

**Talk on “Certification Under Housing Development (Control & Licensing) Act, Regulations & Standard Sale & Purchase Agreements.”**

by Ir. Chew Weng Yuen

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The Engineering Education Technical Division had co-organized a talk entitled “Certification Under Housing Development (Control & Licensing) Act, Regulations & Standard Sale & Purchase Agreements” with Engineers Australia Malaysia Chapter, and the Institution of Mechanical Engineers Malaysia Branch, on 14<sup>th</sup> June 2016, at Wisma IEM. The talk was delivered by Ar. Jonathan Lai Su Chung who is a registered architect with the Board of Architects, Malaysia (LAM) and a Corporate member of the Malaysia Institute of Architects (PAM).

There were 40 participants in the talk, and Ar. Jonathan Lai commenced by reviewing the Housing Development Act which consists of the Housing Development (Control & Licensing) Act 1996 (Act 118), Housing Development (Control & Licensing) Regulations 1989, Housing Development (Housing Development Account) Regulations 1991, Housing Development (Tribunal for Homebuyer Claims) Regulations 2002, and Housing Development (Compounding of offences) Regulations 2002. He informed that the latest amendment to the Housing Development Act & Regulations encompassed the followings;

- a. Housing Development (Control & Licensing) (Amendment) Act 2015 – enforced on 1<sup>st</sup> June 2015,
- b. Housing Development (Control & Licensing) (Amendment) Regulations 2015 – enforced 1<sup>st</sup> July 2015,
- c. Housing Development (Housing Development Account) (Amendment) Regulations 2015 – enforced 2<sup>nd</sup> June 2015.

Ar. Jonathan Lai explained that the Housing Development Act was designed as a means for controlling and also for the licensing of the business of housing development in Peninsular Malaysia; to protect the interest of purchasers; and other matters related to housing development.

He also discussed and interpreted some basic terminology used in the Act such as;

- a. Certificate of completion and compliance,
- b. Housing accommodation,
- c. Housing development,
- d. Licensed housing developer.



*Ar. Jonathan Lai explaining on the purpose of the Housing Development Act.*

Ar. Jonathan Lai then proceeded to elaborate on the important sections within the Act affecting the professions in particular the certifiers. He discussed in considerable detail regarding the licensing section of the Act and the conditions or restrictions of granting a Developer License by the government. The duties of the housing developer under the Act were also highlighted. He informed that under the Act, the Housing Controller under the Ministry of Housing and Local Government has the responsibility to scrutinize and report any misconduct of an architect or engineer to the respective professional bodies if it found that the conduct of the above mentioned professionals of the housing developer has prejudiced the interest of the purchaser(s) of the licensed developer. As such, it is pertinent that the certifier, be it the architect or the engineer is aware of the consequences of over certification of the progress of works at the site throughout the duration of the project.

Ar. Jonathan Lai mentioned that the purposes of the Housing Development (Control & Licensing) Regulations 1989, are to prescribe regulations governing the Developer License (DL), process Advertisement and sale Permit (AP), and also to prescribe the standard sale and purchase agreements that employed Schedules G, H, I, and J. He informed that the parties involved in the standard Sale and Purchase agreement under the

Housing Development (Control & Licensing) Regulation 1989, are the Housing Developer, Purchaser, and the Proprietor (Regulation 10).

Ar. Jonathan Lai then proceeded to discuss in detail the pertinent clauses under Schedules G, H, I, and J of the standard Sale and Purchase (S&P) agreement. He also emphasized on the Schedule of Payment of Purchase Price as tabulated in the S&P agreement. That was subsequently followed by a comprehensive discussion on the guidelines for the stage completion and certification of work as tabulated by the “Lembaga Arkitek Malaysia” (LAM).

The talk was exceptionally interactive as Ar. Jonathan Lai preferred to engage and encourage active discussion with the participants throughout the duration of the session. Real life scenarios and experiences pertaining to the Act were actively shared and discussed amongst the participants before the talk ended with the presentation of a memento to Ar. Jonathan Lai.



*Ir. Chew Weng Yuen of the Engineering Education Technical Division presenting a memento to Ar. Jonathan Lai.*