

INSIGHTS of the INDUSTRY

PROPERTY TIMES, NST Friday 03 September, 2010

NEW STRAITS TIMES
ESTABLISHED 1845

Friday, September 3, 2010

Property

Open letter to Finance Minister:

No to regulation

Limiting only registered property managers to run shopping malls will have serious shortcomings

Further to the country's move to regulate the business of property management, we would like to bring to your attention that this will be a leap backwards in the growth of the country.

We don't see the rationale that property managers must be registered valuers.

We, the Persatuan Pengurusan Kompleks Malaysia (PPK) or the Malaysian Association for Shopping and Highrise Complex Management, is concerned with the proposed amendments to the Valuers, Appraisers and Estate Agents Act (VAEA Act) because the proposals will be in essence an effective exclusion and prohibition of shopping mall managers to provide proven effective mall management.

Shopping mall management goes beyond property management. It is a property-based business where revenue, value-adds, property value enhancements and sustainability come from entrepreneurial flair and business acumen.

PPK sees minimal value-adds from registered valuers, which are limited to valuation aspects. On the other hand, they would add another level of cost to the operating costs.

The scope of property valuation and property valuers is different from mall managers. In most cases, it does not include mall management, which is multi-disciplinary.

Mall management encompasses engineering, marketing, architecture, law, project accounting, public relations, corporate communications, advertising, event management, car park and secu-

urity management, and more.

Although mall management professionals are not registered valuers with the Board of Valuers, Appraisers and Estate Agents (BVAEA), they are more than capable in their functions and have proven that.

Suria KLCC, Pavilion KL, 1 Utama, Sunway Pyramid Shopping Mall, Lot 10, Sungei Wang and many other world-class shopping centres in the country have achieved global recognition, evident in the various prestigious awards conferred on them by recognised bodies such as the International Council of Shopping Centres (ICSC) and the International Real Estate Federation (Fiabci).

For the past 50 years, ICSC has been the recognised authority on shopping mall management, and still is, while Fiabci is the most influential global real estate association with representation in 60 countries.

PPK currently has over 300 members – comprising owners, developers and managers of shopping malls country-wide – tasked with looking after 100 million square feet of nett lettable area worth some RM100 billion. Moreover, the shopping industry employs 500,000 people directly.

If the proposed amendments to the VAEA Act are approved by Parliament, mall management would become the exclusive and unchallenged right of property valuers and appraisers registered with BVAEA.

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Mixed reactions to management standards

Stakeholders welcome implementation but voice concerns

By Roznah Abdul Jabbar

Persatuan Pengurusan Kompleks Malaysia (PPK) or the Malaysian Association for Shopping and Highrise Complex Management says implementation of the Malaysian Property Management Standards, which came into force from June 1, is good for the property industry.

However, PPK is concerned that only registered valuers can act as property managers (see cover on "Open Letter to Finance Minister").

On the standards, PPK president Chan Hoi Choy said they can provide recourse for property owners for any property management related issues.

"The idea behind such standards is to ensure service uniformity is rendered by property managers. As such, there is a degree of professionalism expected from them as well.

"The standards can be used as performance measurements with clear definition of what is required," he said.

However, Chan noted PPK resents that only registered valuers can act as property managers.

"From what we are aware, Malaysia is the only country in the world that adopts such restrictive legislation.

"In the shopping centre context, property management may not equate to centre management as the latter deals beyond building maintenance and rent collection.

"Centre management calls for a broader scope and in-depth variegated skills normally not applied in property management.

"In simpler terms, centre managers can be seen like specialist doctors while property managers can be seen as general doctors," he explained.

He also pointed to the Valuers, Appraisers and Estate Agents Act 1981 which defines property management as the management and control of any land, building and interest therein, excluding the management of property-based businesses, on behalf of the owner for a fee.

The Act gives exemptions to property-based businesses to be managed by specialist managers other than property managers. These include hotels, motels, hostels, plantations, quarries, marinas, ports, golf courses, cinemas, stadiums, sport complexes and hospitals.

"PPK strongly opine that property-based businesses should be expanded to include shopping centres just like hospitals and



The National House Buyers Association says the standards enable joint management bodies to monitor the quality and performance of professionals who manage the common areas and facilities in highrise properties.

hotels," Chan said, adding that consideration and exemptions must be given to centre managers when it comes to the standards.

Meanwhile, Building Management Association of Malaysia president Datuk Teo Chiang Kok said property owners should be the only persons to determine who are the most appropriate to be engaged to manage their properties.

There should not be impediments by law or regulations to interfere with their freedom of choice to select who to manage, protect and enhance the values

of their property investments.

"Over the last 30 years, developers and owners have been managing their properties and the teams that have been engaged have garnered very deep knowledge and experience in managing many and mega properties.

"They are on par with others anywhere in the world and their expertise are sought after by developers and owners overseas," he said.

According to him, due to the multitude of functions and different needs and emphasis of different

usage of buildings, no one individual or profession can monopolise property management services.

"The most rudimentary and visible functions of property management are daily maintenance chores such as cleaning and preparing the building for occupants such as switching on the lights and air-conditioning.

"However, the more important but less obvious functions of property management encompass security, safety and health, traffic and car park management, marketing, leasing, credit control

as well as advertising and promotions with different emphasis depending on the usage of the buildings under management," he said.

He noted property management is also becoming more sophisticated and comprehensive with mix-use developments encompassing different uses within one mega complex.

These include offices, hotels, serviced apartments, condominiums, shopping centres, medical centres and education centres all integrated into one complex.

National House Buyers Association (HBA) welcomes the property management standards. Its honorary secretary-general Chang Kim Loong said these enable the joint management bodies (JMBs) to monitor the quality, standard and performance of the professionals who carry out management of common areas and facilities in highrise properties.

He said the Board of Valuers, Appraisers and Estate Agents (BVAEA) was set up to regulate these professionals and it is spelt out that those doing such work must be registered.

"Together with the registration and the property management standards by BVAEA, the house buyers and JMBs will be assured of quality work," Chang added.

PROPERTY TIMES, NST Friday 03 September, 2010

No empirical proof valuers are better managers

from cover

This is despite the fact there is no empirical evidence to show valuers are better mall managers.

Over 95 per cent of shopping malls today are in fact managed by non-valuers. Against this backdrop, it can create a fertile condition for rent seeking where there is minimum value-add.

We feel regulation will only jeopardise the shopping mall industry, which has registered total sales turnover of RM75 billion a year, as well as adversely affect the tourism industry.

In 2009, foreign spending on shopping alone amounted to RM15 billion, representing a significant 28 per cent of tourism receipts

valued at RM54 billion.

Therefore, much is at stake. Limiting only registered property managers to run shopping malls will have serious shortcomings in the shopping industry, which is managed mostly by non-valuers.

In the globalised world, Malaysia's business practices including trade rules and regulations should be liberalised, competitive and business friendly, not restrictive and archaic. Limiting mall management to a select profession is certainly out of sync with the rest of the world.

Our property sector is a vital cog in our economy where best universal practices should apply in a free and open economy.

For the local economy to compete and prosper, it must embrace globalisation and liberalisation.

Malaysia is a signatory to the Asean Free Trade Area or AFTA and the World Trade Organization or WTO. Legislation must create a conducive haven for business investment, especially foreign direct invest-

ments (FDIs).

A monopoly by any board is therefore regressive and will only hurt the country's efforts in promoting to international investors. Our FDIs for 2009 had already plunged 81 per cent compared to 2008's.

Putting more restrictive regulations such as the proposed amendments to

the VAEA Act can deter FDIs on shopping malls in the country.

FDIs can certainly play a very significant role in boosting shopping mall investment in the country.

Over the past years, billions of ringgit have been raised from FDIs through shopping mall real estate investment trusts. However, there is substantially greater potential to be realised from the shopping mall segment.

In the drive to raise the per capita income in the country to US\$15,000 (RM47,000) in year 2020 from the current US\$7,500 (RM23,500), the wholesale and retail sectors, which include shopping malls, must not be derailed in any

way or by any constrictive legislation that serves to impair the country's economic interests and welfare.

We seek the government's consideration and support to ensuring that the proposed amendments to the VAEA Act do not proceed as scheduled in Parliament in the interest of safeguarding the diverse interests of all stakeholders in the mall management industry in particular and the sustainability of the real estate sector in general.

Chan Hoi Choy
President
Persatuan Pengurusan Kompleks Malaysia
(Malaysian Association for Shopping and Highrise Complex Management)

Malls eye RM63b shopping revenue from tourists

By **Vasantha Ganesan**
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FOREIGN tourists are expected to spend a whopping RM58.89 billion shopping in the country in 2020, accounting for 35 per cent of the total foreign exchange receipts of RM168 billion then.

But local malls expect to ring up

a little more than that.

Malaysian Association of Shopping and Highrise Complex Management (PPK) president H.C. Chan expects foreign tourists to spend RM63 billion on shopping in 2020.

This is four times more than what was achieved in 2009 from shopping at RM14.94 billion, from

Sales expected to climb 10-15pc: B2

a total foreign exchange earnings of RM53.37 billion.

Last year, for every RM100

spent by a visitor, 28 per cent went into shopping or a total of RM631 per person.

This compares with the top two shopping destinations in the region — Singapore and Hong Kong. The 2020 target set by the Malaysian government is similar to Singapore's where each visitor spent 35 per cent or RM988 on

shopping, while in Hong Kong they spent 57 per cent or RM1,311.

"We are confident that today's 28 per cent tourist spending in shopping can be increased to 40 per cent level by 2020, as there is a tremendous potential and strong upside to move up tourist

■ TURN TO B15, COL. 1



Chan feels that even if duties were not removed completely but reduced, it will create an incentive for people to spend more.

Mall rentals here 25pc lower than in S'pore

■ FROM B1

spending in malls," Chan told Business Times in an interview.

The mall beneficiaries of the tourist dollar now include Suria KLCC and Sunway Pyramid, where tourist spending can be between a fifth and a third of total sales derived by the mall. Tourists spend two to three times more than locals and in terms of absolute numbers, the amount is substantial.

One way of getting tourists to buy more

in Malaysia is by making Malaysia more competitive. Duties on imported branded items are now as high as 30 per cent.

Chan feels that even if duties were not removed completely but reduced, it will create an incentive for people to spend more as what they will be buying is cheaper.

Operating costs are already competitive as mall rental rates in Malaysia are 25 per cent lower than in Singapore. As such, a product can be priced much lower if duties are reduced.

"Tourists need to feel that they are saving 10 per cent to 30 per cent if they shop in Malaysia," he said.

"We hope something substantial or a breakthrough will result from the ongoing National Key Economic Areas (NKEA) Tourist Lab where key industry players and stakeholders are represented including PPK," he added.

The Performance Management and Delivery Unit (Pemandu) under the Prime Minister's Department, is facilitating the NKEA Labs.

PPK clarifies mall rental

THE Malaysian Association of Shopping Complexes and Highrise Complex Management (PPK) has clarified that mall rental in Malaysia is a quarter of rentals in Singapore and not as reported. The article "Malls eye RM63b shopping revenue from tourists" yesterday, stated that rental rates in Malaysia are 25 per cent lower than in Singapore.

Retailers set to ring up higher sales

By **Vasantha Ganesan**
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RETAILERS located within malls are expected to enjoy a 10 per cent to 15 per cent sales growth this year, compared with a low single-digit growth in 2009.

The forecast beats both the projected 6 per cent 2010 economic growth and the Malaysian Association of Retailers forecast for the country of 5 per cent.

"Generally, as an industry, the worst

is over.

"There was a turn in the fourth quarter of 2009, which saw a marked improvement in sales," Malaysian Association of Shopping and Highrise Complex Management (PPK) president H.C. Chan said.

"This improvement has carried forward to this year, and we hope it sustains. Traditionally, the second half of the year is stronger.

■ TURN TO B15, COL. 1

Klang Valley to be key driver of retail sales

■ FROM B2

"(As such) We are expecting a double-digit growth of between 10 per cent and 15 per cent in sales for our retailers this year," Chan told Business Times in an interview.

Chan said the projection is in line with a continued improvement in the global and local economies, both of which are closely intertwined and have direct impact on the disposable income for the man on the street.

"In Malaysia, the spending in shopping mall is a good barometer of the state of

health of our national economy, hence assuming our gross domestic product (GDP) growth of 5 per cent to 6 per cent is attainable for 2010, then the double-digit retail growth in the shopping mall industry is achievable," he said.

Overall, all states are expected to perform reasonably well. However, Klang Valley will be the key driver of retail sales in Malaysia as more than 140 malls are located here and 40 per cent of the total retail sales comes from here.

Going forward, the outlook is rosier as the government looks to increase per cap-

ita income to US\$15,000 (RM48,000) by 2020 from US\$7,000 (RM22,400) now. By 2015, per capita income is set to touch US\$12,140 (RM38,848).

"This is good news for the shopping industry, as it means that consumers will have a high disposable income (provided inflation is well controlled)," he said.

Doubling the per capita income is tantamount to doubling our population. After all, the Malaysian retail scene is very much driven by domestic consumption, which contributes to over 90 per cent of total sales.



"After a 35-year history of malls, we are now entering the regeneration phase ... malls will transform to become more niche."

HC Chan
President
Malaysian Association for Shopping Complexes and Highrise Complex Management

Malaysian malls in regeneration phase

By Vasantha Ganesan
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THE key theme for Malaysian shopping malls over the next decade is regeneration.

It is a transformation that includes both an extension of an existing mall or an extensive makeover of a mall, Malaysian Association for Shopping Complexes and Highrise Complex Management (PPK) president HC Chan said.

"After a 35-year history of malls, we are now entering the regeneration phase. Some of the shopping centres will undergo a change," Chan said.

"There will be more regeneration (activities) rather than building of new malls," he said, adding that malls will transform to become more niche.

This, Chan said, largely because the current 100 million sq ft of net lettable area of retail space within shopping com-



Regeneration via expansion includes Mid Valley Megamall in Kuala Lumpur, which added the Gardens.

plexes is sufficient to cater to the existing market.

Regeneration via expansion included Mid Valley Mega Mall, which added the Gardens, Suria KLCC with a retail podium in Lot C, and Sunway Pyramid, which added a second phase and is now working on a third and a

fourth retail phase.

One mall that recently underwent a major makeover is The Mines following the takeover by CapitalLand's CapitaMalls Asia Ltd.

Another example is KL Plaza that will be relaunched as Fahrenheit 88 after it undergoes a

massive RM100 million renovation.

Similarly, UE3 (now Viva Home), Phoenix Plaza and Kenanga Wholesale Centre are also being rejuvenated.

"Until the greater Kuala Lumpur plan takes shape, there will be no mega shopping structures. Until then, there will be only medium sized malls," Chan said, adding that most other mall openings will continue to be within the Klang Valley.

"The next wave of substantial shopping malls development will be in the next three to five years when huge parcels of prime Kuala Lumpur land are opened for development," Chan said.

Today, the Malaysian shopping mall industry comprising 300 malls is worth some RM100 billion in real estate value and provides direct employment for 500,000 people.

THE SUN Wednesday 30 June, 2010

'Don't make us scapegoats'

> Unfair to make landlords liable for offences committed by tenants, say seven associations

BY ALYAA ALHADJRI
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PETALING JAYA: Developers, retailers and building owners are against the proposal to amend the Copyright Act to make landlords liable for copyright infringement offences committed by their tenants.

"Landlords should not be held liable, nor should they be forced to play the role of law enforcement officers to police copyright infringement by their tenants," said head of Associated Chinese Chambers of Commerce and Industry of Malaysia's (ACCCIM) construction and property committee, Datuk Teo Chiang Kok yesterday.

"The amendments will unfairly include landlords of premises used for infringing activities - instead of only focusing on the perpetrators," he told a press conference where seven associations jointly issued a statement to oppose the proposed amendments.

The associations are ACCCIM, Real Estate and Housing Developers Association (Rehda), Malaysian Association for Shopping and Highrise Complex Management, the Malaysia Retailers Association (MRA), Malaysia Retailers-Chain Association, Building Management Association of Malaysia and International Real Estate Federation, Malaysian Chapter.

Domestic Trade, Cooperative and Consumerism Minister Datuk Sri Ismail Sabri Yaacob had last month announced the government's plan to

amend Section 36(b) and Section 41(c) of the act which pertain to ownership, distribution and sale of copyrighted material without licence.

Now, Section 36(b) makes it an offence for any person to import or distribute any article without licence or consent from the copyright owner. This includes pirated movies and music CDs, software and imitation branded goods.

Under the proposed amendment, the landlords will be made liable and a person found with just one infringing copy of copyright material whether for private or commercial use can be charged, instead of a minimum of three infringing copies as the law stands now.

Teo said that the relationship between landlord and tenant was governed by the common law principle that a landlord shall grant his tenant "quiet enjoyment of the premise". "With the proposed amendment, the landlord has to police the usage of the premise and effectively interferes with a fundamental aspect of the relationship with his tenants," he said.

He said that the amendments will not only affect landlords who owned commercial premises, but also private property owners, who will be implicated if their tenants were caught infringing copyright laws.

He said that landlords were also exposed to financial liabilities when they took up the role of "enforcement officers", as they might face legal action from their own tenants due to their inadequate knowledge of copyright laws.



MAKING HIS MOVE

Prime Minister Datuk Seri Najib Razak plays Chinese chess with local Ting Jack Kuok while Deputy Minister at the Prime Minister's Department Datuk Edwin Khoo (centre) helps out during a walkabout at Lido Market near Penampang, Sabah yesterday. Looking on are Sabah Chief Minister Datuk Seri Musa Aman (second from right) and Plantation, Industries and Commodities Minister Tan Sri Bernard Dompok (left).
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"Law enforcement is the responsibility of the respective government agency and to impose this on the landlord is an abdication of their role to private individuals," he said.

Rehda past president Datuk Eddy Chen Lok Loi said it was unfair for the government to "pass the buck" to the landlords and find a scapegoat for its lack of enforcement capabilities. He said for the landlords to train or employ "enforcement officers" just to curb copyright infringement in their premises would increase their cost of

doing business and indirectly deter foreign direct investments.

Chen's views were echoed by Malaysian Association for Shopping and Highrise Complex Management president Richard Chan. "It is unrealistic to expect developers or owners of retail outlets to personally visit and monitor every single unit in their building to ensure that there are no items sold that infringe copyright laws," he said.

The associations said they had had several dialogues with the ministry

since the proposal was mooted in 2007, but to date, the government had not heeded their views. "Everytime revisions were made to the proposal, the content was still the same, with only the wordings changed," lamented Teo.

He said the government's stand was that "landlords should know their tenants" before entering into any agreement and should, therefore, be held responsible for any illegal activities conducted in their premises.

Proposed Copyright Act amendment 'may hit FDIs, rental market'



From left: Teo, Rehda representative Datuk Eddy Chen and Fiabci representative Richard Chan at the press conference yesterday.

By Sharen Kaur
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PROPERTY-RELATED associations said the flow of foreign direct investments (FDIs) into Malaysia and the rental market may be affected if the Copyright Act 1987 is amended.

The government wants to change the act to take action against landlords whose premises are used to sell infringing materials for commercial purposes like pirated video compact discs.

Domestic Trade, Cooperatives and Consumerism Minister Datuk Seri Ismail Sabri Yaakob had said the amendment, which may be tabled soon in Parliament, would ensure landlords are held responsible if their premises are used to sell pirated items.

Datuk Teo Chiang Kok, the national council member of the Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM) said the proposed amendment will scare investors.

"It will burden the landlords,

also cost-wise, as they would have to make regular checks at the premises. This is asking them to be police when it is the responsibility of the government. We are all affected by the move, which is far reaching," Teo said.

Making landlords liable for their tenant's act in carrying out illegal businesses is unreasonable, he said.

Teo was speaking to reporters yesterday in Bandar Utama, Selangor, in a joint conference hosted by ACCCIM, Rehda, Fiabci, the Malaysian Association for Shopping and High-rise Complex Management, Malaysia Retailers Association and Building Management Association of Malaysia.

Teo said the government should review the amendment as it will not necessarily erase the problem.

"Don't pass the buck just because the government cannot solve it. We have had on-going dialogues with the ministry since 2007 on this matter but to no avail.

"All of us are objecting to proposed amendment. The public at large, will be affected. The landlords or property owners will suffer," he said.

Teo said as far as he is concerned, no other law in the world has that provision.

THE STAR Wednesday 30 June, 2010

Landlords 'no' to enforcer role

Seven groups oppose move to make owners liable for errant tenants

PETALING JAYA: Seven business and real estate associations are opposing the proposed amendments to the Copyright Act 1987 that holds landlords liable when their tenants use their property for intellectual property and copyright infringement activities.

They described the amendments, requiring landlords to police the usage of their premises or properties and to be held responsible for ten-

ants' wrongdoings, as "unfair, unreasonable, untenable and impractical".

They also expressed fear that this would dampen the property rental market and discourage foreign and local investors from investing in the property market.

The seven are the Associated Chinese Chambers of Commerce and Industry (ACCCIM), Real Estate and Housing Developers' Asso-

ciation Malaysia (Rehda), Malaysian Association for Shopping and Highrise Complex Management, Malaysia Retailers Association, Malaysia Retailer-Chains Association, Building Management Association of Malaysia (BMAM) and International Real Estate Federation Malaysia Chapter.

"It is totally unreasonable from the point of enforcement of public law. The enforcement agencies

must do their jobs. If they can't solve them, they should not pass the buck to landlords. Landlords can't be the police. They neither have firearms nor laws to protect themselves against danger," said ACCCIM representative Datuk Teo Chiang Kok at a joint press conference here yesterday.

Former Rehda president Datuk Eddy Chen Lok Loi said the move would increase the cost of doing

business as they have to train staff on enforcement and supervision.

BMAM secretary-general S. Venkateswaran said building managers' responsibility was to ensure properties are in good condition.

"It's not possible for them to conduct raids as they would require search warrants," he said, adding that the move would be detrimental to investment initiatives by the government.



Established in 1984

租戶盜版罰業主

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(八打灵再也讯) 1987年版权法令修正案一旦通过，只要租戶家里收藏任何盗版物件，即使1张光碟，業主必需承担罚款及监禁的法律责任。新法案引起政府、商界及民间团体的争议，多个社团及商业团体周二发表联合声明，反对政府将反盗版的执行责任推卸给業主。

马来西亚中华工商联合

会、马来西亚房地产商公会、马来西亚购物中心和高楼大厦管理协会、马来西亚零售业者公会、马来西亚连锁零售业者公会、马来西亚建筑物业管理协会及国际房地产联合会七大组织，一起发表联合声明，指政府的做法对業主极不公平。他们反

对政府将原本拥有3张盗版光碟，减少至1张盗版光碟就属犯法的法案条文。

他们称，一般人没有足够知识判断，哪一种光碟或产品属于盗版光碟或贗品，政府的做法只会破坏業主和租戶的关系，亦会吓跑外資，甚至加剧贪污及濫权。

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- 法案涉及產品廣泛 包括光碟衣物
- 業主租戶關係緊張 業主蒙受損失
- 擁1盜版碟也犯法 恐致官員濫權

● 中華工商聯會理事張昌國



“如果業主享有执法的权力，租戶的宁静空间将被干预，导致宾主关系结束。”

● 唱片播放版權有限公司總裁陳業夫



“如果業主可以证明自己不知情，就不用担心必须承担法律责任。”

● 消協通訊部總監莫哈末尤斯夫



“若租戶不满業主，施计陷害業主，只要把盗版光碟放在家里，就会一并被对付。”

● 貿消部副部長陳蓮花



“如果業主接到执法单位通知后，仍然无动于衷，屋主就必须负上法律责任，因为这是知法犯法。”

封面故事

A6

租戶有盜版碟捉業主

版權令修正案引爭議

(八打灵再也讯) 至今还没有提呈国会通过的1987年版权法令修正案, 引起政府、商界及民间的争议, 多个社团及商业团体周二发表联合声明, 反对政府将反盗版法的执行责任推卸给业主。他们声称, 一旦1987年版权法令修正通过后, 业主必须承担租户犯下盗版法令的责任及赔偿, 面对罚款及监禁的风险, 这对业主非常不公平。

封面故事



■张昌国表示, 拥有3张同样盗版光碟或物品减少为拥有一张盗版光碟或物品就属犯法的条例, 将加剧贪污及滥权的状况。



何欣瑜

陳蓮花：知租戶盜版才被罰

■陈莲花：业主在知情的情况下继续纵容租户犯法, 才必须负责。

对于多个社团及商会提出的反对声浪, 国内贸易与消费部副部长陈莲花披露, 所谓业主或业主必须负起的法律责任, 乃是指业主在知情的情况下继续纵容租户犯法, 才必须负责。

她周二接受《光明日报》的专访时指出, 一旦1987年版权法令在修改后, 业主在知情的情况下, 仍然让租户从事违法活动, 才必须负上法律责任。

她指出, 执法单位是在发现租户从事违法活动后, 先致函通知业主; 所以, 业主在知情后必须采取行动; 如终止租约, 以禁止租户继续从事违法活动。

“如果业主在接到执法单位的通知后依然无动于衷, 业主就必须负上法律责任, 因为这样是知法犯法。” (CD)

指對業主不公嚇跑外資

马来西亚中华工商联合会中央理事张昌国说, 业主对版权法令没有足够的知识, 也没有专业知识分辨货品的真伪, 一旦业主误发租户侵犯版权法令, 业主及租户的关系也随即终结, 受害的是业主, 而他们也必须承担财务上的损失。

他也表示, 业主来自本地及国外, 一旦业主必须为租户错

否認政府推卸責任

对于执法的责任, 贸消部副部长陈莲花说, 人民应该与政府合作共同打击盗版, 而不是政府在推卸执法责任。

她认为, 法令的修改是为了要打击盗版, 人民应该给予执法单位合作, 让执法工作更有效率。

“这是在打击非法活动情况下, 人民与政府的合作, 不是我们在推卸责任。” (CD)

陳業夫：業主不知情無罪

大马唱片播放版权有限公司 (PPM) 总裁陈业夫受询时指出, 业主不需要因为版权法令的修改而感到担忧, 因为据他了解, 只有业主是在知道租户违法的情况下, 继续让单位租给租户, 才必须负上法律的责任。

陈业夫也是马来西亚唱片业协会 (RIM) 总裁, 他说, 从反盗版的角度来看, 这项法令的修改的确是好事, 而法律的大前提是不知者无罪, 所以, 如果业主可以证明自己不知情, 就不用担心必须承担法律责任。

他相信业主在不知情的情况下不会受到影响, 否则就对业主不公平。

“当然, 如果业主已受到通知, 却依然没有行动, 那他就应该去承担责任。” (CD)

■王志坚：业主在知情的情况下负上法律责任的做法是可以接受的。

律師：沒侵犯業主權益

执业律师王志坚认为, 政府为了打击盗版而修改法令, 业主在知情的情况下负上法律责任的做法是可以接受的, 而这样的修改并没有侵犯业主的权益。

他说, 在执法方面, 公众有责任与执法单位合作, 这是作为一个公民的社会责任。

他指出, 租户一旦被取缔, 而业主如能证明自己是善意的不知情, 法律可以从宽处理。

“相反, 如果业主为了确保租户没有进行违法活动而擅自闯入租户租出的单位, 在这种情况下是侵犯了租户的权益, 并且犯下窥伺居民的罪行。”

他说, 业主在把单位租出后, 必须得到租户的同意, 才可以进入相关单位。

建議業主租約闡明

他建议业主, 在把单位租出去时, 可以在租约里阐明, 租户不得在所租用的单位从事任何违法的活动或违反租约, 否则业主有权中止租约, 并向租户索取赔偿。

他说, 在这种情况下, 至少可以让业主在面对面提控时, 向租户追讨赔偿。

“不过, 这并不意味着业主可以通过法律责任, 因为法令终究超越所签署的租约。” (CD)

出席记者会者包括马来西亚房地产业公会前主席曾福传、马来西亚购物中心和高楼大厦管理协会理事陈海全、马来西亚零售业主公会理事杜炳均、马来西亚建筑物管理协会秘书长卡斯瓦、国际地产业联合会代表刘玉英及国际地产业联合会中央理事陈志强。(CD)

他们称, 贸消部已召见他们, 并说明修正法令的内容, 而政府在建议书中就提到业主必须对租户侵犯版权法令负责。

他们说, 政府的建议书还提及业主必须确保租户没有侵犯版权法令, 而版权法令涉及的产品范围广泛, 从光碟到皮包或衣物等, 全部都纳入在内。

盼政府勿推卸責任

这些社团包括马来西亚中华工商联合会、马来西亚房地产商公会、马来西亚购物中心和高楼大厦管理协会、马来西亚零售业主公会、马来西亚连锁店零售业主公会、马来西亚建筑物管理协会及国际地产业联合会, 联合发言人马来西亚中华工商联合会中

央理事拿督张昌国在记者会上指出, 如果将执法的权力推向业主, 这与政府被赋予执行罪案的权力是不符合的。

“业主不被允许进入租户的单位拿取盗版物品, 因为这等同于闯入私人住宅的罪名。”

他披露, 贸消部曾在今年5月及6月召集他们开会, 表示有意修订1987年版权法令。

他说, 尽管修改法令还未提呈给国会, 但政府表示将在不久作出上述的行动, 使业主表示担忧, 因此召开记者会, 提出他们的建议。

“有关的建议对业主来说并不公平也是一种负担, 业主必须承担政府的执法责任, 政府不应该推卸责任。” (CD)



消協：租戶或陷害業主

马来西亚消费者协会联合会通讯部总监莫哈末尤斯夫表示, 1987年版权法令一旦经过修正, 并获得国会三读通过后, 将对业主不公平, 而且也不合理。

他周二接受《光明日报》访问时指出, 基本上业主把屋子出租后, 就不大了解屋里的状况, 也很难控制租户是否购买盗版。

因此, 他认为即将修改的法令对业主很不公平, 也不应该。

对业主不公平

不过, 莫哈末尤斯夫认为还得看情况, 若业主把屋子租给租户做生意, 而租户售卖盗版光碟, 业主就可能需要负上一些责任。

此外, 他也表示法令修改后可能衍生更多问题, 如业主是否愿意把屋子出租, 出租后也必须时常挂念等。

“若租户不满足业主, 或许还可陷害业主, 只要把一些盗版光碟放在家里, 就会一并被对付。” (TTK)



■莫哈末尤斯夫：修正后的法令将对业主不公平, 也不合理。

官員收版權費應出示文件

联合发表声明的商会及公会说, 在音乐创作人版权保护法法令下, 称为执法官员者应该在收取版权费时, 出示执照或文件证明他们的合法性。

他们建议执法官员必须出示他们与所代表的歌手或唱片公司所签署的合约, 列出代表歌手名单及代表的歌曲、商标及艺术品名单, 并且公开交给创作者或持有人的版权费。

他们建议大马唱片播放版权有限公司 (PPM)、音乐著作人版权保护有限公司 (MACP), 以及今年才开始收费的音乐演艺者权益有限公司 (PRISM) 将所有详细资料, 贴在网站上供公众查阅。

他表示, 对政府修订版权法令的努力表示支持, 但也希望有一个公平及公正的待遇, 保障公会会员及消费者。(CD)

1987年版权法令一旦经过修正, 并获得国会三读通过后, 任何拥有一片盗版光碟者, 都是属于违法, 而住家藏有盗版光碟或充当盗版用途, 业主和持有者一样会被提控。

在现有的法令下, 拥有超过3张盗版光碟, 而且是商业用途的持有者, 才会受到对付。一旦法令修正, 除了商业用途的持有者, 私人持有盗版光碟者也有可能被对付。

政府原订今年6月向国会提呈有关修正的法令, 惟目前未有动静。据了解, 修改后的法令也包括对付生产、盗用版权人士及私人拥有者, 惟政府还没有最终的决心。

在1987年版权法令下, 任何人触犯1987年版权法令, 可被罚款2000至2万令吉, 或监禁最高5年。

除了修改1987年的版权法令, 贸消部也修正部分法令, 包括1972年商业法令及2000年光碟法令。(CD)

修令對付盜版持有者將被控

张昌国表示, 他们反对将原本拥有3张盗版光碟减少至一张盗版光碟属犯法的法令条文, 这将导致贪污及滥用权力的情况更加严重。

他指出, 一般民众没有足够知识判断, 哪种光碟或产品属于盗版光碟或产品, 因为现代的科技已足以将盗版产品制作得似真似假, 因此仅拥有一张盗版光碟或产品就属违法是不公平的。

出席记者会者包括马来西亚房地产业公会前主席曾福传、马来西亚购物中心和高楼大厦管理协会理事陈海全、马来西亚零售业主公会理事杜炳均、马来西亚建筑物管理协会秘书长卡斯瓦、国际地产业联合会代表刘玉英及国际地产业联合会中央理事陈志强。(CD)

坡大臣：保障開創者利益

(加央讯) 坡州大臣拿督斯里末依沙曾发表政府积极进行打击盗版活动, 并认为这不但保护拥有版权者, 也可确保售卖正版的商家利益不受影响。

“虽然多数消费者认为盗版物品不会造成伤害, 但这对努力开创与创新新产品的人士不公平, 因此我希望消费者拒绝购买盗版货品。”

大臣周二上午为坡州贸易局举行的“谢绝盗版”醒觉运动主持推介礼时强调, 既然我国拥有3项保护版权的相关法令, 有关单位应加强监督与执法工作。

他指出, 根据数据, 坡州于2009年至今年6月27日期间, 共破获31宗涉及盗版货品的案件, 其中14宗为去年的案件, 其余17宗于今年1月至上述日期被揭发, 未依沙披露, 去年涉及盗版光碟的案件则有3宗, 价值17万9555令吉; 今年则破获8宗案件, 光碟价值72万8360令吉。

坡今年侦破9厘品案

他披露, 至于仿冒品方面, 去年共有11宗案件, 查获共8181令吉的物品; 今年截至本月27日则有9宗, 货品价值40万331令吉。

此外, 大臣也说, 政府推动这项运动共有5项宗旨, 即致力“清除”各型市场的盗版光碟与仿冒物品, 禁止任何网上非法下载及拷贝, 确保商家遵守规范, 积极打击盗版集团, 加强执法及加重犯案者的刑罚。(CCF)



7·大·组·织·谈·反·盗·版·政·策

拥一盗版碟便定罪 草拟中条文不公应取消

(八打灵再也 29 日讯) 7 大组织要求政府取消正在草拟中的 1987 年版权法令第 42 (2) 条文, 有关条文建议, 只要拥有一盗版光碟或其他翻版物品, 一视为犯法。

引发更多滥权贪污

大马中华总商会理事拿督张昌国说, 若把拥有 3 张盗版光碟限制降至拥有一张便定罪, 将引发许多问题, 包括滥权及腐败贪污等。

他说, 一般人无法分辨正版及盗版货品, 若花了钱不慎买盗版货, 正好又被执法单位逮, 对消费者而言非常不公平。张昌国也说, 针对大马音乐

创作人版权保护协会、音乐演绎者权益 (马来西亚) 有限公司及大马唱片播放版权有限公司征收版权费问题, 7 组织要求 3 个单位出示合约及授权书, 只要收费合理, 他们会缴费。

他说, 这项问题从 2007 年延续至今还未解决, 3 单位不愿出示授权书及歌曲及歌星版权名单, 他们不可能照单付费。

“据我所知, 歌曲版权有年分限制, 一些歌曲到了今天已不需再付版权费。”

他说, 进入科技化时代的今天, 3 单位应把授权书及歌曲目录上载到网站上, 让运作更透明化, 让公众上网查询应该如何付费。

文接 封面 业主没举报如同谋

马来西亚中华总商会理事拿督张昌国在记者会说, 执法是政府的责任, 强制业主来执行相同任务是不合理, 政府不应该把责任交给私人界执行。出席者包括马来西亚购物与高楼协会中央理事陈海全、大马建筑物管理协会总秘书 S.文嘉德斯瓦蓝、世界不动产联盟大马分会理事刘玉英、大马零售商协会理事杜炳钧、马来西亚房地产发展商协会理事拿督曾福传及销售顾问陈志强。

张昌国说, 上个月与当局对话时, 业主获告知政府有意加强业主对租户的监控权, 计划拟定新法令, 阐明业者应该了解租户的行为, 一旦租户犯法, 而业主没有监督举报形同共谋, 须一并接受处分。

“这非常不公平, 我们根本不可能知道租户是否违法, 更不可能定时上门检查, 这是执法人员的工作。”

他说, 这也牵涉到版权法令, 他们不可能检查租户出售的所有物品及仓库内的存货是否有盗版。

另外, 他也指许多业者或租户都是外国投资者, 他们都委托本地产业顾问或公司去处理业务, 这种情况之下, 他质疑业主能亲自监督租户。

“我国不像英国或澳洲, 没有特定法令可管制业主及租户之间的关系。”

他说, 如果政府一意孤行, 将造成我国产业出租领域蒙受损失, 届时也可能导致外资却步。

7 组织反对修正法令 租户盗版业主有罪



●张昌国：业主只是商人或投资者, 没经过专业培训, 如何代替警方执法?

(八打灵再也 29 日讯) 租户卖盗版, 业主要负起监管责任, 否则将因没有监督、举报或中止租约为共谋一并被处分, 七大组织同声反对要业主亲自监管租户违法行为建议。

国内贸易、合作社及消费者事务部执法主任罗斯兰说, 修正的 1987 年版权法令条文下, 一旦租户触犯版权法令, 业者会因为没有监督、举报或中止租约等一并被处分, 罚款 2000 至 2 万令吉及监禁 5 年。

包括商业中心住宅

他说, 这包括商业中心或建筑物和私人住宅的业主及租户。若租户犯法, 这些业主也会遭对付。

他说, 这是修正中的 1987 年版权法令文提出的一项建议。

不过, 这项建议已引起马来西亚中华总商会、马来西亚房地产发展商协会、马来西亚购物与高楼协会、大马零售商协会、马来西亚连锁店协会、大马建筑物管理协会及世界不动产联盟大马分会, 七大组织的同声反对。

业主难代警方执法

他们要求政府正就建议业主亲自监管租户违法行为一事, 因为业主只是商人或投资者, 没经过专业培训, 难以代替警方等执法组织执行任务。

●文转 A3



17 大组织要求政府取消正在草拟的 1987 年版权法令第 42 (2) 条文。左起为杜炳钧、陈海全、张昌国、曾福传、陈志强、刘玉英及 S.文嘉德斯瓦蓝。

贸消部：租户违法应中止租约 业主只须监督举报

(八打灵再也 29 日讯) 国内贸易、合作社及消费者事务部执法主任罗斯兰声明, 贸消部不是业主执法, 他们也没有权力执法, 只是要业主协助监督及举报卖盗版光碟或盗版产品的租户。

他说, 贸消部发现, 一些商业中心或建筑物的租户售卖盗版光碟或盗版产品, 有些业主不知情, 但也有业主是知情不报。

他受《南洋商报》询问时, 应以马来西亚中华总商会为首 17 个组织要求政府检讨业主须亲自监管租户违法行为的建议。

他说, 修正的 1987 年版权法令条文将赋予贸消部执法官

员, 上门检举商业中心或建筑物及私人住宅。如果某个商业中心的租户售卖盗版光碟或盗版产品, 被上门检举的贸消部执法官员逮捕, 该部将会照会商业中心的业主。

“业主须立刻中止有关租户的租约或租期, 叫违法的租户搬走。假如业主不听取部门的警告, 我们将会对付业主!”

罗斯兰也说, 同样的贸消部

执法官员也会上门检举私人住宅的租户, 一旦发现他们私藏盗版光碟或盗版产品, 屋主或房东须立刻中止有关租户的租约或租期, 叫有关租户搬走。

租约应注明禁涉犯法活动

“若有关屋主或房东不理睬部门的警告, 继续让有关租户居住下去, 他们将遭部门惩罚!” 罗斯兰认为, 业主或屋主在

租约中应该有注明租户不能涉及犯法活动, 若租户犯法, 他们有权中止租户的租约或租期。

他说, 假如业主或屋主没有在租约中注明这些事项, 他们应该尽早补进去。

“我们也会让商业中心或建筑物的业主及私人住宅的屋主, 进一步了解修正的 1987 年版权法令条文。”

另外, 他也声明, 修正法案至今也未提呈给国会, 部门只是在向业主收集意见, 在草拟法案时也会把他们的建议考虑在内。如果这些组织有任何意见, 可致函给他安排对话会。