

## PROPERTY Q&amp;A

We give you the right answer

## Q/A 1

**Mior@Damansara:** I am a property investor with a few residential properties in my portfolio. I have been thinking of diversifying into shop lots. Any tips on the shop lot market?

**RED:** Commercial properties are unlike residential properties that rely purely on location, supply and demand, although these key factors are essential in all types of properties. Investing in the commercial property market such as shop lots is based on potential rental yields which are dependent not just on the location of the shop lots, but also the nature of the businesses that can be located in the shop lots. For example, an established business or franchise that has the potential for huge sales turnover would not mind paying high rentals in locations such as KLCC or Mid Valley where there is consistent foot fall or visitor traffic. On the other hand, places in other locations might not be able to fetch high rentals even though they are strategically located. Investing in commercial properties such as shop lots is something that needs professional advice. If an investor gets the right location with good yield, it could be a success. **By Gavin Tee, property investment consultant**



## Q/A 2

**Mary T.@George Town:** With the property market booming, there are so many real estate agents flooding the market. Is it really necessary to engage a property agent and what are the benefits?

**RED:** It depends on whether you are a seller or buyer in the secondary (sub-sale) market. In the primary market, you buy directly from the developer or their marketing agents. Sellers in general have to pay commissions to the agent. Unless you have the time to bring prospective buyers to view the intended unit for sale and negotiate the terms of sale, it's better to leave this in the hands of a licensed property agent who specialises in your area. An experienced one is trained to get the best price for you (since his commission depends on the final purchase price). He may also already have a list of interested buyers, so your property would likely be sold faster. If you are a buyer, all you need to do is to go through the classifieds in the newspapers and/or property portals. You do not need to pay the agent any commission unless otherwise agreed between you and the seller, which may be the practice in some states. The benefits? Saves you the time and hassle. **By Jan Yong, Editor, NST RED**

**Ask the RED-expert:** Please fax your questions to: 03-2283 1700 or email to [nstred@mediaprima.com.my](mailto:nstred@mediaprima.com.my)



# Time to set up Tenancy Act

**RENTAL ISSUES:** Pretam argues that as more and more people rent due to skyrocketing house prices, now is the right time to set up an Act to deal with tenancies

**PRETAM SINGH DARSHAN SINGH**



The need to have a Residential Tenancy Act to regulate the conduct of both the tenant and the landlord is becoming more pressing as more and more people rent instead of buy due to the skyrocketing prices of homes. The Act may initially cater to residential premises only but can later be extended to all forms of tenancies.

Essentially, this piece of legislation protects residential tenants from unlawful rent increases and evictions, establishes a framework for the regulation of residential rents, balances the rights and responsibilities of residential landlords and tenants and provides for the adjudication of disputes by way of a tribunal.

It is quite common to hear of tenants running away without paying rent and incurring a host of unpaid charges such as electricity, water and IWK (Indah Water Konsortium) charges, and in some instances maintenance charges. Sometimes landlords have problems removing errant tenants.

There are some unscrupulous landlords who raise rents indiscriminately especially in respect of hot properties where rents keep going up.

Similar to the standard Sale & Purchase Agreement provided for under the Housing Development (Control and Licensing) Act 1966, there ought to be a standard statutory Tenancy Agreement which takes into consideration both the interests of the landlord as well as the tenant.

The tenant will be assured of his right to living peacefully in the premises and his right to repair and maintenance by the landlord. At the same time, the tenant will also be made aware of his responsibility to pay rent on time and to keep the premises in good habitable condition, as well as not to use the premises for any immoral purposes, etc.

On the landlord's part, he does not have the right to increase rent indiscriminately as all increases should be tied up to the rate of inflation, etc. The Act can also set the deposit that is to be paid by the Tenant, the termination notice period and under what circumstances termination can be effected.

#### Tenants Association

There are many advantages to creating a Tenants' Association in your building which can be part of a larger area association. By having people involved in your building, you can share information such as stories about people being illegally evicted or having to pay illegal fees. This can give you advance notice before it happens to you and would prepare you and your fellow tenants to fight it. Also, if you are in conflict with the landlord, it helps to be able to talk to others going through the same thing.

There is safety in numbers. The landlord is less likely to try to do something improper if he knows that there is a Tenants' Association in that building which is monitoring what they are doing and will work as a group to fight them.

To fight for your rights, you must first know what your rights are. It is a lot easier for tenants as a group to get information on their rights and share it rather than for each individual to try to get that information separately.

#### Landlord and Tenant Tribunal

It is also timely to set up a Landlord and Tenant Tribunal under the proposed Act to adjudicate disputes between landlords and tenants. This

tribunal will be similar to the existing Consumer Claims Tribunal and Home Buyers Tribunal.

This quasi-judicial tribunal will seek to:

- Harmonise relationships between landlords and tenants in the rental housing sector and provide accessible mechanisms to landlords and tenants which will enable them to resolve their disputes;
- Resolve disputes that arise due to unfair practices;
- Inform landlords and tenants about their rights and obligations under the proposed Residential Tenancy Act; and
- Make recommendations to relevant stakeholders.

#### Its objectives will be to:

- promote stability in the rental housing sector;
- create mechanisms to deal with disputes in the rental housing sector;
- facilitate, mediate and conduct hearings to resolve disputes; and
- inform landlords and tenants of their rights and obligations should unfair and unlawful practices arise.

#### Other types of disputes dealt with by the tribunal include:

- Failure to adequately maintain the rental property;
- Unlawful repossession of property and unlawful evictions;
- Failure to accept notice and to vacate the premises;
- Unlawful notices to vacate;
- Unilateral changes to agreements;
- Failure to provide monthly statements or issue receipts;
- Unlawful seizure of possessions;
- Failure to provide municipal services;
- Non-refund of deposits;
- Problems that arise due to tenancies that are not in full compliance with the law;
- Non-payment of rent;
- Harassment and intimidation;
- Eviction without a tribunal order and lock outs;
- Overcrowding;
- Exploitative rent and service charges;
- House rules; and
- Service cuts-offs without a tribunal order.

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