

The Delay in The Issuance of Subsidiary Title in Sabah

Melanie Chang Yung Huei, Salfarina Binti Samsudin

Faculty Built Environment And Surveying, Universiti Teknologi Malaysia Malaysia

To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v14-i4/21357>

DOI:10.6007/IJARBSS/v14-i4/21357

Published Date: 09 April 2024

Abstract

The subsidiary title is monitored under the Sabah subsidiary regulation, Land (Subsidiary Title) Enactment 1972. Subsidiary title delay issuance from the Lands and Surveys Department has become a long argument between the government sector and strata scheme ownership. According to the NAPIC Property Report 2022, 104,368 strata properties were developed inside the Sabah market. Nevertheless, in the past, the Sabah Lands and Surveys Department has recorded that only 28,539 subsidiary titles have accomplished release towards 204 strata schemes. Despite that, these released subsidiary title performances from the Department indicated that strata schemes without subsidiary title issues were still ongoing until several strata owners faced an argument such as needing to be more successful in re-loan financial, strata management not being responsible by any parties, and another effect. The theory and discussion have been determined inside the industry. However, the objective of the research studies arises: 1) To examine factors causing the delays in the issuances of the subsidiary title in Sabah. Regarding the Sabah Lands and Surveys Department and applicants as the respondents of the research studies, this study has carried out qualitative methods, which will be implemented for the data collection through interviews with the respondents. Through the interview session with the respondents, they pointed out six of the factors often notified by the respondents during the subsidiary title procedure, which are the submission of master title, amendment approval development plan (DP), occupancy certificate (OC), delay approval, approval period from the District Surveyor, limitation of Sabah Land and Surveys Department's printing system as well as the accumulated land revenue by the applicant. Each of the above has influenced the procedure of the subsidiary title.

Keywords: Land (Subsidiary title) Enactment 1972, Delay Issuance, Subsidiary Title, Sabah

Introduction

Regarding the new generation, Malaysia, like other developed and developing countries, has a pertinent global concern regardless of the land-scarce resources as multiple land uses are increasing yearly. The migration of citizens from rural to urban areas for residential, public amenities, commercials, and other urban land uses (Zhang, 2016). As a

result, stratified development is being developed in urban areas to suit the needs and social expansion of the urban population and to lessen the lack of residential development. Therefore, different categories of property ownership are offered inside a single structure through stratified development, and a vertical form of housing is satisfactory for the current population. From the limitation of land, half of the portion has been utilised by the developing multi-story building, which implements numerous ownership for various developments like residential, commercial, service apartments, and apartments. Despite that, stratified development in Malaysia has improved over the years and has become typical in optimising land sources. Based on the Jabatan Penilaian dan Perkhidmatan Harta (JPPH) data, the total newly launched strata development is 2,009 units. Hence, the strata development inside the Malaysian estate market has to display a favourable situation whereby about 1,444,858 strata titles for separate parcels are already registered (JKPTG,2020). The increasing strata development, where it comes to the delayed issuance of strata title, is always a prevailing matter that continuously comes forward to the land office for an efficient solution that satisfies the best win-win situation for each body involved. However, it took a protracted period to overcome it. In Malaysia, all strata property will refer to the Malaysia Strata Title known as STA 1985. The subdivision of buildings or land on shared properties is allowed under the STA 1985. The subdivision application process, registration, issuance of strata titles, maintenance of the stratum scheme following the distribution of strata titles, and management of the strata titles board are all covered by the STA 1985.

In Sabah, strata title will be known as a subsidiary title under the Land (Subsidiary Title) Enactment 1972. However, all of the matters of strata properties will be referred to under Cap 68, which are several sections that the Land and Survey Department of Sabah will focus on and emphasise during the application procedure. The title can be categorised into a native Title, Town Lease, Country Lease, Residential Reserve, Field Register, and Provisional Lease. Throughout the act and regulation, the Sabah government smoothly oversees land matters. The Enactment 1972 was an area that should be revised to solve many of the problems faced inside Sabah, especially by the residents, which included the delay in the issuance of the subsidiary titles, subsidiary title problems, and the problems that might arise with the management corporation. The delay endorses of the subsidiary title for the stratified scheme in Sabah is always a complicated matter for the Sabah Lands and Surveys Department to overcome. This research examines factors causing delays in issuing the subsidiary title in Sabah. The delaying issues with the subsidiary title kindly look normal for the Sabah strata property owner. This problem seems far from over, with home purchasers coming forward to ask regarding their long-delayed titles. According to the existing number of strata proprieties inside the Sabah market listed in the National Property Information Centre (NAPIC) property report 2022, there are 104,892 high-rise proprieties indicated in the market. However, in the past, the Sabah Lands and Surveys Department has accomplished the issuance of a total of 28,539 subsidiary titles for 204 strata schemes in Sabah. In terms of existing property inside the Sabah market, there has still been a strata scheme without a subsidiary title until now. The research study aims to study the solutions to the delays in issuing the subsidiary title in Sabah. Due to large numbers of strata schemes not being issued subsidiary titles, the Federal Ministry of Housing and Local Government has called the Parliament a new Act to improve the situation of property owners not being issued subsidiary titles from the developers concerned.

Land (Subsidiary Title) Enactment 1972

An enactment objective is to facilitate the subdivision of buildings into parcels and for purposes connected in addition to that and incidental to it on 1st January 1974. The amendments have been carried out for this enactment. It is an act that can solve the land and building matters faced in Sabah, yet in the form of guidelines to avoid the current issues happening again in the future. Land (Subsidiary Title) Enactment 1972 consists of the procedure and regulations for applying inside the subsidiary title application. Therefore, it is on reducing a bona fide and as a shelter for property owners' proper interest in properties.

The Facts and Figures of Strata Property in Sabah

With the increased population, Sabah is a developing country, and with the increased population, the demand for properties, especially strata properties, arises. During the pandemic period, the growth of supply strata property schemes inside the Sabah development market has enlarged from time to time. Figure 1 shows one of the types of strata properties offered inside the Sabah real estate market;



Figure 1. Example strata residential types offered inside the Sabah industry (Google Resource, 2023)

The Existing Strata Property in Sabah

Recently, the population survey by the Ministry of Economy, Department of Statistics Malaysia analysed that the total population of Malaysia in 2022 is estimated at 32.7 million compared to 32.6 million in 2021, with an annual population growth rate of 0.2 per cent. The decline in population growth rate is due to the lower number of non-citizens, from 2.6 million (2021) to 2.4 million (2022). Subsequently, the population of the state of Sabah in Malaysia was estimated to be approximately 3.39 million in 2022, showing a slight decrease from 2021 (3.41 million). Sabah has a total of 25 districts consisting of Kota Kinabalu, Penampang, Sandakan, Tawau, Putatan, Tuaran, Papar, Kudat, Beluran, Kota Belud, Ranau, Kinabatangan, Lahad Datu, Semporna, Keningau, Tambunan, Nabawan, Tenom, Beaufort, Kuala Punyu, Sipitang, Kota Marudu, Pitas, Kunak, and Tongod. It is shown in Figure 2 as follows;



Figure 2. The Sabah district maps (Google Resources, 2023)

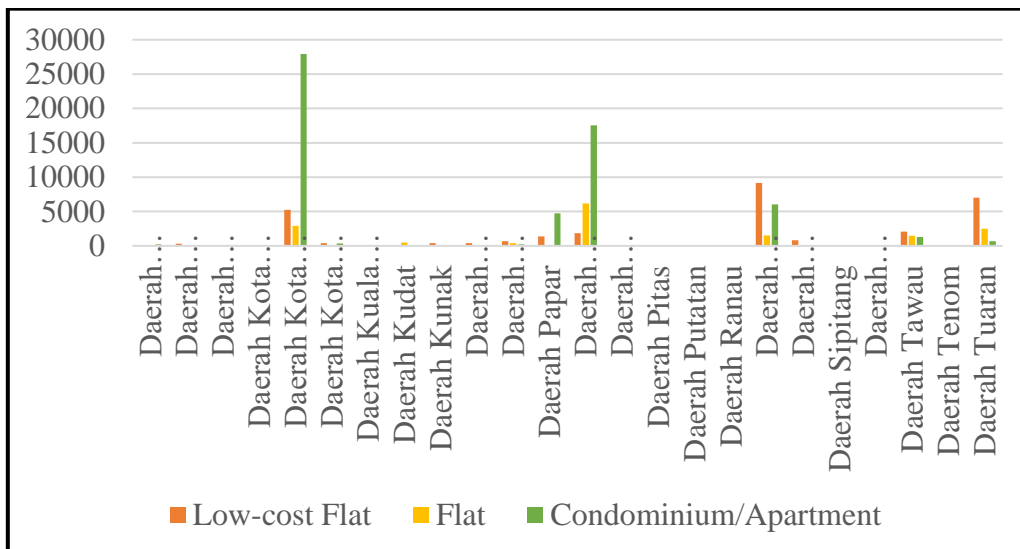


Figure 3. The statistics of existing property in Sabah according to a district (National Property Information Centre (NAPIC), 2022)

Table 1

List of existing property in Sabah according to a district

District	Low-Cost Flat	Flat	Condominium/ Apartment	Total
Daerah Beaufort	0	0	208	208
Daerah Keningau	300	40	0	340
Daerah Kinabatangan	0	0	0	0
Daerah Kota Belud	0	0	0	0
Daerah Kota Kinabalu	5,224	2,907	27,949	36,080
Daerah Kota Marudu	420	0	360	780
Daerah Kuala Penyu	0	0	0	0
Daerah Kudat	0	500	0	500
Daerah Kunak	400	0	0	400
Daerah Labuk Sugut	400	0	0	400
Daerah Lahad Datu	700	422	224	1,346
Daerah Papar	1,380	0	4,749	6,129
Daerah Penampang	1,832	6,168	17,547	25,547
Daerah Pensiangan	0	0	0	0
Daerah Pitas	0	0	0	0
Daerah Putatan	0	0	0	0
Daerah Ranau	0	0	0	0
Daerah Sandakan	9,163	1,540	6,041	16,744
Daerah Semporna	832	0	0	832
Daerah Sipitang	0	0	0	0
Daerah Tambunan	0	0	0	0
Daerah Tawau	2,096	1,490	1,266	4,852
Daerah Tenom	0	16	0	16
Daerah Tuaran	7,032	2,486	676	10,194
Total	29,779	15,569	59,020	104,368

Although there is a decrease in population in Sabah, the demand for strata development projects presents a favourable situation. The central of Sabah, Kota Kinabalu, has shown the highest volume of existing strata schemes in 2022. It can be indicated in Figure 3 and Table 1 as follows.

The younger generation prefers to migrate to the state capital for better opportunities. By referring to the graph chart in Figure 3 shows that Kota Kinabalu has the highest number of existing properties for strata schemes, low-cost, flat schemes, flat schemes, and condominium or apartment schemes. Despite that, among the three categories offered inside the strata scheme market, the highest demand developed inside the market is condominium or apartment, with 59,020 in 2022. Due to the land size, offers inside the district are limited compared to other neighbourhoods. However, the size of one family is also one of the influences on the strata volume increasing, especially for retirement citizens, whereby they requested the property size to become smaller to make it easier to manage and reduce the

resilient environment inside the property. The ample supply of strata property offered inside the market has made the capacity of the Lands and Surveys Department to produce the subsidiary title become loaded. Consequently, half of the strata scheme in Sabah is still under a master title for up to 10 years of occupancy by the property owner or interval of receiving subsidiary title. The number of strata schemes completed and released by the Lands and Surveys Departments will be liberating in chapter analysis data.

Argument Subsidiary Title in Sabah

In Sabah, without a subsidiary title, high-rise schemes are ordinary subjects for the purchaser, even the resident's unit that has been occupied for more than ten years inside the particular properties scheme. This is even more critical for purchasers inside the secondary market. Without a subsidiary title, the property purchaser only purchases an empty paper towards the property unit inside the market. Based on the fundamentals of receiving the subsidiary title, it will be as soon as the Occupancy Certificate (OC) is issued. However, the delay in issuing the subsidiary title is still ongoing in Sabah. According to the Assistant Minister in the Chief Minister's Department, Datuk Jimmy Wong Sze Phin has presented a reminded high-rise property purchaser in the State to obtain their subsidiary title from the housing developer as soon as possible. The Chief Minister mentioned that without a subsidiary title, there can be many issues dealing with the purchaser. A purchaser who does not receive the subsidiary title and needs to re-loan their property after paying for more than ten years might have problems with the financial institution, which nowadays are quite strict procedure. Some of the developers of property schemes are still operating inside the market, yet sometimes they have wound up their company or even put it in bankruptcy. This matter poses severe issues for the purchaser. Historically, the State Land and Survey Department handed 375 subsidiary titles to Mall buyers and developers. This mall was opened in 2006, and it took the buyers and developers more than ten years to receive their subsidiary title. Additionally, notice that most of the property developers seemed to have a sluggish action on surrendering their title for subdivision. However, it could cause negative matters to the purchaser once the housing developer fulfils their responsibility to the purchaser. Table 2 shows that the Sabah Lands and Surveys Department has accomplished the issuance of a total of 28,539 subsidiary titles or 204 strata schemes in Sabah. This is a great situation, yet the number of successfully received subsidiary titles from the department is still imbalanced with the existing property reported under the provisions of Section 11 or, by Section 442, National Land Code 1956 (NLC 1965) deemed to be a district.

Table 2

List of strata scheme with subsidiary title in Sabah 2022

No.	District	Schemes	Total
1	Kota Kinabalu	123	12,498
2	Penampang	43	6,866
3	Sandakan	18	3,953
4	Tawau	12	565
5	Putatan	3	878
6	Tuaran	2	1,290
7	Papar	1	2,196
8	Kudat	1	251
9	Beluran	1	42
10	Kota Belud	0	0
11	Ranau	0	0
12	Kinabatangan	0	0
13	Lahad Datu	0	0
14	Semporna	0	0
15	Keningau	0	0
16	Tambunan	0	0
17	Nabawan	0	0
18	Tenom	0	0
19	Beaufort	0	0
20	Kuala Penyu	0	0
21	Sipitang	0	0
22	Kota Marudu	0	0
23	Pitas	0	0
24	Kunak	0	0
25	Tongod	0	0
	Total	204	28,539

Upon the planned and incoming strata project's earlier offer inside the Kota Kinabalu property market, the Sabah Lands and Surveys Department has sped up delivering the subsidiary title. However, the momentum of strata structure increment offered inside the market and the technology applied by the department make it impossible to follow up on the application. The number of completion issuances of subsidiary titles differs from the number of existing strata offered in Sabah. Table 2 shows the number of total strata schemes that completed delivery of a subsidiary title by the Sabah Lands and Surveys Department according to the district. From the above table, notice that the Sabah Lands and Surveys Department has completed the issuance of a total of 28,539 subsidiary titles to the strata owners. In addition, this number of issuance subsidiary titles still needs to fit the volume of strata schemes in the Sabah housing industry. Table 2 shows the strata development that registers

under the Sabah Lands and Surveys Department system. For example, the Kota Kinabalu district has 12,498 out of 28,539 accomplished by the Sabah Lands and Surveys Department. How about the new scheme development, ongoing strata development project, and even the aged strata scheme in Sabah? The following explanation regarding the factors causing delaying the issuance of subsidiary titles will be detailed in the chapter analysis data by professional responses based on their experience in this field.

The Subsidiary Title Application in Sabah

Sabah’s housing laws are being overhauled to ensure strata residences can receive subsidiary titles within a short period without an interval of the receive period. Nevertheless, the Sabah Local Government and Housing Minister have imposed the land subsidiary title application process, which has become a shortened version compared to the previous application flowchart. The intention is to speed up the issuance of subsidiary titles and avoid the future negative impact on the strata scheme owners without a subsidiary title. The procedure application is indicated in Figure 4. First, the bodies subject to this application would be licensed land surveyors appointed by the developer or original proprietor as applicants upon acknowledging the documents for proceeding with the subsidiary title application registered inside the department system. After appointing a licensed surveyor, this professional body will address the requirement of the document along with the attachment according to the Enactment 1972 to the collector of “Dasar & Pembangunan.” The subsequent progress will be surveyed at stages by the department and professional bodies once each professional office approves the procedure. Therefore, the subsidiary title will be registered under the Sabah Lands and Surveys Department system and issued to the applicant.

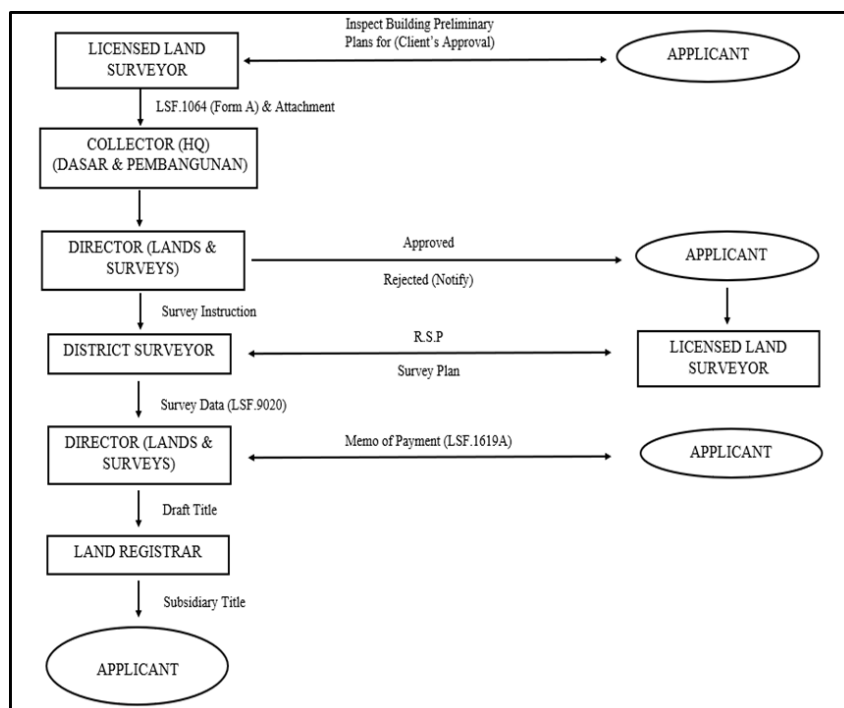


Figure 4. The Sabah land subsidiary title application flowchart (Sabah Lands and Surveys Department, 2023)

Standard operating procedure for the subsidiary title in Sabah

Table 5 below shows the standard operating procedures (SOP) applied in the Sabah Lands and Surveys Department;

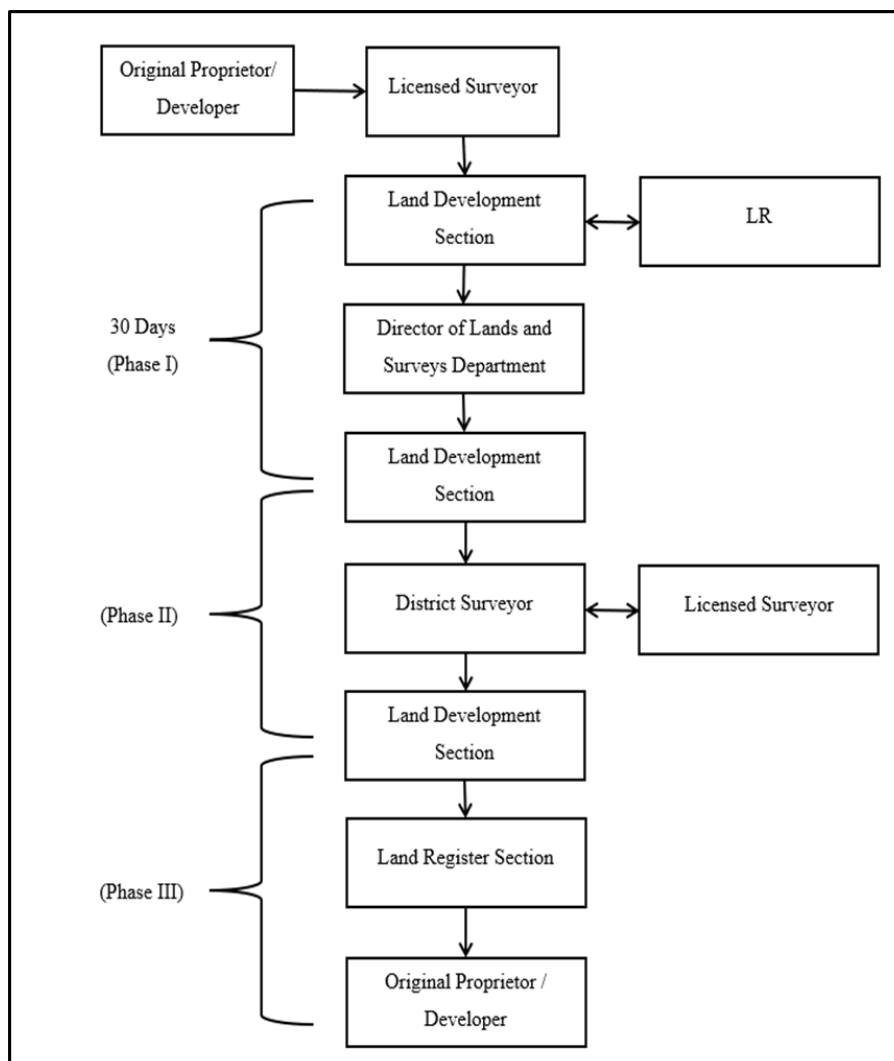


Figure 5. Application standard operating procedure for building subdivision (subsidiary title) (Sabah Lands and Surveys Department, 2023)

From the above, figure 5 shows that only phase I had thirty days of working days of completion period without any amendment consequence inside the application, whereby the department will nominate the application according to the requirement submitted documents such as Form A with the building plan, index plan, and original parent title. With all of these documents, the Lands and Surveys Department will accept the application made by the licensed surveyor. With a completed application, the memo for the land registry (Head Office) is prepared along with the original title to be endorsed following Section 6(6) of the Enactment 1972. Once the memo to the Lands and Surveys Office is required, a letter of permission and Register Survey Plan (RSP) issuing instructions are issued. The department director will approve the authorisation letter and the RSP instructions order. Once approved, the RSP instruction order will be delivered to the district authorities to continue the subsidiary title procedure. After receiving the instruction order, the district officer will appoint the licensed surveyor to survey the application strata scheme that needs approval before the

district authority returns to the Sabah Lands and Surveys Department to proceed to the following stages. Come into this district authority stage, where there is no clear and specific timeframe for returning the approval of RSP to the department, and the department will proceed to the following procedure. This is the critical phase whereby the subsidiary title application submission will arise on the situation of staying procedure or even hold on by the department to proceed with the application. While passing through the submitted application documents, the department has indicated three factors often happen: a master title, amendment approval DP, and the OC submission from the developer or original proprietor.

Moving to Phase II is out of the responsibility of the Lands and Surveys Department, which the RSP will hand over to the district office. There is no precise duration from the district office on resubmitting the approval of RSP to the Lands and Surveys Department. The department has figured out that receiving the RSP approval from the district office has caused the subsidiary title procedure to become out-of-track in Sabah. Formerly, the postponement of collection approval from the district office could barely affect the department in proceeding with the application to the following phases. Once the department has received the RSP approval, the progress will move into phase III of the application, in which the subsidiary title is accessible to print out along with endorsement to the applicant. However, this phase also has a disputed factor revealed by the department; it is the printing system, which has a limited printing volume each day, along with the waiting list for printing. Complementary to this delayed issuance of subsidiary title, the department has illustrated the significant factor upon the whole subsidiary title procedure: the quit rent debt remaining by the developer or original proprietor. To elaborate, the department pointed out that most developers or original proprietors only paid the quit rent once it accumulated to a considerable amount. Without a lump sum, the liabilities quit rent. The process of subsidiary title progress will not proceed by the department even though the subsidiary title has no other issues than having liabilities quit rent. Nevertheless, the department will not issue the subsidiary title to the strata scheme owners. That is why most of the strata scheme proprietries in Kota Kinabalu are still holding master titles until now.

Factors of delaying Issuance Subsidiary title

Several factors cause the delay in the issuance of subsidiary titles. However, most of the strata owners are always responsible to the developer for the late distribution of the subsidiary title. In this issue, one must listen to arguments and understand the actions taken by one side of the parties. It must study each party involved that is delaying the issuance of subsidiary titles in Sabah.

Failure to convert land title condition

Conversion of land title is a significant action that the developer needs to apply before the DP can be approved. An example of conversion of land title from Native Title (NT) to Country Lease (CL). With the conversion of land title, the developer can entertain such a request to develop the project, and the financial also rejects the release of the land to a developer for development project purposes. The case of the Bundusan Villa Apartment is that after a long occupation, the residence is still under a master title situation. It was found that this housing scheme is still under agricultural land. Whereby the developer needs to convert into CL with land revenue. Land revenue must be completed payment before the title is issued. It is every sum now due or which shall hereafter become due to the Government on account of premium or rent owing in respect of land and fees of any kind chargeable under

CAP 68. During the proposal of structure development, the developer must convert the land title from the original into the title suitable for the current project. Unfortunately, several developers forgot to convert it before the development process began. Additionally, this notice will be issued once the development project has been completed and in the phase of identifying the subsidiary register documents by the Sabah Lands and Surveys Department. It took much work for the department to identify the range of the land revenue rate. However, applying the strata scheme will be determined as uncompleted documents. Without completed documents or even a clear land title statement, the subsidiary title application under the department will become a stay proceeding on the progress. This is the justification for why the subsidiary title for the Bundusan Villa Apartment is still under the condition of holding the master title even after a long period of occupancy inside the parcel.

Failure to accomplish the project according to the original approval development plan

The development plan (DP) shall be submitted to the district authority concerned. This plan shows explicitly how development should occur on a specific parcel of land. This plan shows an overall development plan of a project, and it will have a charge on it for approval by the district authority. Therefore, the development plan must provide a shared version of what the project aims to accomplish at the end of the period. To illustrate, the developer was scheduled to develop eight blocks of four-story apartments under the original DP of Bundusan Villa Apartment, yet it only completed four phases of 224 apartments. Under Enactment 1972, a developer must complete the development project outlined in the DP to issue the subsidiary title from the Sabah Lands and Surveys Department. This action has caused the residents of Bundusan Villa Apartment to receive the subsidiary title after a long occupation.

Amendment Approval Development Plan Period

Previously, developers suffered in silence due to projects being trapped in the DP approval process for years. This could incur huge handling costs, while others require several years to receive the first interim permission. As a result, it is appropriate to compensate for lost time with a high stake in project planning and operating expenses. The government has shortened the last updated DP application period to solve this. There is now transparency to smooth the processors in staggered phases and make great on all the requirements for submission by the particular submitting applicants. For those who resubmit, DP is also one of the factors that can cause an extended period, which means the application procedure will be started from the beginning of the procedure flowchart. This can be related to the Bundusan Villa Apartment cases, in which the developer has eliminated the original DP to the four blocks of apartments as an updated DP to facilitate the application and issuance of the subsidiary title. This submission DP was made ten years ago by the developer.

Over Time-frame for final survey work

The final survey is an action that is conducted after construction has been completed, and it will only be approved once requirements like the location of boundaries and any prohibited areas are placed and certified by the Surveyor. Surveyor is a body registered under the provisions of the Surveyors Ordinance 1960 [Ord. No.22 of 1960]. A final survey and report also depict a newly constructed property's location, including the roof height, floor level, position concerning the borders, and any encroachments onto neighbouring properties. The surveyor always takes a long time to approve the development structure project. This ensures

that the physical and raw development materials applied to the structure adhere to the regulations and the standard quality of natural development material criteria.

Methodology

The methodology is a fundamental component of research. Based on the third edition of the Language Hall and Library Dictionary (2002), research involves inspecting the process of collecting data to generate information to achieve the aim of study to assist an individual in a discovery. This will describe how the questionnaire will be conducted, the methods used, the selection of respondents, including the professional bodies, and how the data will be analysed. The work process will be accomplished carefully so that the study can generate the correct answer. The selection of studies in this research study is also appropriate for the smooth running of the study to achieve the targeted objectives. This study uses a qualitative method as it is the most suitable data collection technique in this research. It uses an in-depth interview with developers' respondents and a group of officers from the Sabah Lands and Surveys Department. The respondents are selected based on their deep knowledge, experiences, opinions, and perceptions regarding delaying the issuance of the Sabah subsidiary title. The research applied face-to-face, in-depth interviews through semi-structured interview forms containing structure. This research is mainly focused on the delaying issuance after the amendment implemented that occurred within Kota Kinabalu. Thus, this research can achieve the aim of this study.

Data Collection

The qualitative methods determined the suitable methods for gathering all the data from respondents. The qualitative principle is obtaining the data respondent information through feedback from selected respondents and providing flexibility for respondents to submit the suggestions that should be transmitted by the professional bodies to reduce the number of delay issues strata title in the Sabah estate market. During the data collection phases, the researcher was presented at respondents' workplaces with prior coordination and appointment and conducted face-to-face interviews, which took around two hours. A semi-structured interview began with a background of the research problem statement and general knowledge of the research topic. Afterwards, it moved into the more profound atmosphere of the research. During the semi-structured interview, the researcher performs the voice recording.

Data Analysis

The researcher proceeded with data analysis and data collection concurrently. In the phase of analysis data, the voice recording was listened to multiple times, transcribed verbatim, and supplemented with notes. The researcher translated the voice recording, where the respondent responded in a language other than English. After preparing the transcript, the researcher categorised the response into principal or representative codes.

Discussion

This qualitative and systematic literature review includes five respondents who were interviewed to assess the progress and accomplishment of this research study. This research study provides the factors that influence the procedure of issuing subsidiary titles and the suggested solution for reducing the number of delayed issuances of subsidiary titles.

Table 3

Information of respondents

Code	Name of respondent	Department	Experience
R1	Ex-director	Lands and Surveys	Up to 30 years
R2	Senior Assistant Director	Land Development Section	Up to 10 years
R3	Private Developer	-	Up to 10 years
R4	Private License Surveyor 1	-	Up to 10 years
R5	Private License Surveyor 2	-	Up to 10 years

The factors causing the delays in the issuance of subsidiary title

The delay in issuance of the subsidiary title has involved two parties: the applicant (original proprietor or developer, license surveyor) and the Sabah Lands and Surveys Department. According to the data collected, the licensed land surveyor is the body that assists the original proprietor or developer in handling the subsidiary title application. A licensed land surveyor is a professional body with practice under the Licensed Land Surveyors Act of 1958.

Master title submission by original proprietor or developer

Each property has a "birth certificate" on the land, and even the building structure is built there. In short, as evidence along with the right to own the parcel and the property usage. The land parcel will hold a title called master title. It is usually registered under the name of the original proprietor or developer. According to R1, a master title is also known as the parent's title of one development property, which is the primary title for each category of property scheme. Once the developer or original proprietor decides to develop the parcel, the master title will be divided into individual or subsidiary titles depending on the development project. This title is a primary requirement for a developer or original proprietor to appeal the subsidiary title in the Sabah Lands and Surveys Department. Appeal or apply? These issues happen when it is detected that the developer or original proprietor has submitted a different version from a copy of the Sabah Lands and Surveys Department and even delays the handover of the master title for the department on revising the application.

The R2 has cleared this issue; the failure factors of subsidiary title applications for strata buildings are due to the masters' title not being issued by the original proprietor or developer. It is the most critical part and also the most constant happening inside the subsidiary title application progress. Before applicants apply for the subsidiary title, they are required to attach the master title of the scheme. However, it arises when the department finds out the applicant issues no master title. As a result, it brought a negative impact, and the department had to stay with the subsidiary title application procedure until it received the master title.

Acknowledge on R2 that another significant aspect brought up from the master title, which is the delay issues even transpire when an inaccurate master title is detected; it is also

one of the consequences of the procedure of delaying the subsidiary title. If the applicants do not act on the appliance, it can take years for the department to resume the application's progress. Once the Sabah Lands and Surveys Department receives the parent title, the application subsidiary title will continue the subsidiary title application. The term "resume" is a subsidiary title application where the process will inaugurate the whole progress of the application once the parent title has been inaccurate with the copy of the Sabah Lands and Surveys Department. The R2 recognises this and concedes that the factor of master title genuinely leads to pessimism on the subsidiary title application progress.

In the final analysis, the department entirely issued the total volume of subsidiary titles in Table 4, ending with 12,498 property prosperous issuance of their subsidiary title to the 123 strata schemes. It is imbalanced against the approximated existing property inside the Kota Kinabalu property market in 2022. For this reason, most of the Lands and Surveys officers indicate the master title issues happened, which stopped the application procedure from continuing until the subsidiary title postponement in Sabah, as acknowledged by R2. Such an argument is problematic and unsustainable since it implicitly assumes that the legal framework guarantees the protection of investors in land-based activities whether or not they truly own the land.

Table 4

List of Strata Scheme with Subsidiary Title in Sabah 2022(Sabah Lands and Surveys

No.	District	Schemes	Total
1	Kota Kinabalu	123	12,498
2	Penampang	43	6,866
3	Sandakan	18	3,953
4	Tawau	12	565
5	Putatan	3	878
6	Tuaran	2	1,290
7	Papar	1	2,196
8	Kudat	1	251
9	Beluran	1	42
10	Kota Belud	0	0
11	Ranau	0	0
12	Kinabatangan	0	0
13	Lahad Datu	0	0
14	Semporna	0	0
15	Keningau	0	0
16	Tambunan	0	0
17	Nabawan	0	0
18	Tenom	0	0
19	Beaufort	0	0
20	Kuala Penyu	0	0
21	Sipitang	0	0
22	Kota Marudu	0	0
23	Pitas	0	0
24	Kunak	0	0
25	Tongod	0	0
	Total	204	28,539

Department, 2022

Amendment approves a development plan

A development plan is an aspect of town and country planning comprising a set of documents that set out the district authority's policies and proposals for the development and the uses of land in the district authority areas. An amendment of a development plan is a factor that can cause a delay in the issuance of the subsidiary title, especially for those aged strata schemes in Sabah. As revealed by all the respondents, many projects are still under the parent title (master title). Knowing that the building structure of the aged scheme must be divergent from the aged development plan, it is impossible to annihilate the property and reconstruct the scheme. The action for the aged strata scheme can receive their subsidiary title, whereby the Sabah Lands and Surveys Department will request the developer or original proprietor to resubmit the amendment to approve the Development Plan (DP). This amendment approval of DP is also one of the significant factors causing the application progress to become delayed in Kota Kinabalu, Sabah, which has a protracted period for district authority approval.

In the previous factor submission of the master title, it was clarified by the R2 that most of the aged strata schemes in Kota Kinabalu are still under a parent title status held by the strata scheme owner. Concerning the R2, the method of dealing with an aged strata scheme, the department will require the applicant to submit the amended approved DP from the district authority. By receiving it from the district authority, an unknown duration is defined by the R2. Nevertheless, it depends on the application collected by the district authority department along with the progress applied. Thus, the district authority will resurvey the whole scheme from the beginning of the process and refer to the property scheme's amenity that can undertake another period. Despite that, it will be undertaking a long process to endorse the amendment approval DP, including the offer letter from the district authority. Due to the delay in receiving amendment approval DP, the issuance of the subsidiary title will automatically become delayed. This has been agreed upon in R1 and R2. In contrast, R1 and R2 mentioned that DP is an essential certificate for surveying the parcel size of property schemes without influencing the department to survey the property. The strata schemes owner must be on time to receive the subsidiary title.

On the contrary, R3, R4, and R5 have agreed upon these factors: the amendment should be carried out once the final development project result indicates an error or dissimilarity with an approved initial development plan. They acknowledge that receiving an amendment approval from the district authority makes it arduous to identify and obtain it from the district authority. Acknowledgement from R5 that the period of receiving the amendment DP from the district office, the shorted period intake for the whole progress completed will take from three months and even up to two years for issuance of the amendment DP. To avoid the long period of receiving the amendment, they will shuttle to the district authority for an update on the application progress every two weeks after submitting the amendment application. This is to ensure that the amendment will be obtained within the development schedule, along with contributing to a negative delay impact on the subsidiary title application schedule progress.

From the perspective of the district authority, for the aged strata scheme, it is impossible for the district authority to request the strata owner to demolish the building structure and rebuild it again. There is no other opinion for the district authority surveyor department to resurvey, redesign, and recalculate the whole building structure. This is a challenging task because of the reason behind the time district authority delivers the

amendment for the aged strata scheme. Moreover, the lack of workforce is also a consequence that obstructs the amendment DP. This has been clarified by R1 and R2, which depend on the workload of amendment received in one of the local district departments. In the same way, the amount of strata property in Kota Kinabalu has grown eventually compared with previous years. Due to the increment of strata projects, along with a limitation of employees, the local district has urgency the new strata scheme project over the aged strata scheme. The literature review also has mentioned that a late amendment approval DP is one of the factors that affect the subsidiary title procedure, meaning that this factor arose a long time ago until recently inside the subsidiary title application.

After the developer or original proprietor amended the residential schemes, the authority will issue an offer letter stating that the particular schemes have completed the amendment procedure. Collecting the amendment DP along with the offer letter referring to the amendment made by the authority is challenging for the original proprietor or developer. Based on the R2, enduring the offer letter from the district authority is one of the issues causing the delay in the subsidiary title. It has come when the DP needs remedy by the local district. Despite this, the procedure of SOP, the action of professional bodies, and the application obtained by the local district will influence the licensed surveyor to proceed with the subsidiary title application. According to the R2 mentioned in Sabah, there needs to be a systematic format for the amendment letter of DP from the district authority. Each local authority will deliver their preferred offer letter format to the application person. This delay in the submitted amendment letter of DP from the original propriety or developer has influenced the whole process of subsidiary title to proceed due to the Sabah Lands and Surveys Department enabling the identification of the structure to be accepted under the building structure and safety legalisation.

Delay Obtained an Occupancy Certificate from an Authority

The agencies and district authorities issue an Occupancy Certificate (OC), which declares that the particular building structure is constructed as per the DP approved by the concerned authority. OC is issued once the property project phases have been completed and the developer or original proprietor arranges the occupied period for property purchase into the residential schemes. R4 and R5 pointed out that the minimum period for obtaining the OC approval is three months, while the maximum would be six months from the application date. This ensures that the property purchaser owner can occupy the scheme within the project management plan by avoiding the development project becoming a loss of profit status within the economic performance. Thus, this has been agreed upon by the R3, which, from their perspective, means that progress has been just as planned for them to avoid over-budgeting expenses towards the particular development project. The longer the period of delay obtained OC from an authority, the more it can influence the monetary position of the developer or original proprietor inside the development project.

The influence of the delay in obtaining OC and even the amendment approval DP from the district office is the limitation of the workforce inside the department. Even though the employee's appearance inside the organisation chart does not ensure that each employee qualifies for responsibility for the handover of the subsidiary title application, even the amendment of the DP procedure in the Sabah Lands and Surveys Department and the district office. R1 agreed upon this.

The printing system applied inside the Lands and Surveys Department

Historically, when the strata scheme development kicks off in the Sabah market among a few demands of the strata project, the Sabah Lands and Surveys Department can issue the subsidiary title within six months if application documents comply with the subsidiary title application, mentioned by the R1. R2 claims that it is impossible for the Sabah Lands and Surveys Department nowadays to address the subsidiary title within six months. Consequently, our country has grown into a developing country, and the increment of strata scheme demand has increased automatically; the application of subsidiary titles will be followed up compared to the present period. An equally important point added by R2 throughout the line of duty for printing the title section has enlarged the capacity of printing out the subsidiary title. In contrast, the printing procedure will be based on “first come, first serve.” This means that the application will follow the queue procedure of the printing section. R1 also agrees that the capacity to print titles has increased over time inside the Kota Kinabalu supply and demand economic performance.

Nevertheless, the volume of produce out of the subsidiary title per day by the printing system in the Sabah Lands and Surveys Department will have the capacity scene for the system to load each day. The term “first come, first serve” plus the capacity of the printing system workload influences the issuance of subsidiary titles postponed by the department.

Duration Approval from District Surveyor

Simultaneously, the procedure of subsidiary title, the application will be submitted to the District Surveyor upon approval of the Register Survey Plan (RSP). Once the RSP approval has been delayed, authorise automatically the Lands and Survey Department unavailable to proceed following the phase of the subsidiary title application, say by the R2. The response of R2 mentioned that the duration for the department to receive the survey data from the District Surveyor is unidentified by the department, which needs to depend on the application workload received inside the district office. A fact that similarly refers to the literature review proclaims over a timeframe of the final survey from the District Surveyor. The delayed issuance of subsidiary title argument maintains arise in Sabah. This argument is also agreed by R1, whereby the demand for strata scheme properties keeps increasing, especially in the Kota Kinabalu market. Despite that, the application for approval by the district office automatically increases. Therefore, it takes a period to receive approval from the District Surveyor.

Land Revenue Debt

Land revenue is every sum now due or which shall hereafter become due to the government on account of premium or rent owing in respect to land and fees of any kind chargeable under the Land Ordinance. The quit rent can be classified as tax committed by the government, whereby in Sabah, the professional bodies conducting a collection of the quit rent will fall under the responsibility of the Sabah Lands and Surveys Department. Quit rent is the land tax imposed on the original proprietor or developer of qualifying properties by the respective state government. The state government’s Lands and Surveys Department would assess and evaluate the land on which the property is and bill the original proprietor or developer annually. The original proprietor or developer is responsible for paying the quit rent each year for as long as the property is under the original proprietor or developer's ownership as the rental of land charges by the Government.

Knowing that charges of quit rent are excessive amounts for original proprietors or developers, it could be a burden for them to take out a large volume of payment. Despite that, there is an issue whereby the original proprietor or developer has accumulated until it becomes a large debt for the particular property scheme. R1 and R2 have mentioned that it is a serious issue of an over or high accumulated quit rent amount. R1 stated that the quit rent amount is high and a burden expense for a developer because the amount during the development process will differ from the value the property owner handles. Indeed, an expensive responsibility must be paid by the original proprietor or developer for the particular land as a rental of land. R3 agrees with it that sometimes the transaction of project capital is one of the issues for which they have appeared to have trouble paying the quit rent on time. As a consequence, it becomes a liability inside the financial account. They must turn the liability of quit rent into a considerable amount to attempt to bypass this quit rent debt falling apart on their high-rise development scheme project.

From the experience of R2 mentioned before, the accumulated value has reached almost a hundred thousand over what has been left by the original proprietor in nearly a decade year. It has influenced the subsidiary title application, enabling it to proceed to the next movement. Therefore, R2 added that this management style of a development company can deliver a nasty reputation inside the industry. This was admitted by the R3 upon the subject delaying the issuance of subsidiary title materialising pop out in the industry until unable to resolve this fact has contributed to the process of obtaining the subsidiary title from the Sabah Lands and Surveys Department can becoming a way behind the planning schedule.

Despite that, without a mature company cash flow for the strata schemes development project, the application progress can be delayed—specifically, the quit rent payment. Uncompleted paying and accumulated quit rent amounts have become two significant factors driving the subsidiary title application progress inside the Sabah Lands and Surveys Department until now by R1 and R2. In these circumstances, with a high amount of quit rent debt by the applicant, the Sabah Lands and Surveys Department is not in a position of culpability for the delayed issuance of the subsidiary title that appears in Sabah. Formerly, the outstanding quit rent amount was preserved exclusively under the department system, and the department has no other alternative to posting the subsidiary title application progress until the developer or original proprietor completes the outstanding. The quit rent unpaid upon the particular land parcel is a vigorously for the Sabah Lands and Surveys Department issuance of the subsidiary title within a short period and even without delaying the distribution of the title. Perhaps the longer duration on finalising the outstanding by the developer or original proprietor, the protracted collection of subsidiary title from the department. The period resuming the procedure can take years for the department to resurvey, especially for those applications that have taken years to solve the outstanding.

Conclusion

This research study has researched that the Sabah state government has taken action towards the problems of delaying the issue of the subsidiary title to the strata property's owner based on the research studies' objectives, yet due to the outcome factors influence the procedure of subsidiary titles to proceed inside the systems.

Throughout the data collected during this research, studies have discovered that the factors that cause and affect the delays in issuing the subsidiary title are parallel with the element observed in the literature review with two added factors. The most influencing factor that causes the subsidiary title application progress is the original proprietor or developer not

submitting the master title to the Sabah Lands and Surveys Department or even the master title mismatch with the copy of the title in the department's file systems. Furthermore, the quit rent value also affects the issuance of the subsidiary title in Sabah. Most original proprietors or developers refuse to make the payment until it becomes a vast accumulated amount. This action can cause the quit rent amount to accumulate until a magnificent total amount, whereby some person in charge of the scheme has run away from the responsibility. However, the property owner of the scheme has to be a responsible person to solve the accumulated amount before the subsidiary title application can continue to proceed inside the Sabah Lands and Surveys Department. Without a lump sum of the accrued amount, the department will not issue the subsidiary title or even roll with the application until the applicant accomplishes compensation of the quit rent debt.

Up to the present time, the generality of the strata schemes, mainly upon the aged strata scheme, still withholds the master title ownership. On the contrary, it found that the final result of the aged strata scheme needed to be revised with the original approval of the Development Plan (DP). Consequently, the developer must receive an amendment approval DP from the District Council before submitting the subsidiary title application. Fundamentally, before entering the subsidiary title, the development project must be presented with the approval of an Occupancy Certificate (OC) from the District Council. Occasionally, the procrastination duration authorised by the District Council, along with the registration system inside the Sabah Lands and Surveys Department, is also the cause of the subsidiary title progress due to the demand and supply capacity scrutinising inside the market act following that extremity of workforce incumbency into the subsidiary title application procedure.

The issue of delaying the issuance of the subsidiary title has occurred for an extended period in Sabah. Until now, most strata schemes have still been under the master title, which legally belongs to the developer, not the property owner, even though the resident has occupied the property compound for over a decade. However, there is a factor: submitting a master title and land revenue debt are unachievable actions for the department. Instead, it has to rely on the developer or original proprietor because it is a responsible task for them.

The limitations of this research study can be identified. Among the limitations of this abomination is that the research area is concentrated in more than one district in Sabah, Kota Kinabalu. Despite that, this research study only involved the Officer Lands and Survey Department, private developers, and private licensed surveyors. Next, limitations in obtaining data regardless of the volume and procedure in the application that operation by the department are unavailable on the official website of the relevant department. However, this presents that the application process needs to be publicised even though the department does publish the procedure for the community to make an application. In the middle of preparing this research study, the resources, regardless, are limited to refer to it. Despite that, several challenges were faced while collecting data, including collaboration from the parties involved. The data analysis in this research study is unable to demonstrate the latest condition of the economy. However, the department must provide a solution to solve the delayed issuance of subsidiary titles in Sabah. By carrying out this research study, some scopes have yet to be researched in detail by other researchers related to authority department involvement in subsidiary title application procedure. In future studies, the research field can focus on the action of the government authority towards the delayed issuance of subsidiary titles according to districts. Through this research, studies have identified that the delayed issuance of the subsidiary title and even the strata scheme not issuing the subsidiary title after a long period of occupied inside the strata schemes has become a common problem until

now. Even after the amendment of the Act was carried out, the volume of strata schemes without subsidiary titles increased every period of the phase. Due to the printing system of the Sabah Lands and Surveys Department when the subsidiary title is located in the last stage of the procedure, along with the compliance of applicants towards the subsidiary title application, the limitation of workforce along the application procedure has become the factor causing the delay issuance subsidiary title to happen in Sabah. However, a solution to this issue has been suggested by the Sabah Lands and Surveys Department to improve the subsidiary title application procedure, which can minimise the delay in issuing subsidiary title arguments in Sabah over the period. In the future, research can study the effectiveness of the amendment of Land (Subsidiary Title) Enactment 1972 in the rehabilitation of issuance of the subsidiary title in Sabah.

Acknowledgement

The authors would like to acknowledge with gratitude the funding received from the Sabah Lands and Surveys Department for this research study.

Corresponding Author

Melanie Chang Yung Huei, Salfarina Binti Samsudin, Malaysia

References

- Borneo Today. (2018). Bundusan Villa Owners Seek Legal Recourse to End 18-Year Frustration. Retrieved 17 November 2022, from <https://borneotoday.net/bundusan-villa-owners-seek-legal-recourse-to-end-18-year-frustration/>
- Housing Development (Control and Licensing) Enactment 1978: Percetakan State of Sabah
- Izanda, N. S. S., Samsudin, S., Mohsin, A., & Jagun, T. Z. (2022). Ownership Issues of Old-Stratified Scheme: Failure factors of Strata Title application. *Environment-Behaviour Proceedings Journal*, 7(19), 225–231. <https://doi.org/10.21834/ebpj.v7i19.3263>
- Izanda, N. S. S., Samsudin, S., & Mohsin, A. (2021). Malaysia Strata Title Governance: An Overview Legislative Creation of Special. *Journal of Legal, Ethical and Regulatory Issues*, 24(6), 1–9.
- Kamaruzzaman, S. N., Salleh, N. M., & AlZawawi, S. A. F. (2010). Assessment on problems of issuances and transferences of Strata Title in Malaysia: The perception of the owner. In COBRA 2010 - Construction, Building and Real Estate Research Conference of the Royal Institution of Chartered Surveyors.
- Land (Subsidiary Title) Enactment 1972: Percetakan State of Sabah
- Land Ordinance [Cap.68]: Percetakan State of Sabah
- Rabe, N. S., Osman, M. M., Abdullah, M. F., Ponrahono, Z., & Abdul Aziz, I. F. (2021). ISSUES FACED BY TENANTS IN HIGH-RISE STRATA RESIDENTIAL: CASE STUDY OF KLANG VALLEY. *Planning Malaysia*, 19(5), 180–191. <https://doi.org/10.21837/pm.v19i19.1070>
- Sal, N., Izanda, S., Samsudin, S., & Zainuddin, M. (2020). Strata Title Reforms in Malaysia: A Review And Challenges Of Regulatory And Governance Panacea. *European Journal of Molecular & Clinical Medicine*, 07(08), 413–426.