

Short term accomodation (STA) such as Airbnb and the like activities.

- 1) STA causes high wear and tear of the common facilities in strata schemes, resulting in high cost of maintenance and repairs and replacements. This means that maintenance charges and sinking fund contributions will have to be increased in a strata scheme to cater for such activities. Otherwise, the common facilities will deteriorate and results in falling rental value and capital value of the parcels therein.

A uniform increase in the rates of Charges and sinking fund contributions is not an issue if STA is carried out for almost 100% of the parcels in a strata scheme.

However, such an increase will become a big issue if STA is carried out for a minority or even up to 50% - 60% of the parcels in a strata scheme. In such situation, a surcharge will have to be imposed on those parcels having STA in order to be fair to those parcels not having STA.

- 2) Police is also concerned that STA is giving rise to burglaries or break-ins in strata schemes. Serviced apartments do not have the tight security and surveillance system of a hotel. This has caused great concern of safety and security to families of resident owners and tenants to the extent that they have to now lock their young children inside their parcels 24/7 because of strangers in the common areas.
- 3) In addition to the above issues, the guests of STA have caused nuisance by creating and generating loud nuisance noises with their after-midnight parties, games, music and gimmicks.
- 4) Furthermore, the developers have applied to the relevant authorities for waiver of fire sprinkler system to the extent that all residential serviced apartments do not have adequate fire protection and fighting installation of a hotel. This is another contributory factor to concern of safety arising from STA activities in serviced apartments.
- 5) Commercial operator hosts rampantly run STA activities like hotel in large numbers, such as 50 parcels to 200 parcels per operator in a strata scheme, to the detriment of resident owners and tenants. Some of them act and behave aggressively like thugs towards the management bodies of strata schemes. This has caused undue anxiety and fear to owners who do not participate in or support the STA activities of such commercial operator hosts. To certain extent such commercial operator hosts are interfering with the functions of the management bodies in order to protect their STA business in the strata schemes. The commercial operator hosts are fast mushrooming in the urban cities in Malaysia.
- 6) Once the strata scheme runs down, the commercial operator hosts will shift and move into another new strata scheme. They do not suffer losses as they do not own the parcels in the strata scheme. It is the owners who suffer great losses in their investments, affected by falling rental income and capital value in the strata scheme.

Furthermore, the presence of commercial operator hosts and STA deters or chases away long term tenants. As the commercial operator hosts take over the tenancies

of a majority of the parcels in the strata scheme, they will control and depress the long term rents in the strata scheme to increase their own profit margins.

- 7) **Condominiums are strata schemes built on residential land titles. STA is commercial activities with high income as compared to normal long term tenancy rental. Lawfully, STA being commercial activities is illegal in such strata schemes.**

There is a need to clarify and identify what are the types of strata schemes that STA activities can be lawfully carried out. Generally, unless the management body of a strata scheme prohibits STA by passing an additional by-law through special resolution in a general meeting, STA may be carried out in serviced apartment and SOHO (small office home office) that are built on commercial land titles.

STA cannot be carried out in office blocks, that are approved in the approved building plans by the local authority for office use only in the strata schemes, unless such office blocks are converted to serviced apartment with the approvals from the relevant authorities. The office blocks include SOVO (small office variable office), SOFO (small office flexible office) and offices.

- 8) **For the abovementioned reasons, high occupancy strata schemes will normally prohibit STA activities.**
- 9) **However, low occupancy strata schemes do welcome STA activities in order to create income for large number of vacant parcels. However, the STA activities will need to be properly controlled and managed with corresponding increase in Charges and sinking fund contributions in order to prevent deterioration of common facilities and not to compromise safety and security of the strata schemes.**
- 10) **Controlling and monitoring STA activities in strata schemes is difficult in developed countries across the world.**

Some effective control mechanism is required as follows:-

- (a) **Local authority to carry out licensing of all the owner hosts in strata schemes who want to carry out STA for their own parcels. Prohibit and ban all commercial operator hosts from carrying out STA activities in strata schemes.**
- (b) **Every management body of a strata scheme such serviced apartment or SOHO that allows STA activities in the strata scheme shall keep and maintain a proper record of all STA activities in the strata scheme.**
- (c) **Every owner host shall have to register his STA parcel with the management body together with a copy of the said license.**
- (d) **Every owner host has to pay a security deposit of not less than RM5,000 to the management body in order to carry out STA in his parcel.**
- (e) **Every owner host has to pay either an increased Charges and sinking fund contributions or a surcharge to the management body in order to carry out STA in his parcel. These monies will be used to maintain and replace the facilities due to high wear and tear arising from the STA activities in the strata scheme.**

- (f) Every owner host has to ensure that his STA guests read, understand, adhere and comply with the additional by-laws and the statutory by-laws in the Third schedule of the Strata Management (Maintenance and Management) Regulations 2015. Every owner will be fully responsible for the defaults of his STA guests and can be fined by the management body for such defaults.
 - (g) Every owner shall indemnify and keep indemnified the management body and its management agent against whatsoever actions, summonses, claims, payments, demands, liabilities, proceedings damages, losses, costs, charges and expenses of whatsoever nature howsoever arising due to the action or actions of his STA guests in the strata scheme.
 - (h) Annual renewal of an owner host's STA license will have to be accompanied with a letter of support by the management body of the strata scheme. Otherwise, such annual renewal will not be granted by the local authority.
 - (i) The relevant authorities shall engage directly with STA web platform companies (such as Airbnb, booking.com, homestay, etc.) to provide source information on actual bookings, deals and transactions made in respect of the STA activities in strata schemes. Such records shall be made available to any management body so that the management body can check, verify and take appropriate actions to control and administer STA activities within its strata scheme.
 - (j) The STA web platform companies and the owner hosts shall remit service tax to the Malaysian Customs Department under the new Service Tax Act 2018 and also pay income tax on the revenue from such STA activities.
- 11) Tourists to Malaysia should be encouraged to stay in hotels and budget hotels. The government should give incentives for the orderly growth of hotels and budget hotels to cater for the needs and demands of the tourism industry.
- 12) The growth of the tourism industry should **NOT** be at the expense of the owners of strata schemes as mentioned above.

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