

# Extension of leasehold properties

>...It is "less complicated" than perceived

PART 2

BY MEERA AMMANI

**L**AST week's column discussed the principles governing leasehold property in the Klang Valley. This week, we are exploring factors influencing lease-extension and potential lease renewal of such properties.

## EXTENSION OF LEASEHOLD PROPERTIES...

Recapping last week's article, once the lease on a property expires, ownership is reverted back to the State government. Extension or renewal of a lease can be done through an application, provided the State government grants an approval and the premium is paid.

According to Andy Low Hann Yong, partner at Low & Partners, "Legally speaking, there is no specific provision in the National Land Code (NLC) that deals with the extension of leases per se, some state governments have relied on Section 76 (a), 204B and 197 of the National Land Code for this purpose."

"This is because section 76 (a) gives power to the State Authority to alienate land of a term not exceeding 99 years. Section 197 of the NLC provides the procedure where the landowner can surrender their title back to the government. Section 204B provides certain power to the State Authority to approve surrender and re-alienation."

## WHEN TO EXTEND...

Margaret Tan, 55, lives in a leasehold property in Petaling Jaya Section 4. With 49 years left before her lease expires, she is one of the many leasehold property owners who is worried and left in the dark as

to how long she should wait before applying for an extension.

"I was told that when a property reaches a point where there is only 30 years left for the lease to expire, it's very difficult for a lessee to even get a bank loan with it. So when should I extend the lease?"

Property sources say homeowners who want to extend leases on their property can do so according to their choosing and there is no minimum number of years they need to wait before applying. However, they warn that when leasehold properties near their expiry date, the market value of

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the property will start to decrease, hence the difficulty in getting bank loans.

Christopher Chan, associate director of Hartamas Real Estate (Malaysia) and registered real estate agent, says that the Selangor government has come up with two options for extending leases. Under the first, the homeowner need only make a payment of RM1000. However, this option comes with "restriction", as the owner is not allowed to re-sell the property to profiteer. Transfer of the property to family members is allowed though. The State Authorities will lodge a Registrar

Caveat on the property to prevent the owner from disposing the property under this option.

The second option is to pay the full rate of premium that is required for the extension of the lease. With this option, the owner can dispose the property as soon as the new title is received.

Government based on the market value of the land. The valuation of the land is done by the Valuation and Property Services Department of the Finance Ministry. It is based on the latest transaction values in the area.

## THE "PREMIUM" IN SELANGOR...

The calculation of premium varies with each state, therefore it is important to get the information beforehand accordingly.

In Selangor, the formula to calculate the premium rate is derived from Section 7 of the Selangor Land Rules 2003 & Selangor Quarry Rules 2003, entitled "Premium".

Premium =  $\frac{1}{4} \times \frac{1}{100} \times$  Market Value of land (in sq ft)  $\times$  number of years to renew  $\times$  land area (in sq ft).

Leases are usually renewed so that there are 99 years of lease to the title. Therefore, if you have 10 years remaining on your lease, you need only pay for an extension of 89 years (99 years-10 years).

**Keep in mind that the calculation of the premium rate as mentioned above is for the land itself. It does not include the building constructed on the land.**

## THE "PREMIUM" IN KUALA LUMPUR...

Premium on lease to be re-alienated in Kuala Lumpur is referred under the Federal Territory of Kuala Lumpur Land Rules 1995, under part 3 Premium rule 9. Where an expired lease is to be re-alienated to the former registered proprietor, the rate of the premium to be determined by the Government is one quarter of that specified in sub-rule 8(b), and will exclude the value of any building or cultivation then found on the land.

Sub-rule 8 (b) states that where alienation is by way of lease, the rate of premium to be charged shall be calculated as follows. The value of the land to be calculated shall be determined by the

Calculation of premium for residential land where the lease has expired:

**Premium =  $\frac{1}{4} \times$  value of land  $\times \frac{1}{99} \times$  term of lease**

Calculation of premium for residential land where the lease has NOT expired:

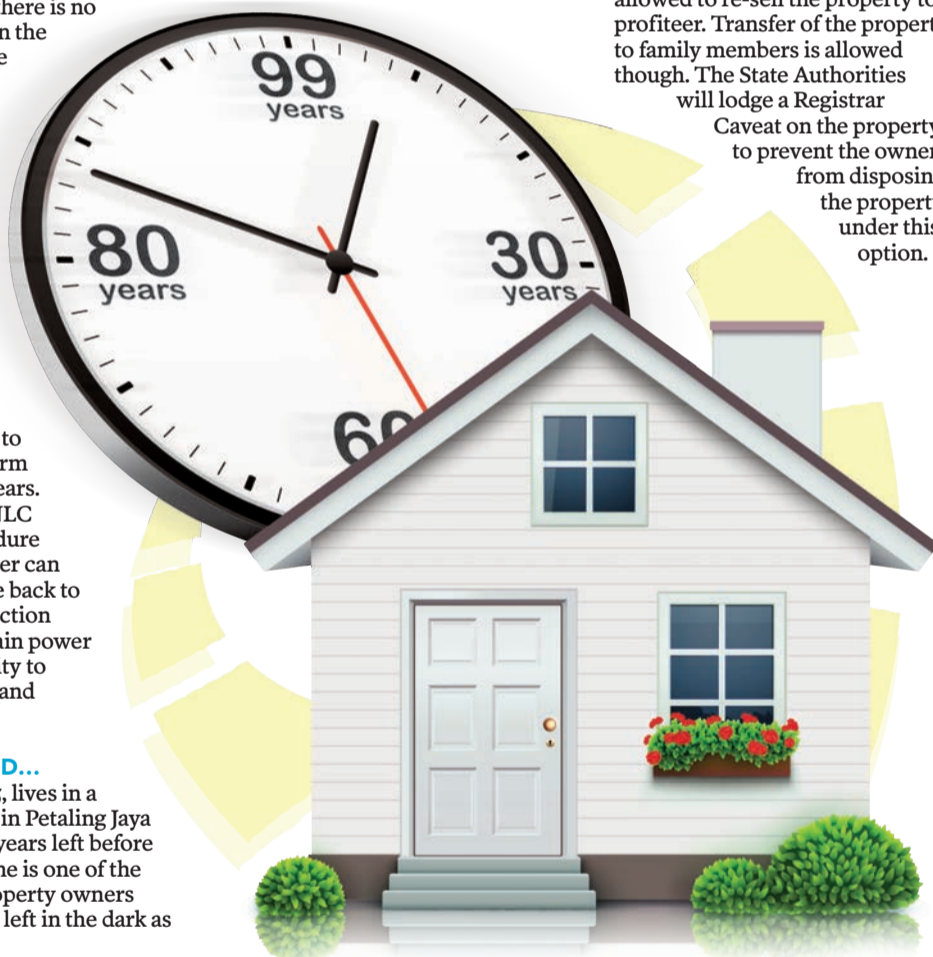
**Premium =  $\frac{1}{4} \times$  category of the land use  $\times$  value of the land  $\times \frac{1}{99} \times$  (term of new lease minus balance of existing lease)**

Once the premium has been paid, the process and action required is very simple. One has to wait for the Land Office to inform the property owner when he or she can collect the Land Title.

While in principle the government has the authority to evict an "owner" upon expiry of the lease, all parties we spoke to opine that the government is unlikely to do so. So leaseholders are advised to read our notes on lease extension and renewal carefully.

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## PROCESS OF LEASE EXTENSION

The applicant (homeowner) will have to submit the following to the state land office:

- Application form to surrender and re-alienate land to extend lease duration (Borang 12A Permohonan Untuk Menyerahkan Balik Tanah - mengenai kesemua tanah itu)
- Personal land lease rights (of the applicant) form (Borang Perihal Tanah Peribadi Pemohon)
- Table 1 - Rule 2 - Land Rights of Malaysian Government (Jadual 1 - Peraturan 2 Kanun Tanah Negara Perintah Tanah Kerajaan)
- Personal details of the applicant (Borang Butir-Butir Permohonan Tanah Oleh Individu)
- The original title of the property (Surat Ikatan Hak Milik Asal)
- Copy of quit rent and assessment receipts for the current year (Salinan cukai tanah dan resit cukai taksiran untuk tahun ini)

- Two copies of NRIC (Dua salinan kad pengenalan)

### NOTE:

If the lease has already expired, the applicant needs to submit the Application for Land Re-alienation form (Permohonan Pemberimilikan Tanah). The land will then be checked by a settlement officer, who will submit a report to EXCO for approval. Upon approval, the land will need to go through a re-alienation process by the land administrator. If the re-alienation is approved, the Land Office will issue a Notice (Form 5A) to the property owner, that Land Revenue is Due. The owner will then need to pay a premium.

[Information from Christopher Chan of Hartamas Real Estate (Malaysia) and Andy Low Hann Yong, of Low & Partners. Names of "documents" are stated in both the Malay and English language for easy reference]

## ADVERTORIAL

## And the award goes to...

PROPERTY industry big-wigs and real estate head honchos will be busy, this time not in property matters but affairs of vanity and the wardrobe. With FIABCI's Malaysia Property Award 2013 Gala taking place tomorrow at One World Hotel in Bandar Utama, excitement is already in the air, with nominees wanting to look spiffy, photographed collecting the esteemed award on stage.

This year, nine awards will be presented, in eight categories - Property Man; Retail; Office; Sustainable Development; Purpose Built/Specialised Project; Heritage; Residential Low-rise and Residential High-rise.

The 'Oscars' of the industry will kick off with cocktails at the foyer. Mingle, network or simply enjoy the grandeur of the night. With the winner's list on embargo, adrenaline levels will be high leading up to the highlight of the night - the awards presentation. Still, take pleasure in the event organised by FIABCI's Dr Yu Kee Su, Organising Chairman, and his dedicated team. They've arranged for a welcome arch, plus another to snap pictures at, along with a display of previous Malaysia Property Award and FIABCI Prix d'Excellence Award winners. To entertain guests is Charles Barnabas, who will deliver Jazz tunes to keep the night



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light and pleasurable. Formal proceedings of the night will include a video of what went on behind the scenes that culminated to the awards presentation. With eight months to prepare and more than 80 people involved in the now ISO-complised organising process of the Malaysia Property Award, here's to this year's winners and the rest working to make tomorrow's event first-rate and fabulous.