

Presentation for
Clifford Chance

25 January 2009

Introduction to Dubai “Strata Law”



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INNOVATION AND KNOWLEDGE FOR COMMUNITIES

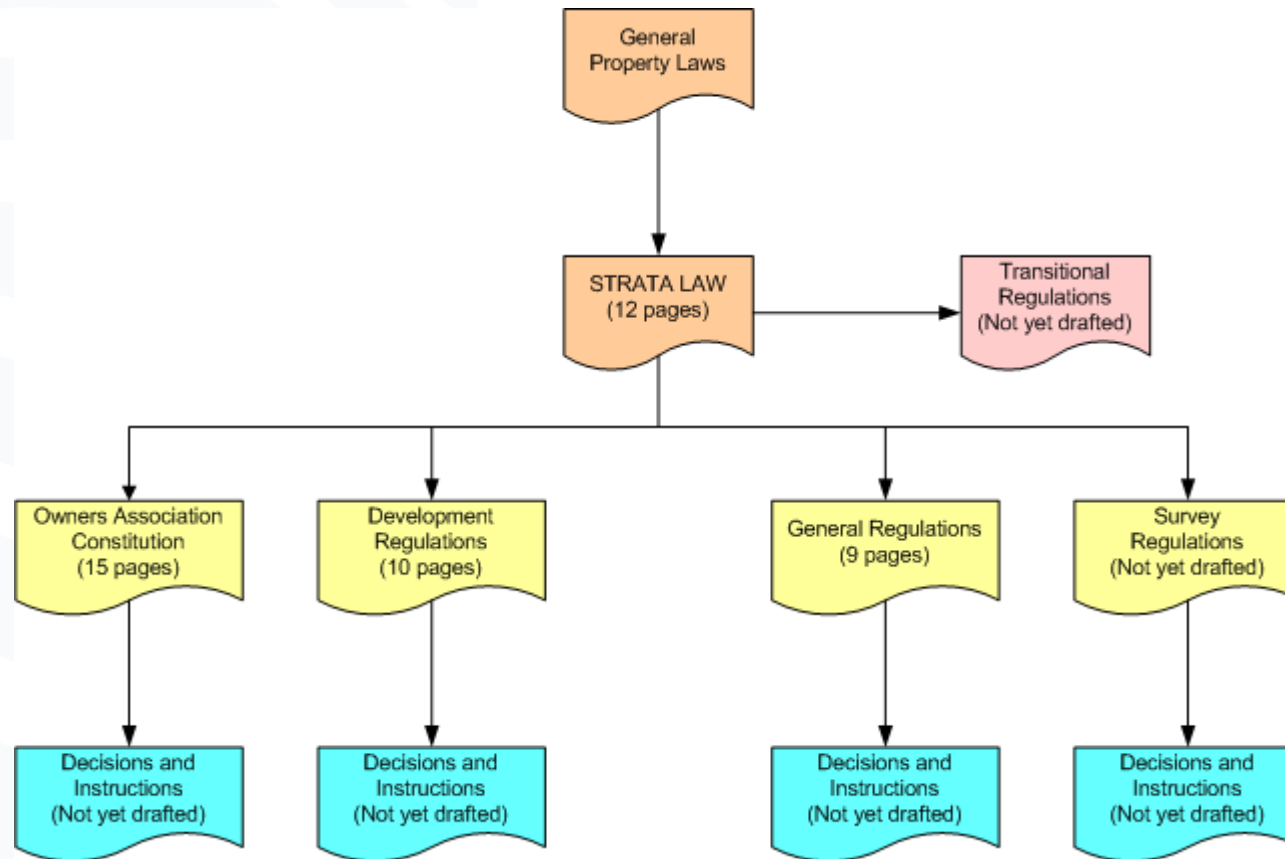
Generally

- Commenced on 1 April 2008
- Regulations will be released soon
- Developments with “jointly owned property” must be registered with the Land Department
- “Jointly owned property” is *Common Areas* designated on the Site Plan for *common use*
- Site Plan is key to flexibility
- Applies to existing and new developments
- Does not apply at Master Developer level



Dubai Strata Law

(Jointly Owned Property Law)



Mechanisms Introduced

- **Strata title subdivisions** (vertical)
 - Units and common areas
 - Owners association
- **Community title subdivisions** (horizontal)
 - Units and common areas
 - Owners association
- **Volumetric subdivisions**
 - Building management statement
 - No owners association



Key Documents

- **Survey plans of subdivision –**
 - Strata (uses monuments)
 - Community (uses marks on ground)
 - Volumetric (uses spatial co-ordinates)
- **Jointly Owned Property Declaration**
- **Disclosure Statement**
- **Building Management Statement**
- **New document – Master Development Statement (?)**



Jointly Owned Property Declarations

- Different to “Master Community Declarations”
- Filed at Land Department when first Unit sale is registered
- Set out certain operational matters for “jointly owned property”
- May relate to leasehold or freehold land, but not both together
- May relate to another jointly owned property plot (maximum of 3 tiers)



JOP Declaration Content

- **Compulsory and optional provisions**
- **Compulsory provisions vary depending upon:**
 - Freehold building or part building
 - Leasehold building or part building
 - Straight freehold land
 - Straight leasehold land
- **Must not conflict with the Law**

JOPD Compulsory Content

- Whether freehold or leasehold
- Name of Owners Association
- Numbering of units
- Schedule of unit areas (shareholding) **[Being amended]**
- Staging details
- Delivery and use of utility services
- Easements or covenants relating to Common Areas
- Community rules
- Explanation of any layered structure
- Forms of lease (Unit and Common Areas)



JOPD Optional Content

- **Restrictions on use of Units**
- **Architectural/landscape Codes**
- **Common Areas use restrictions**
- **Rights of exclusive use of Common Areas**
- **Special management arrangements**
- **Duties and obligations of Sub-Developers**
- **Duties and obligations of owners and occupiers**
- **Duties and obligations of Developer**
- **Other things permitted by DG**

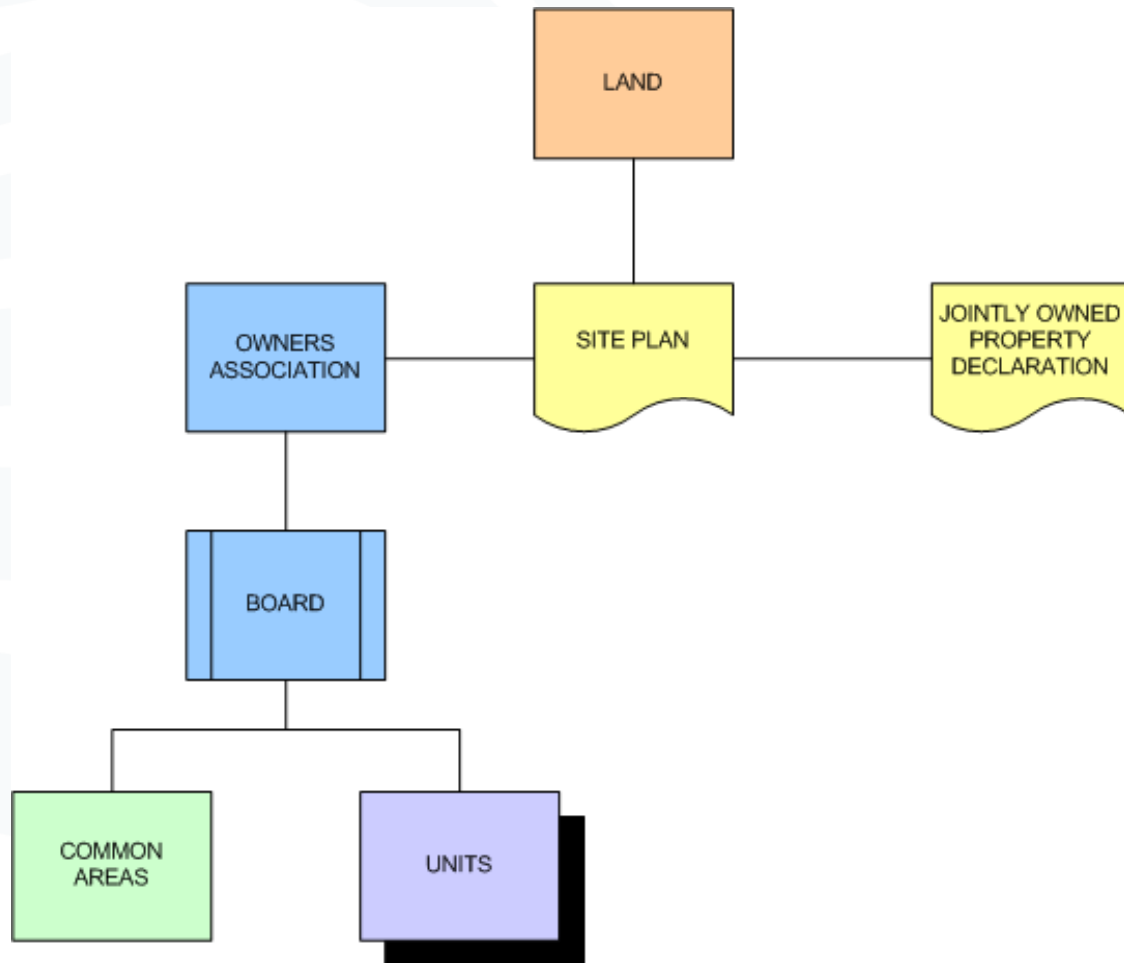


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Strata/Community Subdivisions

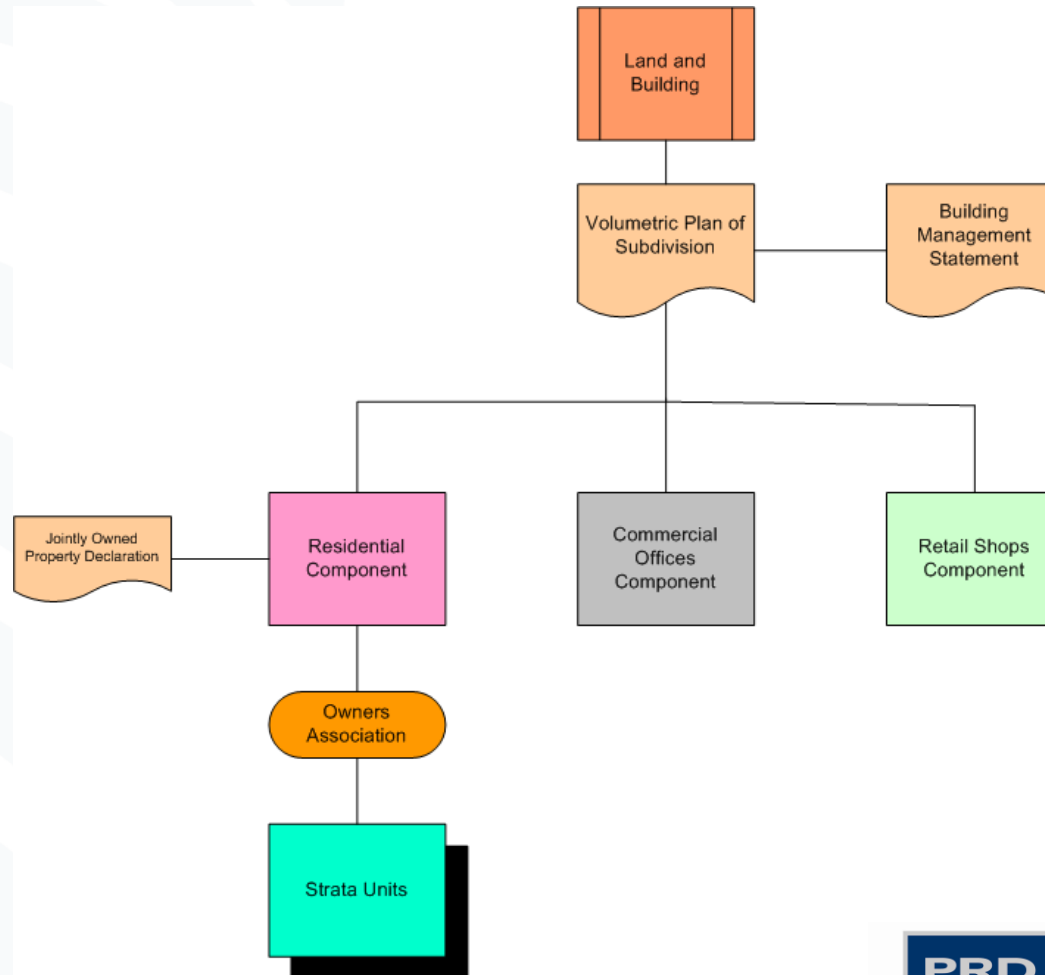


Volumetric Subdivisions

- Also known as “Airspace” and “Stratum”
- Define boundaries three dimensionally using spatial co-ordinates
- Used to subdivide a building by separately defining different component use areas
- No Owners Association involved
- Allows a component use area to be owned outside an Owners Association structure
- A component use area may be “strata” subdivided



Volumetric Subdivision



THIS SHEET DEFINES BOUNDARIES GENERALLY AT LEVEL 1

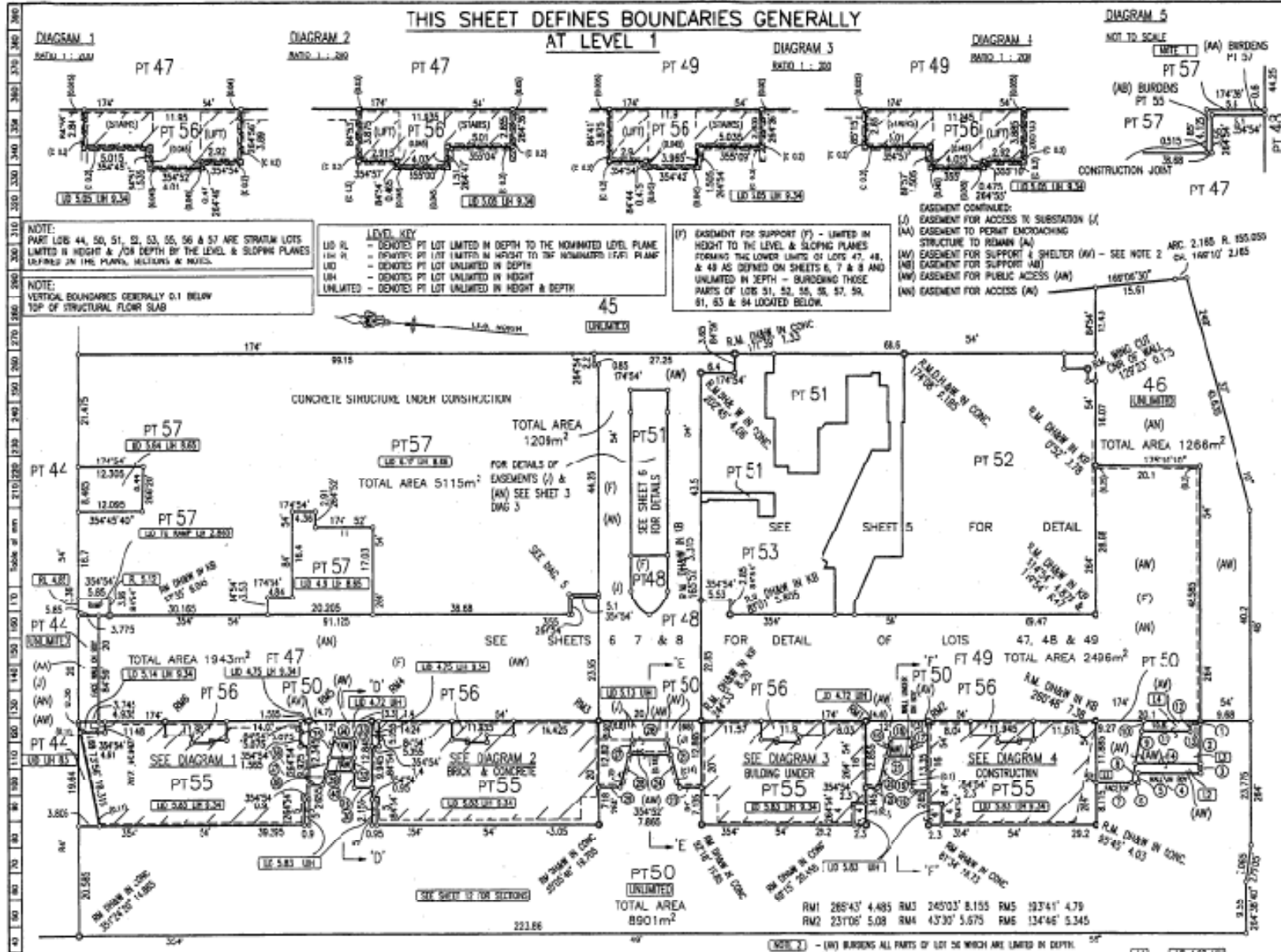


DIAGRAM 1
SCALE 1:1000

DIAGRAM 2
SCALE 1:1000

DIAGRAM 3
SCALE 1:1000

DIAGRAM 5
NOT TO SCALE

NOTE:
PART LOTS 44, 50, 51, 52, 53, 55, 56 & 57 ARE STRATUM LOTS LIMITED IN HEIGHT & /OR DEPTH BY THE LEVEL & SLOPING PLANES SHOWN IN THE PLANS, METERS & FEET.

NOTE:
VERTICAL BOUNDARIES GENERALLY 0.1 BEYOND TOP OF STRUCTURAL FLOOR SLAB

LEVEL KEY

LD RL - DENOTES PT LOT LIMITED IN DEPTH TO THE NOMINATED LEVEL PLANE
 LD HL - DENOTES PT LOT LIMITED IN HEIGHT TO THE NOMINATED LEVEL PLANE
 LD - DENOTES PT LOT UNLIMITED IN DEPTH
 LH - DENOTES PT LOT UNLIMITED IN HEIGHT
 UNLIMITED - DENOTES PT LOT UNLIMITED IN HEIGHT & DEPTH

(F) EASEMENT FOR SUPPORT (F) - LIMITED IN HEIGHT TO THE LEVEL & SLOPING PLANES FORMING THE LOWER LIMITS OF LOTS 47, 48, & 49 AS DEFINED ON SHEETS 6, 7 & 8 AND UNLIMITED IN DEPTH - BURDENING THOSE PARTS OF LOTS 51, 52, 55, 56, 57, 59, 61, 63 & 64 LOCATED BELOW.

(L) EASEMENT FOR ACCESS TO SUBSTATION (L)
 (AN) EASEMENT TO PERMIT ENROACHING STRUCTURE TO REMAIN (AN)
 (W) EASEMENT FOR SUPPORT & SHELTER (W) - SEE NOTE 2
 (AB) EASEMENT FOR SUPPORT (AB)
 (AW) EASEMENT FOR PUBLIC ACCESS (AW)
 (A) EASEMENT FOR ACCESS (A)

DP1014625

Registered: *[Signature]* (A) (V-7-2000)

This is sheet 4 of my plan in 12 sheets dated 30-5-2020

[Signature]
 Surveyor registered under Surveyors Act 1929

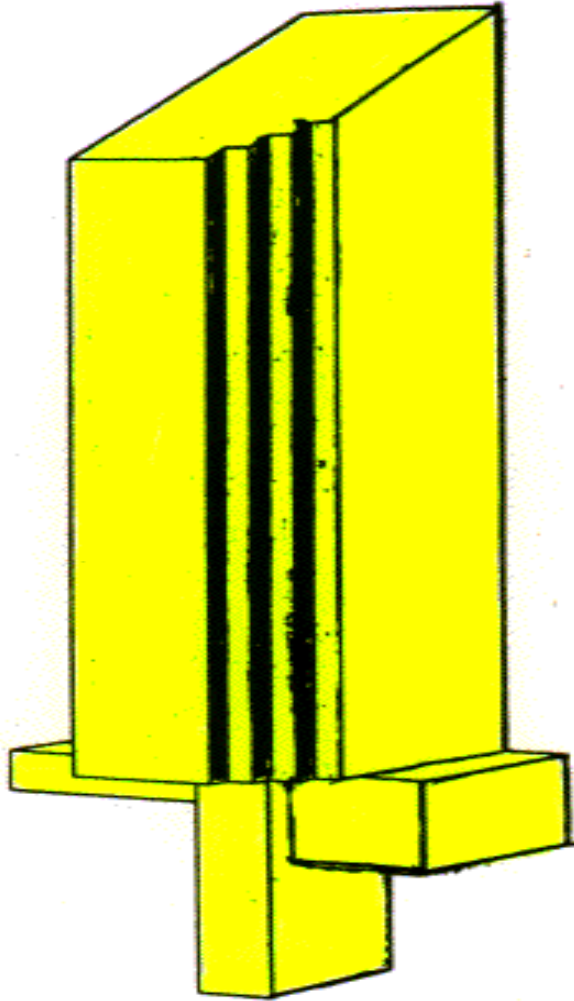
This is sheet 4 of the plan of 42 meters covered by my Certificate No. 10101-00

15.7.20
[Signature]

Revised Manager/Authorized Person

For use where space is insufficient in my panel on Plan Form 2.

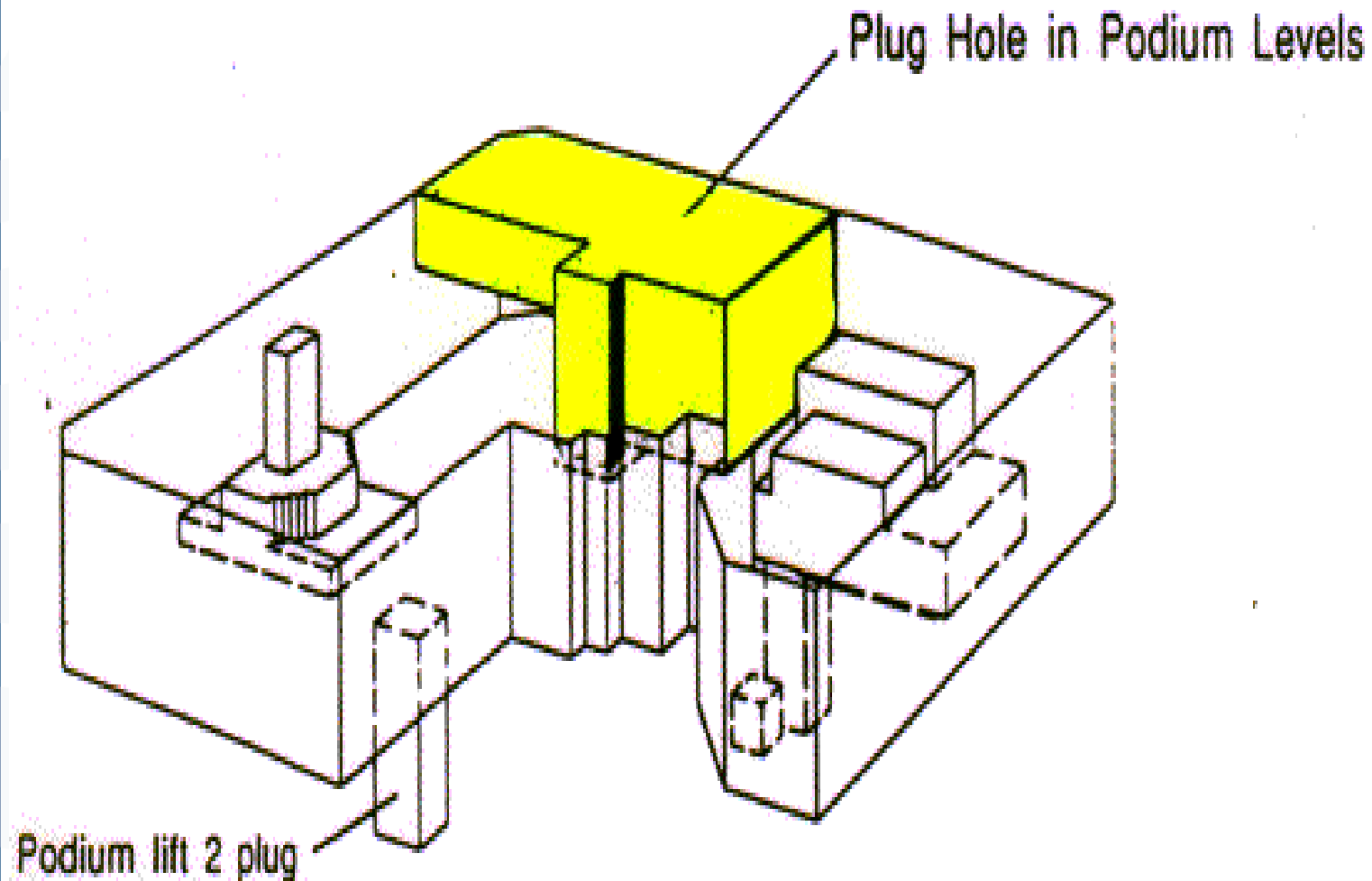
(SEE 2) - (W) BURDENING ALL PARTS OF LOT 56 WHICH ARE LIMITED IN DEPTH.
 (F) - (F) 2.00/1000



Tower & Plug

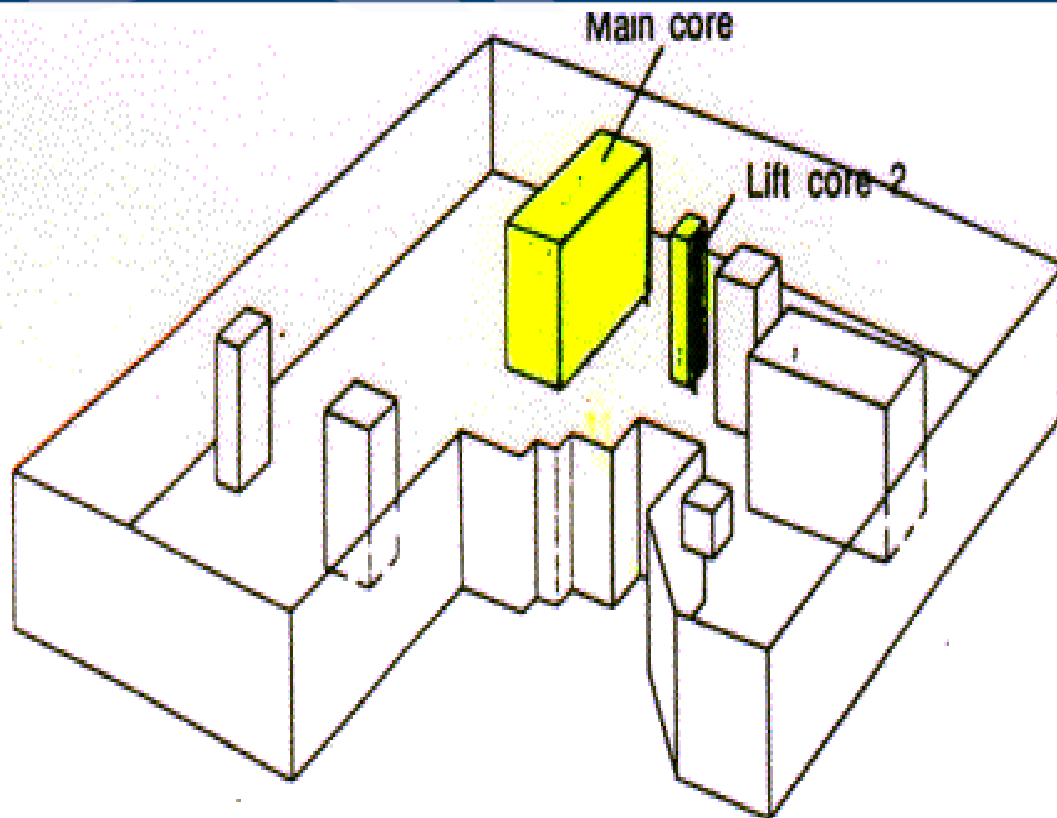
PRD nationwide
property services

INNOVATION AND KNOWLEDGE FOR COMMUNITIES



PRD nationwide
property services

INNOVATION AND KNOWLEDGE FOR COMMUNITIES



Plug Holes in
Basement Levels



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Building Management Statement

- Only apply to buildings
- Must be filed – if JOP is confined to part of a building and no JOPD for whole building
- May be filed if –
 - No JOPD for whole building
 - Volumetric subdivision
 - Potential for JOPD for a component
- Compulsory and optional provisions are specified

BMS Compulsory Content

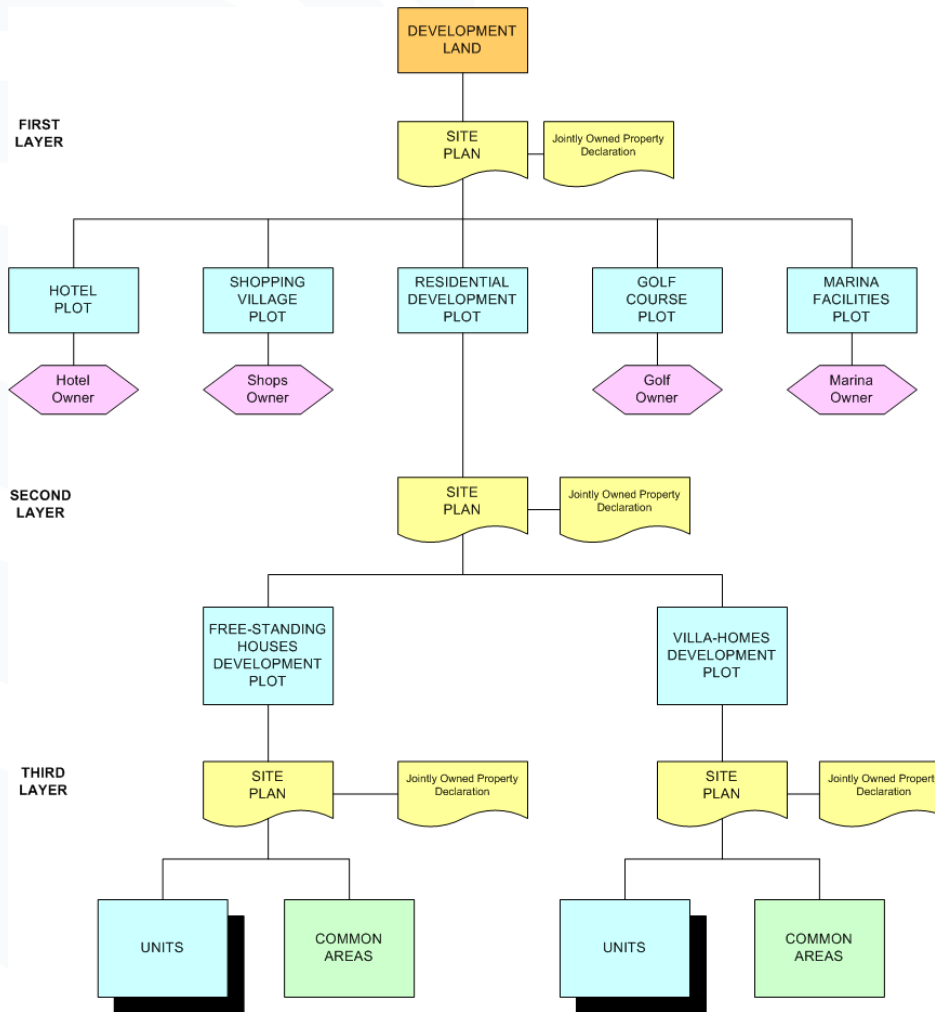
- **Identify –**
 - Component use areas
 - Common Elements
- **Specify –**
 - Owners of Common Elements
 - Rights of access
 - Rights of support and shelter
 - Responsibility for maintenance
 - Cost sharing arrangements
 - Insurance arrangements

BMS Optional Content

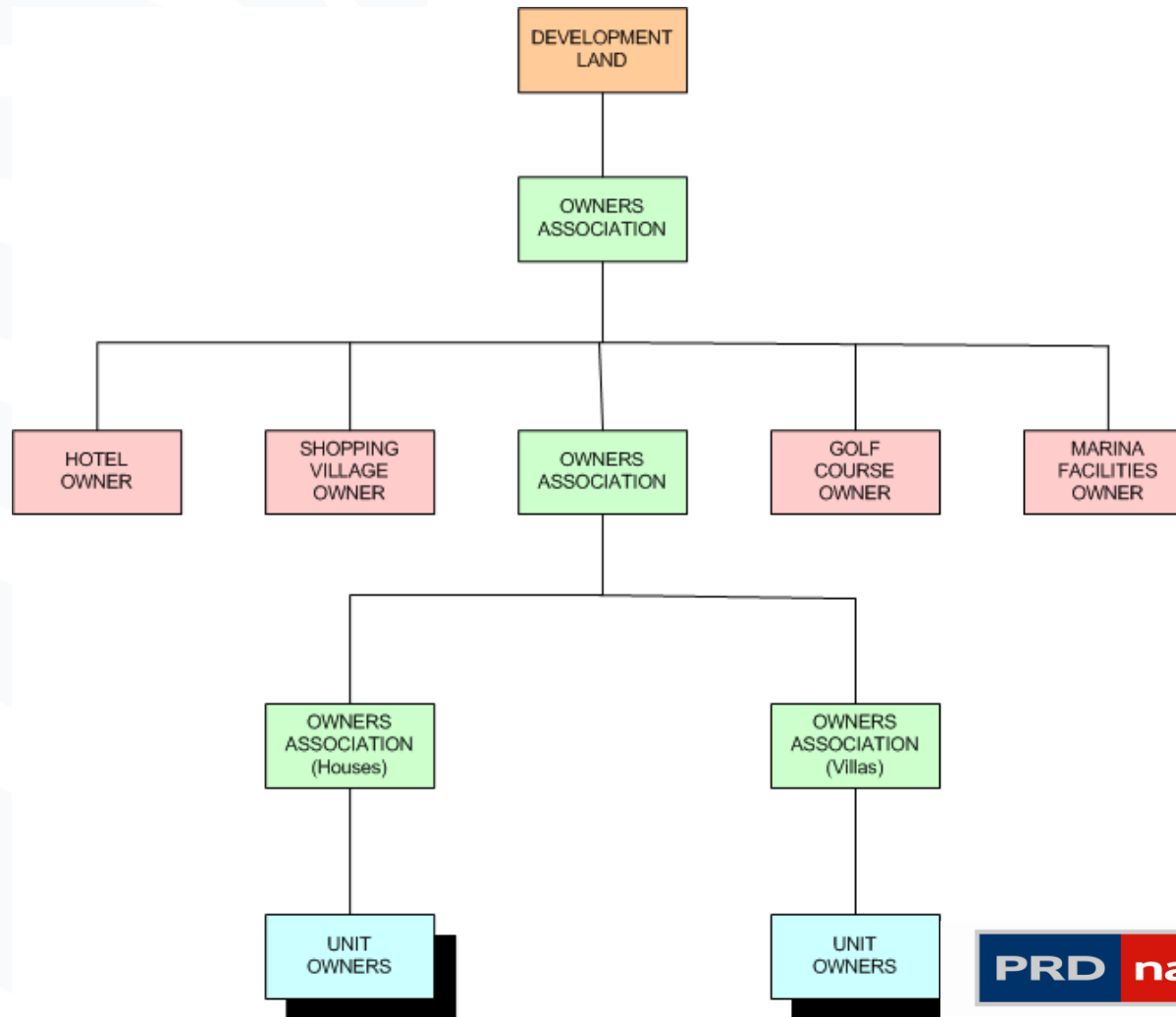
- **Management group**
- **Maintenance charge arrangements**
- **Architectural standards**
- **Environmental management requirements**
- **Rules for use of Common Elements**
- **Administrative arrangements**
- **Matters to protect owner and occupier interests**



Tiered Subdivision Structure



Tiered Management Structure



Points to Remember

- Range of mechanisms available to structure a project
- The “key” to a successful structure is their selection
- Project needs to be analysed before the selection takes place
- Structure needs to fit with the Master Community Governance and Management arrangements (i.e. Municipal level)
- Existing projects are transitioned



Underlying Philosophy for Disclosure

1. Developers are given a relatively free hand
2. In exchange – complete disclosure, backed by a warranty as to accuracy
3. Purchasers will be –
 - Better educated
 - More fully informed
4. The market will then decide what is and is not attractive



Disclosure Statement

- Only apply to “proposed Units”
- Must be given before contract is signed by a “Consumer”
- Must be in writing and signed by a representative of Developer or Sub-developer
- Must set out required information
- Information is backed by a 2 year warranty



Disclosure Statement Contents

- **Description of building or project** (includes intended uses, available common area facilities, chattels being acquired)
- **Copy Jointly Owned Property Declaration**
- **Copy Building Management Statement**
- **Schedule of materials and finishes**
- **Copies of Supply Agreements**
- **2 year budget**
- **2 year service charge estimates**



Disclosure Statement Contents

(Continued)

- **Utility services arrangements –**
 - Public providers
 - Private providers
- **Owners Association utility on-sale arrangements**
- **Construction commencement and completion estimates**
- **Settlement date estimate**



Cost Shifting Prohibitions

- **Expenses prior to registration must be paid by developer**
- **Expenses after registration are responsibility of Owners Association**
- **Shifting of expenses is prohibited**
- **Exceptions –**
 - Existing contractual provisions @ 1 April 2008
 - Insurance premiums for period beyond registration



The Owners Association

- **Special corporate entity**
- **Not for profit**
- **Made up of Unit Owners**
- **Formed upon registration of first Unit sale**
- **Has a Board elected by a General Assembly**
- **Responsible for management, maintenance and operation of Common Areas**
- **Constitution mandated**



Functions of Owners Association

- **Manage Common Areas & assets**
- **Repair and maintain**
- **Enforce JOPD, BMS and Rules**
- **Promote harmony and goodwill**
- **Obtain licence**
- **Maintain records and provide statements**
- **Comply with Laws, etc.**



Powers of Owners Association

- **Contract and employ**
- **Remedy defects**
- **Enter Units to repair**
- **Own movable assets**
- **Sue**
- **Be shareholder or member of a company**
- **Effect insurances**
- **Borrow money**



Governance

- **Board is governing body**
- **3 – 7 members**
- **Non-paid role**
- **Responsibilities of Board –**
 - **Strategy**
 - **Monitoring management**
 - **Ensuring OA carries out functions**
- **Appoints a Chairman**
- **Makes its own rules & procedure**



General Assembly

- **Role is to elect Board and replace if necessary**
- **Meetings –**
 - Annual general assembly
 - Special general assembly
- **Resolutions –**
 - Simple (majority)
 - Special (2/3 value of votes)
- **May meet electronically**



Management

- **Executive officer – General Manager**
- **Individual or company**
- **Delegated powers and functions**
- **Responsible for administrative, secretarial and financial matters**
- **Liaises with Chairman**
- **Maximum 3 year appointment**



Finances

- **General Fund + Reserve Fund**
- **General – recurrent expenses**
- **Reserve – capital or non-recurrent expenses**
- **Must be kept separate**
- **Must be in a bank account**
- **General – annual budgeting**
- **Reserve – 10 year budgeting**
- **Service charges are raised**



Service Charges

- **May be levied by installments**
- **Annual general assembly fixes**
- **Based on “entitlement”**
- **Raised by notice setting out detailed information**
- **Must be paid by due date**
- **20% discount may be allowed for payment on time**
- **New owner is jointly liable**
- **Debt certificate is available**

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