total of whose share units is at least one third of the aggregate share units of the building;

“lease” means any title issued under the Land Ordinance [Cap. 68.] or any previous land law, but shall not include a Provisional Lease, Native Title, Field Register or temporary occupation licence;

“lot” means, in relation to a subdivided building, the piece of land on which the building stands and in respect of which a lot number has been assigned by the Director;

“management corporation” means, in relation to any particular subdivided building shown in the file of the subsidiary register, the management corporation established for that building;

“Minister” means the Minister for the time being responsible for matters relating to natural resources;

“original owner” means, in relation to a subdivided building, the owner of the title to the lot immediately before the subdivision;

“parcel” means one of the individual parcels into which a subdivided building is subdivided;

“rating authority” means, in relation to a subdivided building, any authority authorised by law to levy rates on the building;

“Registrar” means the Registrar of Titles appointed under the Land Ordinance [Cap. 68.] and includes the Deputy Registrar of Titles appointed thereunder;

“share units” means the share units specified for the parcels of a subdivided building in the file of the subsidiary register relating to the building;

“storey” means any horizontal division of a building whether or not on the same level throughout, and whether above or below the surface of the ground;

“subdivided building” means a building subdivided under Part II or, where two or more buildings standing on one lot are so subdivided, those buildings;

“subsidiary owner” means the owner of a parcel;

“subsidiary register” means the register of subsidiary title maintained under the provisions of section 11;

“subsidiary title” means title issued under this Enactment to any of the individual parcels within a building which has been subdivided pursuant to the provisions of Part II;

“surveyor” means a surveyor registered under the provisions of the Surveyors Ordinance 1960 [Ord. No. 22 of 1960]; and

“unanimous resolution” means a resolution of the management corporation for which all the subsidiary owners have voted.

Application of Land Ordinance.

3. The Land Ordinance [Cap. 68.] and the rules made thereunder shall in so far as they are not inconsistent with the provisions of this Enactment or of any rules made thereunder apply in all respects to all titles registered in the subsidiary register.

PART II
SUBDIVISION OF BUILDINGS

Power to subdivide buildings, and certain buildings ancillary thereto.

4. (1) The owner of any lease held as one lot under a title issued under the Land Ordinance [Cap. 68.] or any previous land law may engage a surveyor to subdivide into parcels, each to be held by him under a separate subsidiary title for the approval of the Director —

- (a) any building thereon having such superficial area on the ground as may be prescribed or, where no such area is prescribed, a superficial area on the ground as may be approved by the Director; and
- (b) any other building thereon used, or intended to be used, in conjunction with that building,

not being (in either case) a building of any class or description the subdivision of which is prohibited by the provisions of any written law for the time being in force:

Provided that no subdivision may be effected under this Part where any of the land comprised in the lot, or any building thereon, is used for purposes not connected with the building or buildings to be subdivided.

(2) Multi-storeyed buildings for use as multi-storey car-parks may be subdivided provided that the boundaries are defined by survey.

Specified period for application of subdivision.

4A. (1) The owner of any lease on which there is a building capable of being subdivided under section 4 shall apply in accordance with section 6, within the specified period in subsection (4), for subdivision of the building if at any time he has sold or intended to sell any parcel in such a building to any person.

(2) Upon such application the owner shall deposit the requisite survey fees with the Surveyors Board.

(3) The owner shall obtain approval of the subdivision after the occupation certificate is issued.

(4) The specified period required under subsection (1) is as follows:

(a) for buildings completed on a date before the commencement of this section —

(i) if the sale is made before the date of commencement of this section, the period is six months after the date of commencement of this section;

(ii) if the sale is made after the date of commencement of this section, the period is six months from the date of sale; or

(b) for buildings completed on a date after the commencement of this section —

(i) if any sale was made before the date of completion of the building, the period is before the building is certified as fit for occupation;

(ii) if the sale is intended to be made after the date of completion of the building, the period is before any sale can be entered into.

(5) For the purpose of subsection (1), the owner is deemed to have sold a parcel if by an agreement in writing, he has agreed to convey, transfer, assign or otherwise dispose of his estate or interest in the parcel to another person for valuable consideration or otherwise.

(6) For the purpose of subsection (4), the date the building is deemed to be completed shall be the date on which it is certified by the relevant authority to be fit for occupation or use.

(7) The specified period in subsection (4), may, on application made before its expiry, be extended once by the Director by any further period not exceeding 6 months.

(8) In the case of non-compliance with subsection (1) the owner shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit and to a

further fine not exceeding one thousand ringgit for each day the offence continues to be committed.

Conditions for approval of subdivision.

5. The Director may approve the subdivision of any building or buildings under this Part provided that the following conditions are satisfied —

- (a) that the subdivision would not contravene any restriction in interest to which the land comprised in that lot is for the time being subject;
- (b) that the subdivision would not be contrary to the provisions of any written law for the time being in force and that any requirements imposed with respect thereto by or under such law have been complied with;
- (c) that no item of land revenue is outstanding in respect of the land.

Application for approval.

6. (1) Any application for the approval of the Director to the subdivision of any building or buildings shall be made in writing to the Collector, in Form A of the First Schedule and shall be accompanied by —

- (a) such fee as may be prescribed;
- (b) an index plan, that is to say, a plan containing the details specified in subsection (2) and certified in accordance with subsection (4);
- (c) in relation to each storey of each building, a storey plan, that is to say, a plan containing the details specified in subsection (3) and similarly certified;
- (d) two additional copies of the index plan, and of each of the storey plans;
- (e) *(deleted)*;
- (f) the issue document of title to the lot.

(2) Every index plan shall —

- (a) specify the number of the lot and the title number of the land comprised therein;
- (b) delineate the boundaries and boundary marks of the land and the position of all buildings thereon, showing which of those buildings are to be subdivided;
- (c) specify the total superficial area of each building which is to be subdivided;
- (d) include a vertical section of each such building, showing the floors and ceilings, and the height, of each storey; and
- (e) contain such other details as may be prescribed.

(3) Every storey plan shall —

- (a) specify the number of the lot, the title number of the land comprised therein, and the building numbered storey thereof to which the plan relates;
- (b) define (but without it being necessary to show any bearings) the boundaries of each of the proposed parcels within the storey;
- (c) indicate in respect of each such parcel the index-letter or number by which it is described in Form A of the First Schedule;
- (d) specify the total area of each such parcel;
- (e) distinguish such parts of the storey as are not to be included in any of the parcels but are to become part of the common property; and
- (f) contain such other details as may be prescribed.

(4) The certification required in respect of any plan under paragraph (b) or (c) of subsection (1) shall be by a surveyor and —

- (a) in the former case, shall be to the effect that the plan is correct;
- (b) in the latter case, shall be to the effect that the plan has been compared by him with the original plans of the building made by the architect responsible for its construction and, where it is a storey plan that is certified, that the boundaries of the parcels shown thereon are as defined in accordance with paragraph (b) of subsection (3).

(5) Upon receiving any application under subsection (1), the Collector, if satisfied that it and the other documents presented therewith are in order, shall transmit the application and other documents to the Director.

(6) Upon receiving any application from the Collector pursuant to subsection (5), the Director shall cause a note of the making thereof to be endorsed on the register document of title to the land.

(7) Where an accessory parcel —

- (a) consists of a building or parts thereof and is bounded by external walls, floors and ceilings, the dimensions and boundaries of such accessory parcel shall be shown in the proposed index and storey plan in accordance with the requirements of subsections (2) and (3);
- (b) does not consist of a building or parts thereof —
 - (i) the external boundaries of the accessory parcel shall be ascertained from the building plans approved by the planning authority, and the accessory parcel shall be up to reasonable height or to the extent of any projection above or encroachment below the ground level by another part of the lot; and
 - (ii) the proposed index and storey plan shall show a diagram of the accessory parcel with similar dimensions as those shown on the approved plans mentioned in subparagraph (i).

Powers of Director in relation to applications.

7. (1) On any application under subsection (1) of section 6 the Director shall —
- (a) if it appears to him that the conditions specified in section 5 are satisfied and that each of the proposed parcels will have —
 - (i) adequate means of access not passing through another parcel;
 - (ii) adequate means of internal communication not passing through the common property; and
 - (iii) such minimum superficial areas as prescribed or approved by the Director,approve the subdivision;
 - (b) in any other case, reject the application:

Provided that where any such application includes a proposal for the creation of one or more parcels extending beyond the limits of a storey the Director shall, notwithstanding paragraph (a), reject the application unless, in his opinion, the proposals are warranted by the special circumstances of the case.

- (2) Where he has approved any subdivision under this Part, the Director shall —
- (a) transmit the application and the other documents presented therewith to the Government surveyor; and
 - (b) on being notified by the Government surveyor of the estimated amount of the fees chargeable in respect of —
 - (i) any survey to be carried out under paragraph (a) of subsection (1) of section 8; and
 - (ii) the preparation of plans, and copies of plans, pursuant to paragraphs (b) and (c) of that subsection,

require the Collector to call for the payment of that amount by the owner.

(3) Where he rejects any application under this Part, the Director shall notify the owner and the Collector, and shall cause to be cancelled the note thereof endorsed on the register document of title pursuant to subsection (6) of section 6.

Action by Government surveyor after approval of subdivision.

8. (1) Where, after any subdivision has been approved under this Part, the Government surveyor is informed by the Collector that the amount demanded (pursuant to paragraph (b) of subsection (2) of section 7) in respect of his fees under this subsection has been duly paid, he shall —

- (a) carry out such survey of the land in question, and any of the buildings thereon, as he may consider desirable;
- (b) from the relevant index plan and storey plans —
 - (i) prepare, or cause to be prepared, with such modifications as he may consider necessary in the light of any such survey; and
 - (ii) file in his office,

a certified plan complying with the requirements of subsection (2);
- (c) prepare one copy of the certified plan for retention by the Director, and for each parcel thereof, two diagrams (showing the position thereof) one of which shall be for retention by the Registrar and the other for the purpose of it being attached to the issue document of subsidiary title to the parcel; and
- (d) send to the Director a copy of the certified plan and diagrams so prepared, the issue document of title to the land and a note of any amount underpaid or overpaid in respect of his fees under this subsection.

(2) The index and storey plan to be prepared by the surveyor pursuant to paragraph (b) of subsection (1) shall be a plan delineating, on as many folios as he may consider most suitable for the purpose, the several storeys of the building or buildings to be subdivided, and the parcels within each storey; and every folio shall contain also —

- (a) a vertical section of the building or buildings to be subdivided, showing the position therein of the storey or storeys to which it relates; and
- (b) a plan of the land, showing the position of every building thereon.

(3) For the purposes of the preparation of any such plan, the common boundary of any parcel of a building with any other parcel, or with any part of the building which is not included in any of the parcels, shall, except in so far as it may have been otherwise provided in the relevant storey plan, be taken to be the centre of the floor, wall or ceiling, as the case may be.

Issue of subsidiary title to individual parcels.

9. On receiving from the Government surveyor the documents referred to in paragraph (d) of subsection (1) of section 8, the Director shall require the Collector to call upon the owner for payment of —

- (a) any amount underpaid as mentioned in that paragraph; and
- (b) the fees chargeable in connection with the preparation and registration of documents of subsidiary title to the individual parcels (giving credit for any amount overpaid as mentioned in that paragraph);

and as soon as the amounts so demanded have been paid, the Director shall require the Registrar to open a file of the subsidiary register in accordance with the provisions of section 11, and to prepare, register and issue documents of subsidiary title in accordance with the provisions of section 12.

Subdivision and amalgamation.

9A. (1) The subsidiary owner may, with the approval of the Director-

- (a) subdivide his subsidiary title into two or more new titles, each to be held by him under separate parcels; or
- (b) where he holds two or more contiguous parcels, amalgamate them to form one subsidiary title to be held by him under a single parcel.

(2) For the purpose of paragraph (b) of subsection (1) any two or more parcels shall be taken to be contiguous if each of them shares at least one horizontal or vertical boundary including a boundary which consists of a wall, floor or ceiling.

Share units.

9B. (1) On a subdivision, the number of share units of each parcel shall be a whole number allotted by the proprietor of the subdivided parcel as approved by the Director:

Provided that the total number of share units of all the new parcels shall be equal to the number of share units of the subdivided parcel.

(2) On an amalgamation, the number of share units of the new subsidiary title shall be a number equal to the total number of share units of the amalgamated parcels.

(3) Subject to subsections (1) and (2), Part IV shall apply in relation to a new parcel in a subdivided building as if the new parcel were one of the parcels which came into existence when the building was subdivided.

Conditions for approval of subdivision and amalgamation.

9C. The Director shall not approve a subdivision or amalgamation unless the following conditions are satisfied -

- (a) that the proposed subdivision or amalgamation would not contravene any restriction in the interest of which any of the affected parcel is subjected to;
- (b) that the proposed subdivision or amalgamation would not be contrary to the provisions of any written law for the time being in force, and that any requirements imposed with respect to the subdivision or amalgamation by or under any such law have been complied with;
- (c) that no item of land revenue is outstanding in respect of any affected parcel;
- (d) that consent in writing to the making of the application has been obtained from every person who at the time when the approval was applied for, was entitled to the benefit of –

- (i) a charge of an affected parcel;
 - (ii) a sublease of an affected parcel or any part thereof, other than, in the case of a subdivision, a part corresponding precisely with or included within one of the new parcel; or
 - (iii) a charge of such a sublease.
- (e) that where an amalgamation is proposed, each new parcel will have adequate internal means of communication not passing through common property;
 - (f) that, where a subdivision is proposed, each new parcel will have adequate means of access not passing through another parcel;
 - (g) the assignment of the proposed share units for the new parcels is equitable and has been accepted by the management corporation; and
 - (h) that views of the management corporation is obtained.

Application for subdivision or amalgamation.

9D. Any application for the approval of the Director to a subdivision or an amalgamation shall be made in writing to the Collector and shall be accompanied by –

- (a) such fee as may be prescribed;
- (b) a plan in triplicate, duly certified by a surveyor and showing all the details of the subdivision or amalgamation;
- (c) a statement from the applicant of the number of share units of a new parcel or parcels;
- (d) all such written consents to the making of the application as are required under paragraph (d) of section 9C; and
- (e) the issue documents of title of the affected parcel or parcels.

Share units.

10. Each parcel of any building or buildings subdivided under this Part shall have a share value, which —

- (a) shall be expressed in whole numbers, to be known as share units; and
- (b) shall be assigned by the owner of the lot and specified in his application in Form A of the First Schedule and approved by the Director.

PART III
THE SUBSIDIARY REGISTER

Preparation and maintenance of register of subsidiary title.

11. (1) The Registrar shall prepare and maintain for the purposes of this Enactment a register of subsidiary title, to be known as the subsidiary register.

(2) The subsidiary register shall consist of a series of files, each file relating to one lot, and every such file shall contain —

- (a) an index substantially in Form B of the First Schedule to the individual parcels comprised in the lot;
- (b) a statement substantially in Form C of the First Schedule which, subject to subsection (4), shall —
 - (i) set out (or, where appropriate, summarise) so far as they relate to matters capable of affecting any of those parcels, all memorials, endorsements and other entries which appeared on the register document of title to the lot at the time the statement was authenticated by the Registrar; or
 - (ii) confirm that there were no such entries;
- (c) the diagrams prepared pursuant to paragraph (c) of subsection (1) of section 8; and

(d) the register document of title to each parcel.

(3) The name of the management corporation, and the address for the service of documents thereon, required to be stated in the index in Form B of the First Schedule shall be supplied to the Registrar by the owner of the lot.

(4) For the purposes of the statement in Form C of the First Schedule, no account shall be taken of any lease or tenancy relating to a part of a building which corresponds precisely with, or is included within, one of the parcels created on the subdivision, or of any charge of, or lien over, such a lease; but any such lease, tenancy or charge shall be endorsed on the register document of title to the parcel in question.

Documents of subsidiary title.

12. (1) The documents of subsidiary title to be prepared by the Registrar in respect of any parcel within a subdivided building shall consist of —

- (a) a register document of title substantially in Form D of the First Schedule;
and
- (b) an issue document of title, consisting of a copy of the register document to which there shall be attached —
 - (i) the diagram prepared for that purpose under paragraph (c) of subsection (1) of section 8, and
 - (ii) where appropriate, a copy of the statement in Form C of the First Schedule.

(2) Every document of subsidiary title shall be prepared in the name of the person or body last registered as owner of the lot in question:

Provided that no document of any such subsidiary title shall be prepared to include any building or part of a building or space outside the boundaries of the lot and this shall be certified by a surveyor.

(3) The registration of register documents of subsidiary title shall consist of their authentication under the hand and seal of the Registrar; and the date of registration shall be inscribed by him on every such document.

Effect of opening file of subsidiary register.

13. (1) On authenticating the statement in Form C of the First Schedule required to be contained in any file of the subsidiary register, the Registrar shall make on the register and issue documents of title to the lot in question a memorial to the effect that the file has been opened, and that the common property is vested in the management corporation, and shall return the issue document of title to that management corporation.

(2) No entry shall thereafter be made on either document of title except one affecting the common property.

PART IV
THE MANAGEMENT CORPORATION

Establishment of a management corporation.

14. (1) As soon as a file of the subsidiary register is opened in respect of a subdivided building, a management corporation consisting of all the subsidiary owners shall be established for the building by the operation of this section and the Registrar shall notify the original owner of such establishment by issuing a formal certificate specifying the name of the management corporation, the identity of the lot and the date of establishment.

(2) The management corporation, under the name appearing in the file of subsidiary register relating to the building, shall be a body corporate having perpetual succession and a common seal.

(3) The management corporation shall elect a council which, subject to any restriction imposed or direction given by the corporation at a general meeting, shall perform the corporation's duties and conduct the corporation's business on its behalf and may for that purpose exercise any of the corporation's powers.

(4) The provisions of the Second Schedule shall have effect in relation to the management corporation and its council.

Restrictions on management corporation during initial period.

14A. (1) Notwithstanding any other provisions of this Enactment, the management corporation shall not, during the initial period —

- (a) amend, add to or repeal its by-laws in such a manner that a right is conferred or an obligation is imposed on one or more but not all owners or in respect of one or more but not all owners;
- (b) borrow any money or give any security; or
- (c) enter into any maintenance or service contract for any period extending beyond the expiration of the initial period.

(2) Without prejudice to any other remedy available against the original owner, if a management corporation contravenes subsection (1), the original owner shall be liable for any loss suffered by the management corporation or any parcel owner as a result of the contravention and the management corporation or any parcel owner may recover from the original owner as damages for breach of statutory duty, any loss suffered by it or him in consequence of such contravention.

Obligation of original owner to hold first annual general meeting.

14B. (1) It shall be the duty of the original owner to convene the first annual general meeting of the management corporation within three months after the expiration of the initial period.

(2) If the original owner fails to comply with subsection (1), he shall be guilty of an offence and shall be liable on conviction a fine not exceeding one thousand ringgit.

(3) Without prejudice to the provisions of subsections (1) and (2), if the original owner fails to convene the first annual general meeting within the specified period, the Director may, on application by the management corporation, an owner or chargee of a

parcel, appoint a person to convene the first annual general meeting of the management corporation within such time as may be specified by the Director.

(4) The original owner shall give a written notice of the first annual general meeting to all parcel owners constituting the management corporation not less than thirty days before the meeting.

(5) The agenda for the first annual general meeting shall include the following matters:

- (a) to decide whether to confirm, vary or extend insurances effected by the management corporation;
- (b) to decide whether to confirm or vary any amount determined as contribution to the management fund;
- (c) to determine the number of members of the council and to elect the council where there are more than three parcel owners; and
- (d) to decide whether to adopt, amend, add to or repeal the by-laws in force immediately before the holding of the meeting by virtue of the sale and purchase agreements with the original owner.

Ownership of common property and custody of issue document of title to the land.

15. (1) The management corporation on its establishment shall become the owner of the common property and the custodian of the issue document of title to the land.

(2) The management corporation shall have in relation to the common property the powers conferred by the provisions of the Land Ordinance [Cap. 68.] on an owner in relation to his land:

Provided that —

- (i) except where it is specifically provided otherwise, those powers may be exercised only on the authority of a unanimous resolution; and

- (ii) the management corporation shall not have power to transfer any portion of the common property which forms part of the building or of the land on which the building stands.

Pre-existing contracts.

16. The rights and liabilities of the original owner in a contract touching a subdivided building shall, to the extent that they were subsisting immediately before the subdivision, devolve upon the management corporation on its establishment.

Duty of vendor or assignee.

16A. Pending the formation of the management corporation it shall be the duty of the vendor or assignee of any unit in a building capable of being subdivided to notify an intending buyer or bidder of such unit, of all house rules, mutual covenants, the terms of the existing sale and purchase agreement and a statement of all contributions and other payments required to be paid before the bidder or purchaser can own an interest in such unit. In default, the vendor or assignee and every person who is knowingly a party to the default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Ringgit Malaysia five thousand.

Duties and powers of the corporation.

- 17.** (1) It shall be the duty of the management corporation —
- (a) to control, manage and administer the common property;
 - (b) to keep the common property in good repair;
 - (c) to pay the rent of the lot;
 - (d) unless otherwise directed by unanimous resolution, to insure the building to its replacement value against fire and to keep it so insured;
 - (e) to effect such other insurance of the building as may be required by law;

- (f) to insure against such other risks as the subsidiary owners may by unanimous resolution direct;
 - (g) to apply insurance moneys received by it in respect of damage to the building in re-building and re-instating the building, so far as it may be lawful to do so;
 - (h) to pay the premiums on any policy of insurance effected by it;
 - (i) to comply with any notice or order by a competent public, local or planning authority requiring the abatement of a nuisance on the common property or ordering repairs or other work to be done in respect of the common property; and
 - (j) where a notice or order of the kind mentioned in paragraph (i) is given or made in respect of any of the parcels, to comply with the notice or order if the subsidiary owner of the parcel fails to do so within a reasonable time.
- (2) The management corporation may —
- (a) purchase, hire or otherwise acquire movable property for use by the subsidiary owners in connection with their enjoyment of the common property;
 - (b) borrow moneys required by it in the exercise of its powers or the performance of its duties;
 - (c) secure the repayment of moneys borrowed by it (and the payment of interest thereon) by negotiable instrument, by a charge of unpaid contributions to the management fund (whether already levied or not), by a charge of any property vested in it or by a combination of any of those means; and
 - (d) do all things reasonable necessary for the performance of its duties under this Part.

(3) The management corporation may recover from a subsidiary owner any sum expended by it in respect of that owner's parcel in complying with a notice or order under paragraph (j) of subsection (1).

(4) The management corporation shall be deemed —

- (a) for the purpose of effecting any insurance under paragraphs (d) or (e) of subsection (1), to have an insurable interest in the building to its replacement value; and
- (b) for the purpose of effecting any insurance under paragraph (f) of that subsection, to have an insurable interest in the subject matter of the insurance.

(5) A policy of insurance taken out by the management corporation under this section in respect of the building shall not be liable to be brought into contribution with any other policy of insurance, except another policy taken out under this section in respect of the same building.

(6) The generality of this section shall not be prejudiced by any other provision of this Part conferring a power or imposing a duty on the management corporation.

Powers of Chairman of Local Authority to carry out duties of corporation.

17A. (1) Where the Chairman of the Local Authority is satisfied that the management corporation is not carrying out any of its duties or is not exercising any of its powers or is not conducting its business satisfactorily under this Enactment and he is of the opinion that such duties or powers must be carried out or exercised urgently or its business must be conducted satisfactorily and that immediate action must be taken with respect thereof, the Chairman of that Local Authority shall have the power to carry out such duties or exercise such powers or to conduct such business on behalf of the management corporation until such time an administrator is appointed.

(2) When the Chairman of the Local Authority has exercised the powers conferred upon him by subsection (1) he shall as soon as possible notify the management corporation concerned or every member thereof or the person responsible for the management of the subdivided building and the common property.

(3) Any expenses incurred by the Chairman of the Local Authority arising from the exercise of the powers conferred upon him by subsection (1) shall be charged upon the management fund of the corporation.

PART V
MANAGEMENT OF THE BUILDING

By-laws for regulation of the subdivided building.

18. (1) The by-laws contained in the Third Schedule shall have effect in relation to every subdivided building.

(2) The management corporation may by special resolution make by-laws (not being inconsistent with the by-laws contained in the Third Schedule) for regulating the control, management, administration, use and enjoyment of the building.

(2A) The by-laws shall be deposited with the Registrar of Titles and the fact that they are so deposited shall be endorsed on the subsidiary titles.

(3) The by-laws for the time being in force in respect of a subdivided building shall bind the management corporation and the subsidiary owners or any chargee in possession (whether by himself or any other person) or lessee or occupier of a lot or part thereof to the same extent as if they constituted properly executed agreements —

- (a) on the part of the management corporation with each subsidiary owner, chargee, lessee and occupier respectively; and
- (b) on the part of each subsidiary owner, chargee, lessee or occupier of a lot or part thereof with every other subsidiary owner, chargee, lessee or occupier and with the management corporation,

to observe and perform all the provisions of the by-laws.

(4) On the application of a subsidiary owner or any person or body authorised in writing by him, the management corporation shall make available for inspection the by-laws for the time being in force in respect of the building.

(5) No by-laws shall be capable of operating —

- (a) to prohibit or restrict the transmission, transfer, lease or charge of, or any other dealing with, any parcel of a subdivided building; or
- (b) to destroy or modify any easement expressly or impliedly created by or under the provisions of this Enactment.

(6) In subsection (5), “easement” includes a right or obligation created by section 24.

(7) In these by-laws, any reference to a parcel owner shall be construed as including an occupier of a parcel who is not the registered owner of the said parcel.

The management fund.

19. (1) The management corporation shall establish a fund for administrative expenses (herein referred to as “the management fund”) sufficient in the opinion of the management corporation for the purposes of controlling, managing and administering the common property, building maintenance, building improvement, sinking fund, paying rent, rates and premiums of insurance and discharging any other obligation of the management corporation.

(2) The management corporation may invest as it thinks fit any moneys in the management fund.

(3) For the purpose of establishing and maintaining the management fund, the management corporation may —

- (a) determine from time to time the amounts to be raised for the purposes mentioned in subsection (1); and
- (b) raise the amounts so determined by levying contributions on the subsidiary owners in proportion to the share units of their respective parcels.

(4) The management corporation shall on the application of a subsidiary owner, chargee or any person or body authorised in writing by him certify —

- (a) the amount of any contribution determined as the contribution of that owner;
- (b) the manner in which the contribution is payable;
- (c) the extent (if any) to which the contribution has paid; and
- (d) the amount of any rate paid in respect of that owner's parcel by the management corporation under section 21 and not recovered by it,

and in favour of any person or body dealing with that owner the certificate shall be conclusive evidence of the matters certified.

(5) A subsidiary owner on whom a contribution is levied under subsection (3) and, without prejudice to the conclusiveness of a certificate given under subsection (4), his successors in title shall be jointly and severally liable for the payment of contribution, which shall be recoverable accordingly by the management corporation:

Provided that such contributions shall not be personal to the owner and shall not be subject to the Limitation Ordinance [Cap. 72.].

(6) The management corporation may, at its absolute discretion, give to the Registrar or Collector notice in accordance with the provisions of the Land Ordinance [Cap. 68.] to have the sum of contribution due under subsection (5) or any other sum due under any written law registered as a charge on the subsidiary title to the parcel owned by a subsidiary owner.

- (7) The management corporation shall have the right to —
- (a) surcharge any parcel owner an amount of not less than 24% per annum on late payment of contribution;
 - (b) recover professional fees and other costs from any parcel owner after giving two weeks' notice in writing; and
 - (c) raise charges for particular services or expenses in respect of any parcel owner where only such parcels benefit.

(8) The original owner shall be liable to the management corporation for the contribution of all unsold parcels. The management corporation shall not, save by special resolution of the subsidiary owners, provide a lower rate of such contributions for unsold parcels.

Acquisition of additional land and acceptance of easements.

20. (1) The management corporation, if authorised by unanimous resolution, may —
- (a) acquire land outside the lot to be used for purposes connected with the building; or
 - (b) grant or accept the burden of an easement imposed on the lot for the benefit of some other land; or
 - (c) accept the benefit of an easement imposed in favour of the lot on some other land.

(2) Land outside the lot acquired under subsection (1) shall be treated and dealt with as if it were part of the common property:

Provided that land so acquired shall be held on a separate title and shall not be amalgamated with the lot.

(3) Where an instrument is executed by the management corporation in the exercise of its powers under subsection (1) —

- (a) the instrument shall be valid and effective without any execution by any subsidiary owner or other person or body having an interest in the land;
- (b) the receipt of the management corporation for any moneys payable to the corporation under the instrument shall be a good and sufficient discharge and shall exonerate the person or body paying the moneys from responsibility for the application thereof;

- (c) when the instrument is lodged for registration, it shall be endorsed with or accompanied by a certificate under the seal of the management corporation that —
 - (i) the resolution directing the transaction to which the instrument relates was duly passed; and
 - (ii) the transaction conforms to the terms of the resolution; and
- (d) a certificate given under paragraph (c) shall be in favour of the Registrar or a party to the transaction other than the management corporation be conclusive of the facts certified.

Management corporation register.

20A. The management corporation shall prepare and maintain a management corporation register showing all legal interests in each subsidiary parcel and the share units attaching to the said parcel.

Rating.

- 21.** (1) The management corporation shall —
- (a) within one month after its establishment, or within such further period as the rating authority may allow, supply the rating authority with two copies of the certified plans of the building and with the names and addresses of the council of the corporation and any appointed management agent; and
 - (b) keep the authority informed of any changes in the plan, names and addresses supplied under paragraph (a).
- (2) Where a rate is levied on the common property, the management corporation shall be liable to pay the rate.
- (3) Where a rate is levied on a parcel —
- (a) the management corporation shall be liable to pay the rate and may recover the sum paid from the subsidiary owner; and

- (b) if the management corporation makes default in paying the rate, the rating authority (without prejudice to its rights against the management corporation or to the exercise of any remedy which may be available under any written law) —
 - (i) may serve upon the subsidiary owner a copy of the notice of assessment together with a notice requiring him to pay the rate; and
 - (ii) if he fails to pay the amount due, may recover it from him.

(4) For the purposes of imposing rates, the rating authority may, notwithstanding the provisions of the preceding subsections, levy rates on the common property and the parcels as a whole and recover the rates from the management corporation, which may then recover the amount paid under this subsection to the rating authority from the subsidiary owners in proportion to the share units of their respective parcels.

Termination of subdivision.

22. (1) The management corporation, where —

- (a) the building is totally destroyed; or
- (b) the subsidiary owners seek to demolish the building, or in the case of a building which has been partially destroyed, the remaining parts of the building; or
- (c) there is only one subsidiary owner,

may be directed by unanimous resolution to take action to terminate the subdivision of the building, and the corporation if so directed shall lodge with the Registrar for registration a notification in Form E of the First Schedule, together with the issue documents of title of the building and the parcels.

(2) On receipt of a notification under subsection (1) the Registrar shall make a memorial of the notification in the register and the subsidiary register, and shall inform the Government surveyor that he has done so.

(3) On the making of a memorial under subsection (2) in respect of a subdivided building —

- (a) the subdivision shall be terminated and the subsidiary owners shall cease to be owners of the parcels; and
- (b) the management corporation shall become the owner of the lot as the trustee of the former subsidiary owners.

(4) Where the management corporation becomes the owner of the lot under subsection (3) —

- (a) any registered charge on a parcel which existed immediately before the termination of the subdivision shall be converted into a personal obligation of the chargor to pay to the chargee what is due under the charge;
- (b) each of the former subsidiary owners shall continue to be a member of the corporation, having the same voting rights as he had immediately before the termination of the subdivision;
- (c) the corporation shall hold and manage the lot for the benefit of the former subsidiary owners;
- (d) the former subsidiary owners may by unanimous resolution direct the corporation to transfer the lot to any one or more of the former subsidiary owners or to any other person or body; and
- (e) the corporation shall distribute any profits arising from its ownership of the lot (including any purchase money received on a transfer) to the former subsidiary owners proportionately to the share units which they held immediately before the termination of the subdivision.

(5) Notwithstanding the termination of a subdivision under this section, the relevant set of files of the subsidiary register shall continue in existence while the management corporation remains the owner of the lot and may be used in evidence as a record of matters relating to the subdivision before its termination.

(6) Where the management corporation, having become the owner of the lot under subsection (3), transfers the lot in pursuance of a direction under paragraph (d) of subsection (4) —

(a) the management corporation shall continue in existence for so long as is reasonably necessary to wind up its affairs and shall then cease to exist; and

(b) the Registrar shall cancel the relevant book of the subsidiary register.

(6A) A court of competent jurisdiction, if it is satisfied that the justice of the case so requires —

(a) may on the application of the management corporation, an owner or a registered chargee of a parcel make an order —

(i) directing the management corporation to take action under subsection (1) notwithstanding the absence of a unanimous resolution; or

(ii) prohibiting the management corporation from taking action under subsection (1) notwithstanding a direction given by unanimous resolution; and

(b) where the management corporation has transferred the lot in pursuance of a direction under paragraph (d) of subsection (4), may on the application of the management corporation, a former owner or a former chargee make an order for the winding up of the affairs the management corporation.

(7) In this section —

“former chargee” means a person who, or a body which, immediately before the subdivision of a subdivided building is terminated under this section, is the registered chargee of a parcel in the building;

“former owner” means a person who, or a body which, immediately before the subdivision of a subdivided building is terminated under this section, is the

proprietor of a parcel in the building or of a provisional block on the land on which the building is situated; and

“former subsidiary owner” means a person who, or a body which, immediately before the subdivision of a subdivided building is terminated under this section, is the subsidiary owner of a parcel in the building.

PART VI
RIGHTS AND OBLIGATIONS ATTACHING TO
INDIVIDUALS PARCELS

Rights of subsidiary owner in his parcel and in common property.

23. (1) Subject to this section and the other provisions of this Part, a subsidiary owner shall have —

- (a) in relation to his parcel, the powers conferred by the provisions of the Land Ordinance [*Cap. 68.*] on an owner in relation to his land; and
- (b) in relation to the common property, the right of user which he would have if he and the other subsidiary owners were co-owners thereof.

(2) No rights in a common property shall be disposed of by a subsidiary owner except as appurtenant to a parcel, and any disposition of a parcel by a subsidiary owner shall without express reference include a like disposition of the rights in the common property which are appurtenant to the parcel.

Rights of support, service and shelter.

24. (1) In favour of and against each subsidiary owner there shall be implied a right of support and a right of service.

(2) Each subsidiary owner shall be entitled to have his parcel sheltered by all such parts of the subdivided building as are capable of affording shelter and may, for the purpose of replacing, renewing or restoring any such shelter, enter upon the common property or any other parcel.

(3) The rights and obligations mentioned in subsections (1) and (2) shall be effective without memorial or notification in the subsidiary register, and there shall be implied in respect of them such ancillary rights and obligations as are reasonably necessary to make them effective.

(4) In this section —

“right of support” means a right to subjacent and lateral support by the common property and by every other parcel capable of affording support;

“right of service” means rights to the passage or provision of water, sewage, drainage, gas, electricity, garbage, artificially cooled, cooled or heated air and other services (including telephone, radio and television services) through or by means of pipe, wires, cables or ducts.

Restriction on voting rights.

25. (1) Where a subsidiary owner is for any reason unable to control his property, the powers of voting conferred on him by the Second Schedule shall be exercisable by the person who is for the time being authorised by law to control that property.

(2) Where a subsidiary owner's interest is subject to a registered charge, the powers of voting conferred on him by the Second Schedule shall, unless it is otherwise agreed between him and the chargee first entitled in priority, be exercisable by that chargee either personally or by proxy.

PART VII
MISCELLANEOUS

Power of Court to order or prohibit the management corporation to take action.

26. Where under this Enactment the management corporation is required to take action or may take action only on the direction or authority of a unanimous resolution, then the court, if it is satisfied that the justice of the case so requires, may, on the application of a subsidiary owner or subsidiary owners holding not less than seventy-five per cent of the total share units of a subdivided building, make an order either directing the management corporation to take

action or prohibiting the management corporation from taking any action under the relevant provisions of this Enactment notwithstanding the absence or the direction or authority as the case may be, of a unanimous resolution.

Service of documents.

27. (1) The management corporation shall cause to be conveniently available at or near the front of the building a receptacle suitable for the purposes of postal delivery, with the name of the management corporation clearly designated thereon.

(2) Without prejudice to any other method of service, a document may be served on the management corporation by placing it in the receptacle mentioned in subsection (1) or by sending it by post enclosed in a pre-paid letter addressed to the management corporation at the address shown in the book of the subsidiary register relating to the building.

(3) A document may be served on a subsidiary owner by sending the document by registered post to the subsidiary owner at the address registered under by-law 7 contained in the Third Schedule to this Enactment.

Offences by the corporation.

28. If default is made by the management corporation in complying with —

- (a) paragraph (i) of subsection (1) of section 17; or
- (b) paragraph (j) of subsection (1) of section 17; or
- (c) subsection (4) of section 18; or
- (d) subsection (1) of section 21; or
- (e) subsection (1) of section 27,

the management corporation and every member of its council who is knowingly a party to the default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Ringgit Malaysia five thousand.

Rules.

29. The Minister may make rules generally for carrying out the provisions of this Enactment, and in particular but without prejudice to the generality of the foregoing, such rules may provide for the fees to be paid for any procedure or function required or permitted to be done under this Enactment and the remission of such fee.

Amendment of the Schedules.

30. The Yang di-Pertua Negeri may by order published in the *Gazette* amend the Schedules to this Enactment.

Cap 68 Land Rule 25

All dues have been paid, viz:

Fees RM sen

Receipt No.

Date

and up to and including

the current year 20

All quit rent

All other dues

Education

Signed:
Collector of Land Revenue.

THE LOCAL GOVERNMENT ORDINANCE, 1961

Certificate issued under Section 98

(a) I certify that all amount/s (if any) due to the:—

hereafter called the Authority, being the Authority having jurisdiction over the land described in (Title No. to which the transaction overleaf relates) by the owner(s) or occupier(s) of the said land and property on the said land during the three years immediately preceding the date of this certificate in respect of rates made or assessed on the value of such land and property and charges for sewerage, sanitary, refuse removal or other services rendered in relation to such land and property.

Viz: rate, etc. RM sen Receipt No. Date

have been paid; and

(b) all amounts (if any) due by the owner/s or occupier/s of such land and property on account of expenses incurred or advances made by the Authority in relation to such land and property under the provisions of the Local Government Ordinance, 1961.

Viz: Description RM sen Receipt No. Date

have been paid.

Date of this certificate *

Signed
Chairman or Executive Officer of the Authority.

*Registration of the transaction overleaf cannot be effected more than twenty-eight days after the date of this certificate.

Subsidiary Title No.	Parcel No.	Area Unit	Accessory Parcel No.	Area	Share Units	Remarks
Total:						

(a) numbers only (no alphabetic characters)

(b) parcel number consists of five numeric digits of the form **ABCDEF**GH I where:

ABC = building number within the subdivision, starting from 1 as the first, 2 as second, etc.

DE = storey number (ground floor = 00)

FGH = unit number within the storey.

I = parcel type number with 0 denoting main parcel, 1 to 9 each or more

Storey No. :

Subsidiary Title No.	Parcel No.	Plan Folio No.	Share Units	Remarks
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39

FIRST SCHEDULE
FORM C
(Section 11)
SUBSIDIARY REGISTER STATEMENT
Extract from Register

of Main Title No.
covering subsidiary titles
from No. to No.

The copy of the main title in the appended schedule contains all those memorials, endorsements and other entries, appearing this day in the register document of the above title, which relate to matters capable of affecting any of the parcels from this day held by title subsidiary thereto, not being matters capable of affecting one only of these parcels.

Dated this day of 19

Registrar.

LAND (SUBSIDIARY TITLE) ENACTMENT 1972
FIRST SCHEDULE
FORM D
(Section 12)

This SUBSIDIARY TITLE

REGISTERED NO. (TITLE NO.)

made on (day of month of year 19)
between the Director of Lands and Surveys for and on behalf of the Government of the State of Sabah (hereinafter called the "Director") and

..... Decimal share
(Name No.) (name maximum 32 characters) (if more than one owner)

(hereinafter called "subsidiary owner/s" which term shall include executor/s, administrator/s and assignee/s); WITNESSETH that, in consideration of the submission of an application for a subdivided building (Form A) duly completed and signed by the original owner/s of the lot whose area and the number of whose present title (hereinafter called the main title) is specified in the Schedule hereto, the Director hereby demises to the said subsidiary owner/s all that parcel of the building hereby subdivided shown as parcel No. (Parcel No.) of (share in numbers) ((share in words)) share units, delineated in the diagram drawn in the Schedule hereto and more particularly shown on the certified plan No. (plan No.) deposited in the office of the said Director TO HAVE AND TO HOLD for the period

from (day of month of year)
to (day of month of year)

subject to—

- (1) the provisions and conditions of the Land (Subsidiary Title) Enactment 1972;
- (2) the provisions and conditions of the by-laws relating to the said building;

- (3) the special terms and conditions of the said main title shown in the Subsidiary Register Statement (Form C); and more particularly;
- (4) the special terms and conditions herein; and
- (5) the memorials, endorsements, other entries and any subsequent dealing registered below.

By virtue of this subsidiary title and said subsidiary owner also enjoys voting rights in the management corporation proportionate to the share units of this parcel in relation to the total share units specified in the Schedule hereto, of all subdivided buildings within the lot of the main title.

Special Terms and Conditions

Schedule

Total number of share units of all Subsidiary Titles of all subdivided buildings in the Management Corporation (in numbers and words)

DIAGRAM OF PARCEL

District of (District)

Locality:

Approximate scale:

Main Title

No. :

Area :

Geo Code

Examined for

Schedule

by :

dated :

Terms

by :

dated :

IN WITNESS WHEREOF, I the said Director and I/we the said subsidiary owner/s have hereunto set our hands this day of, 19 owner/s Attestor/s to signatures of owner/s and the

Director as authorised under section 97 of the Land Ordinance.

PRINT NAME SIGNATURE PRINT NAME DESIGNATION SIGNATURE

.....
(owners name)

DIRECTOR
REGISTERED

This day of, 19

Registrar of Titles

Memorials, Endorsements, other Entries and Subsequent Dealings:

**FIRST SCHEDULE
FORM E
(Section 22)
NOTIFICATION OF INTENDED
TERMINATION OF SUBDIVISION
OF SUBDIVIDED BUILDING**

District Type
Code Code Serial Number CD

.....
(CL/TL)

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To the Registrar

REGISTERED									
Register	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								
Memo No.	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								
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Date:	<table border="1" style="display: inline-table;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table> DD M M Y Y								
Nature: Notification of Intended Termination of Subdivision of Subdivided Building.									
By:	Management Corporation								
To:	Registrar								
..... Registrar									

Take notice that the land described in the title as numbered above, of area

acres/sq. ft., at contains a subdivided building and that

--	--	--	--	--	--	--	--	--	--

(Registered No.)

.....
(Name)

being the management corporation of the said subdivided building, has been directed by unanimous resolution to take action to terminate the subdivision.

2. As required by subsection (1) of section 22 of the Land (Subsidiary Title) Enactment 1972, this notification is accompanied by the issue documents of title of the above-mentioned land and the parcels comprised therein.

The common seal of the Corporation was affixed hereto on the day of, 19 in the presence of

Members of the Council

SECOND SCHEDULE
(Section 14)
MANAGEMENT CORPORATION

Interpretation.

1. In the application of this Schedule to any particular management corporation —

“corporation” means the management corporation in question;

“council” means, in relation to a management corporation, the council of the management corporation elected under section 14(3);

“general meeting” means a general meeting of the corporation;

“member” means registered owner of a subsidiary title who automatically becomes a member of the management corporation and, if a subsidiary title has more than one registered owner, all of them shall constitute only one member;

“owner” means a subsidiary owner of a parcel who is a member of the corporation.

First annual general meeting.

- 1A. The original owner may hold the first annual general meeting sitting by himself where he may make by-laws in accordance with the terms of a sale and purchase agreement.

Composition of council, election of members and tenure of office.

2. (1) Subject to this paragraph, the council shall consist of not less than three nor more than seven owners, who shall be elected at each annual general meeting and shall cease to hold office at the next annual general meeting.

- (2) Where —

- (a) the first annual general meeting has not yet been held the owner shall on their own comprise the council; and
- (b) there are not more than three owners the council shall consist of all the owners.

(3) The council shall appoint a Chairman and a Deputy Chairman at its first meeting.

(4) Except where the council consists of all the owners, the corporation may at any time by resolution at an extraordinary general meeting remove any member of the council from office and appoint another owner in his place to hold office until the next annual general meeting.

(5) A member of the council may resign his office at any time by writing under his hand addressed to the corporation.

(6) Where a vacancy in the membership of the council occurs otherwise than by the operation of subparagraph (1) or (4), the remaining members may appoint another owner to be a member until the next annual general meeting.

(7) Members of the council shall be eligible for re-election or re-appointment.

Meetings of council.

3. The council shall meet at least once a year at such times and places and at such intervals as it thinks fit:

Provided that any member of the council may convene a meeting by appointing a date for the meeting and giving the other members not less than seven days notice of the date appointed.

Procedure at meetings of council.

4. (1) Except where there is only one owner, a quorum at meetings of the council shall be —

- (a) two, where there are not more than four members;
- (b) three, where there are five or six members; and
- (c) four, where there are seven members.

(2) Questions arising at meetings shall be decided by simple majority vote.

(3) Every meeting of the council shall be presided over by the Chairman or in his absence by the Deputy Chairman or in the absence of the Chairman and Deputy

Chairman by a member elected by the members present from one of their number and the presiding member shall have a casting vote as well as an original vote.

(4) Subject to this paragraph, the council may regulate its own procedure at meetings.

Delegation of council's powers and duties.

5. Subject to any restriction imposed or direction given by the corporation at a general meeting, the council may —

- (a) delegate to any one or more of its members the exercise of any of its powers or the performance of any of its duties; and
- (b) revoke the delegation at any time.

Members' remuneration.

6. Members of the council may be paid such remuneration as may be determined by the corporation in a general meeting.

Council's power to employ agents and servants.

7. The council may employ for and on behalf of the corporation such agents and servants as it thinks fit in connection with the exercise of the powers and the performance of the duties of the corporation.

Minutes and accounts.

8. (1) The council shall keep minutes of its proceedings and shall cause minutes to be kept of general meetings.

(2) The council shall —

- (a) cause proper books of account to be kept in respect of all sums of money received and expended by it, specifying the matters in relation to which the receipts and expenditure take place;
- (b) cause books of account to be duly audited annually by such approved company auditor as defined under the Companies Act

1965 [Act. 125.] as may be appointed by the corporation in a general meeting; and

- (c) on the application of an owner or a chargee of a parcel (or any person authorised in writing by him) make the books of account available for inspection at all reasonable times.

(3) The council shall prepare for each annual general meeting proper accounts relating to all moneys of the corporation and the corporation's income and expenditure and shall table the accounts, duly audited, at the annual general meeting.

Annual general meetings.

9. (1) The Corporation shall hold an annual general meeting for the consideration of audited accounts, the election of the council and the transactions of such other business as may arise.

(2) The first annual general meeting shall be held within three months after the establishment of the corporation and subsequent annual general meetings shall be held once in each year:

Provided that not more than fifteen months shall elapse between the date of one annual general meeting and the next.

Extraordinary general meetings.

10. (1) A general meeting other than the annual general meeting shall be known as an extraordinary general meeting.

(2) The council —

- (a) shall convene an extraordinary general meeting upon a requisition in writing made by owners who are together entitled to at least twenty-five per cent of the share units; and
- (b) may convene such a meeting on such other occasions as it thinks fit.

Notice of general meeting.

11. Thirty days notice of any general meeting specifying the place, date and hour of the meeting and the general nature of the business to be transacted, shall be given to every owner and every first chargee of a parcel in the building (being a chargee who has notified his interest and address to the corporation).

Quorum at general meeting.

12. (1) No business shall be transacted at any general meeting of a management corporation unless a quorum of members is present.

(2) For the purposes of this paragraph, the number of subsidiary owners present at a general meeting either in person or by proxy and who own not less than 50% of share units shall form a quorum.

(3) If within half an hour appointed for holding a general meeting, no quorum of subsidiary owners is present, the general meeting, not being a general meeting convened on receipt of requisition by members, may be held as if a quorum is present if there are two or more subsidiary owners present in person.

Chairman of general meeting.

13. Every general meeting shall be presided over by the Chairman of the council or in his absence the Deputy Chairman of the council or in the absence of both by any person elected from among themselves by those persons present who are entitled to vote.

Manner of deciding questions at general meetings.

14. (1) A resolution at a general meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded, in which case such resolution shall be decided by poll without the demand being put to vote.

(2) Unless a poll is demanded, a declaration by the Chairman that a resolution has been carried on a show of hands shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(3) A demand for a poll may be withdrawn.

(4) Where a poll is taken, it shall be taken in such manner as the Chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(5) In the case of an equality of votes (whether on a show of hands or a poll) the Chairman or any person presiding the meeting shall be entitled to a casting vote in addition to his original vote.

Proxies.

15. (1) On a show of hands or a poll, votes may be cast either personally or by proxy.

(2) An instrument appointing a proxy (who need not be an owner) shall be in writing under the hand of the person making the appointment or his attorney, and may be either general or for a particular meeting.

Voting rights of owners.

16. Each owner who is not a co-owner shall have one vote on a show of hands and on a poll shall have such number of votes as corresponds with the number of the share units attaching to his parcel:

Provided that, except where a unanimous resolution is required, no owner shall be entitled to vote at a general meeting unless all contributions to the management fund of the corporation in respect of his parcel have been duly paid or the sums due have been registered as a charge under subsection (6) of section 19.

Voting rights of co-owners.

17. (1) Co-owners may vote by means of a jointly appointed proxy.

(2) In the absence of a proxy, co-owner shall not be entitled to vote on a show of hands except where a unanimous resolution is required:

Provided that any one co-owner may demand a poll.

(3) On a poll each co-owner shall be entitled to such number of the votes attaching to his parcel as is proportionate to his interest in the parcel.

Common seal.

18. The common seal of the corporation shall not be used except on the authority of the council previously given and in the presence of at least two members of the council, who shall sign the instrument to which the seal is affixed:

Provided that, where there is only one member of the corporation, his presence and signature shall be sufficient.

Special resolution.

19 (1) A special resolution of the corporation is a resolution passed at a general meeting of which at least forty days notice specifying the proposed special resolution has been given by the council or by the owners who are together entitled to not less than three-quarters of the share units.

(2) If after sixty minutes appointed for holding a general meeting where a special resolution is intended to be passed, no quorum of subsidiary owners is present, the members present shall constitute a quorum.

(3) The votes cast in favour by members present at the meeting and who collectively hold not less than three-quarters of the total share units of all the members present at the meeting shall be required to pass a special resolution. For the purpose of this subsection a member voting by proxy, post or by any means of communication applicable to the council shall be deemed to be present at the meeting.

THIRD SCHEDULE

(Section 18)

BY-LAWS FOR THE REGULATION OF SUBDIVIDED BUILDINGS

Interpretation.

1. (1) In the application of these By-laws to any particular subdivided building —

“building” means the building in question;

“corporation” means the management corporation of the building;

“parcel” means a parcel in the building:

“owner” means each and every subsidiary owner;

“subsidiary owner” means a subsidiary owner of a parcel in the building.

(2) Except in by-law 7, references in these By-laws (however expressed) to a subsidiary owner shall, in the case of a parcel occupied by a person who is not the subsidiary owner, be construed to include references to the occupier.

Access of parcels.

2. The owner shall permit the corporation and its agents at all reasonable times and on giving reasonable notice (or, in an emergency, without notice) to enter his parcel for the purpose of —

- (a) inspecting the parcel;
- (b) maintaining, repairing or renewing roofs, pipes, wires, cables, chutes and ducts used in connection with the enjoyment of any other parcel or the common property;
- (c) maintaining, repairing or renewing the common property; or
- (d) executing any work or doing any act reasonably necessary for or in connection with the performance of its duties or the enforcement of these By-laws or other by-laws affecting the building.

Work ordered by public or local authority.

3. The owner shall forthwith carry out all work ordered in respect of his parcel by a competent public or local authority.

Repair and maintenance of parcel.

4. The owner shall repair any damage to his parcel and maintain it in a state of good repair:

Provided that this by-law shall not apply in the case of damage due to reasonable wear and tear or damage caused by fire, storm, tempest or act of God.

Manner of using common property.

5. The owner shall use and enjoy the common property in such a way as not to interfere unreasonably with the use and enjoyment of the common property by the other subsidiary owners or their families or visitors.

Manner of using parcel.

6. The owner shall not use his parcel in such a way as to cause nuisance or danger to any other subsidiary owner or his family.

6A. The owner shall not make any alteration to the external walls and balconies of his parcel or to the windows and doors installed in the external walls of the building without having obtained the approval in writing of the management corporation, in addition to the approval from any authority.

Notification of intended change of ownership and other management.

7. The owner shall forthwith inform the corporation of —
- (a) any intended change in the ownership of his parcel;
 - (b) any other dealing with the parcel of which he is aware; and
 - (c) the address or any change of address for the purposes of service of notice on him.

Management of common property for common benefit.

8. The corporation shall control, manage and administer the common property for the benefit of all the owners:

Provided that subject to by-law 9, the corporation may by agreement with a particular subsidiary owner grant him the exclusive use and enjoyment of part of the common property or special privileges in respect of the common property or part of it.

Conditions of grant of the exclusive use and enjoyment of the common property.

9. Except on the authority of a unanimous resolution, the corporation shall not grant any owner the exclusive use and enjoyment of the common property or any part thereof unless such grant —

- (i) shall be of a temporary nature;
- (ii) shall not result in any radical alteration thereto the effect whereof shall change the character of the common property or that part thereof; and
- (iii) shall not be detrimental to the general interest and enjoyment of the owners.

Maintenance of fixture and fittings.

10. The corporation shall maintain in a state of good and serviceable repair the fixtures and fittings (including lifts) existing on the lot and used or capable of being used in connection with the enjoyment of more than one parcel or the common property.

Lawns and gardens.

11. The corporation shall keep clean and tidy the common property and where practicable, shall establish and maintain suitable lawns and gardens on the common property.

Maintenance of pipes, wires, etc.

12. The corporation shall maintain, repair and (where necessary) renew roofs, pipes, wires, cables, chutes, ducts and other amenities existing on the lot and used or capable of being used in connection with the enjoyment of more than one parcel or the common property.

Production of insurance policies and receipts.

13. On the written request of the owner or a registered chargee of his parcel, the corporation shall produce to the owner or chargee, as the case may be (or to a person authorised in writing by the owner or chargee) all policies of insurance effected by the corporation, together with the receipts for the last premiums paid in respect of the policies.

Provision of amenities or services to particular parcel.

14. The corporation may make an agreement with a particular subsidiary owner for the provision of amenities or services by the corporation to or in respect of his parcel.