

**AN ASSESSMENT ON STAKEHOLDERS'  
PERSPECTIVE ON THE HOUSING DEVELOPMENT  
MONITORING AND ENFORCEMENT MECHANISM  
UNDER HOUSING DEVELOPMENT ACT (CONTROL  
AND LICENSING) 1966 AND REGULATIONS [ACT  
118]**

**BY**

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**A thesis submitted in fulfillment of the requirement for the  
degree of Master of Science in Built Environment**

**Kulliyyah of Architecture and Environmental Design  
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## **ABSTRACT**

The research aims to assess stakeholders' perspectives on current issues of housing development monitoring and enforcement mechanisms under Act 118. The housing industry in Malaysia is regulated under the jurisdiction of Housing Development (Control and Licensing) Act 1966 and Regulations (Act 118), with the governance of MHLG. This study is based on a quantitative and qualitative approach that utilises data from focus groups, statistical data and questionnaire survey as the data collection tool. Analysis on data statistics of housing development is conducted to provide insights on the current scenario of housing development in Malaysia, mainly based on issues pertaining to mechanism to monitor housing development progress, procedure to declare abandonment of housing development project, as well as procedure to blacklist and compound problematic housing developer. A questionnaire survey is distributed to 55 key stakeholders of housing industry to gather their preliminary perspectives. Inferential analysis through chi-square test is conducted to examine the relationship between stakeholders' socio-economic background with their perspectives toward the current practice in housing development monitoring and enforcement mechanisms. FGD session is organised to explore key stakeholders' opinions on the revolving issues in this aspect. Subsequently, thematic analysis is employed on the audio transcription throughout the FGD session input. In essence, the study has found that the number of delayed, ailing, and abandoned project is borderline constant, and the rehabilitation process of abandoned projects is deliberately performed. Consequently, 90.9% of stakeholders claimed the current declaration process of declaring abandonment is time consuming, and the mechanism unreliable to measure work progress is unclear. Findings also gathered that 36.05% of blacklisted developers caused ailing projects, with 11,995 housing units affected by unlicensed development. Thus, 89.1% of stakeholders believed the current provisions for monitoring activities of problematic housing development are insufficient because of the loose requirements for APDL application and the lack of protection on house buyer's rights. Results suggested that improvements are needed to strengthen the mechanism to monitor housing development progress, accelerate the process of reviving the abandoned project, and enhancing the conditions and requirements for application of APDL. Conclusively, it is imperative for key stakeholders of the housing industry to perform their duties in the execution of a safe and quality housing development, particularly in aspect of housing development monitoring and enforcement towards a progressive housing industry in Malaysia.

## خلاصة البحث

حول آليات رصد وتنفيذ تنمية الإسكان بموجب تشريع 118. تخضع صناعة الإسكان في ماليزيا لتشريع تطوير الإسكان (الرقابة والترخيص) لعام 1966 وأيضا اللوائح (تشريع 118) تحت إدارة MHLG. استخدمت هذه الدراسة المنهج الكمي والنوعي المتمثلين في استخدام البيانات من مجموعة النقاش البؤرية، والبيانات الإحصائية والاستبيانات كأداة لجمع البيانات. تم إجراء تحليل لإحصاءات بيانات تطوير الإسكان لتقديم رؤى حول السيناريو الراهن لتطوير الإسكان في ماليزيا. والذي يركز بشكل رئيسي على القضايا المتعلقة بآلية مراقبة تقدم تطوير الإسكان، وإجراءات إعلان التخلي عن مشروع تطوير الإسكان، وكذلك إجراءات لوضع مطوري الإسكان أصحاب المشاكل في القائمة السوداء. وقد تم توزيع استبيان على 55 من أصحاب المصلحة الرئيسيين في صناعة الإسكان لجمع وجهات نظرهم الأولية. كما تم إجراء تحليل استنتاجي من خلال اختبار مربع كاي (chi-square test) لتحليل العلاقة بين الخلفية الاجتماعية والاقتصادية لأصحاب المصلحة مع وجهات نظرهم تجاه الممارسة الراهنة لآليات مراقبة وتنفيذ تنمية الإسكان. تم تنظيم جلسة من مجموعة النقاش البؤرية للوقوف على آراء أصحاب المصلحة الرئيسيين حول القضايا الراهنة في الإسكان. بالإضافة إلى ذلك، استخدمت الدراسة التحليل الموضوعي في نسخ التسجيل الصوتي للمناقشات في مجموعة النقاش البؤرية. وقد وجدت الدراسة أن عدد المشاريع المتأخرة، والمتعثرة، والمهجورة ثابت في الخط الحدودي، وتم تنفيذ عملية إعادة تأهيل المشاريع المهجورة بشكل متعمد. وعليه، زعم 90.9% من أصحاب المصلحة أن العملية المطبقة الحالية للإعلان عن المشاريع المهجورة تستغرق وقتاً طويلاً، والآلية المستخدمة لقياس تقدم العمل غير واضحة. تشير نتائج الدراسة إلى أن 36.05% من الذين تم إدراجهم في القائمة السوداء تسببوا في تعثر المشاريع حيث تأثرت وحدة سكنية قدرها 11995 بالتطوير غير المرخص. وبالتالي، يعتقد 89.1% من أصحاب المصلحة أن الأحكام الحالية لرصد أنشطة

تطوير الإسكانات التي عليها مشاكل غير كافية بسبب عدم دقة المتطلبات لتطبيق APDL وعدم وجود حماية لحقوق مشتري المنزل. تشير النتائج إلى أن هناك حاجة إلى تحسينات بغية تعزيز آلية مراقبة تقدم تطوير الإسكان، وتسريع عملية إحياء المشاريع المهجورة، وتحسين شروط ومتطلبات تطبيق APDL بشكل قاطع، ومن الضروري لأصحاب المصلحة الرئيسيين في صناعة الإسكان أداء واجباتهم في تنفيذ تطوير إسكان آمن وعالي الجودة، لا سيما في جانب مراقبة تطوير الإسكان وتطبيقه نحو تقدم صناعة إسكان في ماليزيا.



## APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Science (Built Environment).

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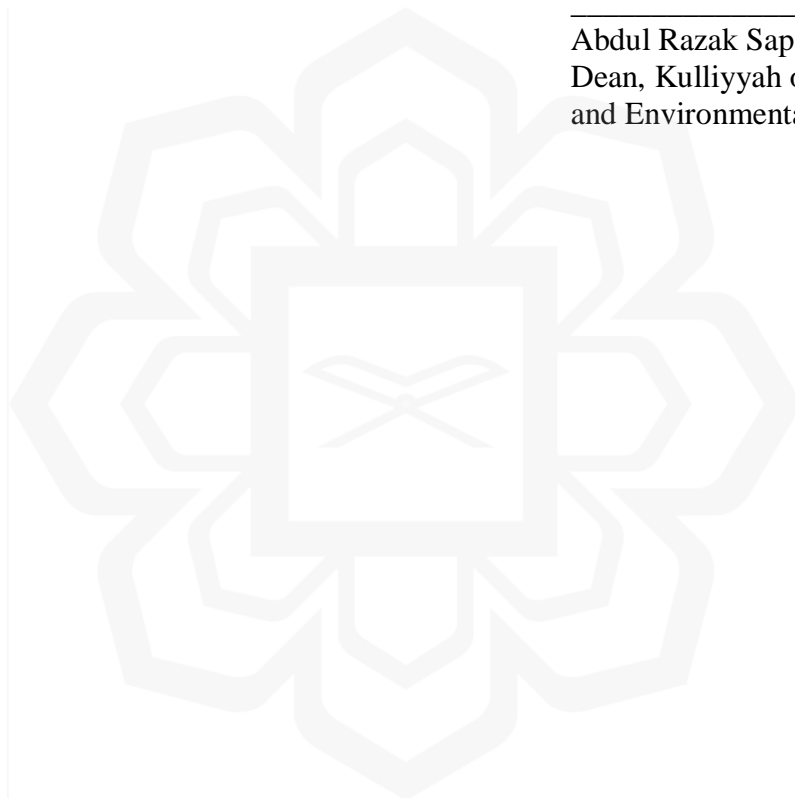
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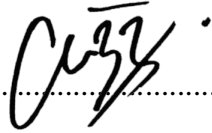


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## LIST OF ABBREVIATIONS

APDL	Advertising Permit and Developer's License
AIBIM	Association of Islamic Banking Institutions Malaysia
BIM	Building Information Modelling
BLESS	Business Licensing Electronic Support System
BP	Building Plan
BTS	Build-then-Sell
CCC	Certificate of Completion and Compliance
DLP	Defect Liability Period
FGD	Focus-group discussion
GQHS	Good Quality Housing Standard
GDC	Gross-Development Cost
GDV	Gross-Development Value
HBA	National House Buyers Association
HDA	Housing Development (Control and Licensing) Act 1966 and Regulations (Act 118)
IBS	Integrated Building System
IIUM	International Islamic University Malaysia
IPTA	Public Higher Education Institution <i>and known as</i> Institut Pengajian Tinggi Awam (IPTA)
KM	Planning Permission <i>and known as</i> Kebenaran Merancang
LAD	Liquidated Ascertain Damages
LPPSA	Lembaga Pembiayaan Perumahan Sektor Awam
MHLG	Ministry of Housing and Local Government <i>and known as</i> Kementerian Perumahan dan Kerajaan Tempatan (KPKT)
MVS	Malaysian Valuation Standards
MoF	Ministry of Finance
NEP	New Economic Policy <i>and known as</i> Dasar Ekonomi Baru (DEB)
NGO	Non-Government Organization
NHD	National Housing Department <i>and known as</i> Jabatan Perumahan Negara (JPN)
OSC	One Stop Centre
PPAM	Civil Servant Housing Malaysia <i>and known as</i> Perumahan Penjawat Awam Malaysia
PPR	People's Housing Program <i>and known as</i> Program Perumahan Rakyat
PSP	Principal Submitting Person
PWD	Public Works Department
QLASSIC	Quality Assessment System in Construction
REDMA	Real Estate Development and Marketing Act
REHDA	Real Estate & Housing Developers' Association
RM	Ringgit Malaysia
SHAREDA	Sabah Housing and Real Estate Developers Association
SPA	Sales and Purchase Agreement
SPP	Housing Loan Scheme <i>and known as</i> Skim Pinjaman Perumahan
SPSS	Statistical Package for Social Sciences
STB	Sell-then-Build
UTM	Universiti Teknologi Malaysia
VP	Vacant Possession

## LIST OF STATUTES

Architects Act 1967 (Act 117)  
Companies Act 1965 (Act 777)  
Housing Development (Control and Licensing) Act 1966 (Act 118)  
Interpretation Acts 1948 and 1967 (Consolidated and Revised 1989) (Act 388)  
Town and Country Planning Act 1976 (Act 172)  
Town Planners Act 1995 (Act 538)



# CHAPTER ONE

## INTRODUCTION

### 1.1 STUDY BACKGROUND

The national housing strategy took part in eradicating poverty by increasing citizen's income was based on the New Economic Policy (NEP) introduced by the Malaysian government in 1970 (Khoo, 2020; Zakiah and Norzalinda, 2018; Mariana, Shuid, Bachok and Najihan, 2017). The strategy's initiatives were to solve the housing supply shortage and restructure the population of urban areas. Along with Malaysia's economic development, the role and intervention of the Federal and State government in providing housing, especially for the low-income group, deems unsuitable when the world's housing industry is influenced by open market policies (Ernawati, Lai and Nur Aini, 2020; Haidaliza and Siti Hajar 2019). In line with the recommendations by international agencies and World Bank for the government to impose policies and to monitor house prices, housing supply, and housing development activities, MHLG began to reduce intervention in the housing supply (Ernawati et. al, 2020). Conversely, the responsibility of providing affordable housing is given to private housing developer companies (Ebekoziem, Abdul Rashid and Mastura, 2021; Tan, Samihah and Phang, 2017). The huge role played by the private sector directly increases the number of houses in the market. To date, there are 1,093 private developers registered nationwide who are members of the Real Estate and Housing Developers' Association (REHDA, 2018).

Over the years, Malaysia has seen strong growth in the residential market since independence with several key development and policy changes, for instance, the gazettelement of HDA in 1966, Civil Servant's fixed-rate housing loan scheme, Land Speculation Act, Reduction in Real Property Gains Tax (RPGT), My First Home Scheme and 1Malaysia Housing Program (PR1MA) has successfully improved legislation and transparency, increased demand for housing, reduce speculation and increase demand of affordable housing (Pillaiyan, 2015). Nonetheless, although the housing industry has grown exponentially since the independence of Malaysia, a

negative phenomenon is still present in the housing development despite the multiple housing policies and development changes to ensure housing success. In conjunction with the rising issues in the housing industry and to regulate the housing industry dominated by the private housing developer companies, the Ministry of Housing and Local Government (MHLG) established the Housing Development (Control and Licensing) Act 1966 and Regulations (Act 118) (hereinafter referred to as 'Act 118') which is "An Act to provide for the control and licensing of the business of housing development in Peninsular Malaysia, the protection of the interest of purchasers and for matters connected therewith". The interpretation of house buyers or "purchasers" in the Act is "any person who purchases housing accommodation or who has any dealing with a licensed housing developer in respect of the acquisition of housing accommodation." On 29th February 2000, MHLG's Steering Committee on Legislative Drafting proposed a major revamp to the principal Act 118, emphasizing preventive measures, better protection of purchasers as consumers, and enhancing the authorities' investigation and enforcement powers (HBA, 2002).

Despite the amendments and implementation of the law on housing development in Malaysia, there are revolving needs for the government and stakeholders to constantly relook and improve the provisions due to recurring issues and problems in the industry (Rosylin, Shazida Jan, Fauziah and Nurul Huda, 2019; Tan et al., 2017). In Forum Perumahan Terbengkalai, REHDA Exco Dato' S. Sivanyanam disclosed that the institute had reformed more than 20 units of abandoned housing projects (MHLG, 2019a). Furthermore, he explained that among the factors to abandoned housing projects are the loopholes in the project feasibility study, mismanagement of housing development projects, the unstable financial standing of housing developers, and the constantly changing policies of the government. However, it is irrefutable that these phenomena have violated house buyers' right to own a quality and safe house.

Among the ways to improve the implementation of housing development is through the improvisation of the housing development process. This process involves three development stages: the pre-development period or planning development, the construction phase, and the post-construction phase (Abdul Aziz, Zakaria and Hamzah, 2011). To intensify the outcomes of development activities, stakeholders

play a significant role in delivering and conducting government planning, policies, and strategies (Pawson, Milligan and Yates, 2020; Macnaughton, Nelson, Goering and Piat, 2017). The planning and development process aims to resolve the population's issues and needs and develop their social well being (Alola and Uzuner, 2020; Mullins and Moore, 2018). Hence, the implementation of the planning policies, strategies, and laws must consider the difficulties faced by the key players in performing their roles. Further, this research considers the assessment of stakeholders' perspectives towards the revolving issues of housing development to effectively monitor and imply better enforcement in the housing development industry, as well as to guide the future amendments of Act 118.

## **1.2 PROBLEM STATEMENT**

### **1.2.1 High number of delayed and ailing projects are still being recorded despite the implementation of monitoring housing development progress**

Housing supply in Malaysia practices Sell-then-Build (STB) system in which houses are sold to house buyers before construction works begin (Nur, Mohamad, Aizul and Zainai (2018). In this case, the Monitoring Division of MHLG monitors housing development progress by reviewing the Form 7(f) report submitted by a developer to ensure housing units will be delivered well to house buyers. In 2018, 484 compounds were issued regarding Form 7(f) on the offense of failure to submit development progress. Meanwhile, 1,709 Board of Directors compounded on an ailing project and 843 Board of Directors compounded on abandoned development. However, since 2016 to 2020, 379 delayed and ailing projects have been recorded.

The government attempts to solve the problem by conducting continuous project monitoring through Form 7(f) and regular visits to the project site and developer's premises to counter-check information provided in Form 7(f) (Abdul Aziz and Abdelnaser, 2011). However, several researchers debated that the cause of problematic development progress is that the current development period is inadequate, as the housing development process requires actions from multiple stakeholders (Afifuddin, Muhammad and Sabariah, 2018; Hairi, Abu Seman,

Mohamad, Siti, and Bernad 2019). On the other hand, Syamsuri, Mahmood, Basyaruddin, Arizu, Ngian, and Ahmadon (2018) agreed that issues regarding the development period could be solved with advanced construction technology of IBS. However, the core of the problem is that the current monitoring mechanisms through Form 7(f) has no clear timeline indicator and the process is inefficient.

The absence of an unsystematic indicator of development progress and unclear regulatory definition may result in loopholes in monitoring and enforcement initiatives. For instance, developers could intentionally delay construction works, and rehabilitation of problematic projects will be delayed due to unsystematic indicators measure the progress and trigger the call for action (Muhammad, Nursyaddatul Nor Baizura, Nadia and Nazibul, 2019). Hence, more requests for an Extension of Time (EoT) result in a delayed project and the risk of deteriorating under ailing project status (Rahmah, Wan Amir, Nuarrual and Ruzian, 2022). Despite the high risks for house buyers, they are unaware of development progress as Form 7(f) occurs only between the developer and MHLG. Hence, addressing this problem will limit the offenses by a developer and provide better resilience in overcoming problems of housing development.

Kedir and Hall (2021) and Naeem, Shabir, Rashid and Kim (2021) believe that efficient monitoring mechanisms could improve the performance of stakeholders. Thus, this study will focus on the monitoring mechanism through Act 118, which is believed may contribute to lowering the impacts of problematic housing development on all parties involved. Therefore, this study will explore the effectiveness of current monitoring mechanisms of housing development in Malaysia, including the factors causing delayed and ailing projects from stakeholders' perspectives.

### **1.2.2 High number of abandoned housing development projects remains despite the practice of identifying and declaring abandoned housing projects**

Section 18A(2) of Act 118 has outlined the definition of ‘abandonment’ as below:

“(2) For the purpose of this section, “abandons” means refuses to carry out or delays or suspends or ceases work continuously for a period of completion as agreed under the sale and purchase agreement.”

This section explains that MHLG identifies a project as abandoned when the housing developer failed to complete a project according to the timeline accordingly to the submission of Form 7(f). Meanwhile, Section 8A(1)(a) of Act 118 states:

“(1) Notwithstanding anything contained in any agreement, a purchaser shall at any time be entitled to terminate the sale and purchase agreement entered into in respect of a housing development which the licensed housing developer is engaged in, carries on, undertakes or causes to be undertaken if —

- (a) the licensed housing developer refuses to carry out or delays or suspends or ceases work for a continuous period of six months or more after the execution of the sale and purchase agreement;”

This section elaborates that housing development project is considered abandoned when no work is done on site continuously for six months or more, where house buyer may terminate the signed SPA. However, Forum Perumahan Terbengkalai 2019 identified a loose definition of ‘abandons’ as enforcement on the offenses of abandonment where six months is too long, the term ‘work’ is unclear to prove offenses, and the term ‘continuously’ is immeasurable. Furthermore, Hamzah, Wang and Nur Hamizah (2015) agreed that the current declaration procedure is time-consuming. An open data from the Policies and Strategic Planning Division, MHLG revealed that in 2020, 75 housing projects were identified as abandoned and have affected 11,152 house buyers (MHLG, 2020a). Dzuljastri, Mustafa and Kazi (2015), Nuarrual (2018) and Saidah, Nur Farhayu, Nur Asyekin, Mohamad and Ramli (2020) found that the initiatives to curb the problem of an abandoned housing project by improving loan financing products and government policies are unsuccessful in protecting purchasers and inefficient to curb this problem. Noraini, Dzuljastri and Mohamed (2019) agreed that the definition of ‘abandonment’ is unclear; hence developer took advantage to delay construction works on site. Dzuljastri (2016)

believes that the lack of legal and governance for housing projects is among the reasons for the cases of abandoned housing projects in Malaysia.

Abandoned housing projects impacted many parties involved in housing development. However, house buyers are most exposed to risks and consequences as they are unsecured creditors (Huda, Yulianto and Adriano, 2020). In a case of project abandonment where the company is financially deprived and subjected to a winding-up order, house buyers have to incur additional costs for rehabilitation (Abdullah, 2014, as cited by Suleman and Agyekum, 2021). Mohd and Fakhrul (2017) stated that the additional costs for rehabilitation caused a further burden on house buyers who have spent most of their life savings on purchasing the house. Abdullah, Abdulmajid, and Samiaah (2019) mentioned that most house buyers are unwilling to pay for the rehabilitation costs while their financial status is unstable after loan engagement with the end-financier.

Rahmah et. al (2022) gathered that most initiatives to minimize the problem of abandoned housing focus on improving the protection of purchasers from the impact of abandonment rather than enforcing rules on developers. Alternatively, Section 8A and Section 18A of Act 118 were amended in 2012 by allowing house buyers to terminate SPA and initiating criminal proceedings for developers causing the abandonment of housing development projects to curb the occurrence of an abandoned housing projects. However, there is no clear procedure of how such provision can be implemented and monitored by MHLG in helping house buyers to terminate their housing loans upon encountering abandoned housing issues. Thus, this study intends to explore the efficiency of current provisions and procedures for declaring abandonment, including the efforts to rehabilitate abandoned housing.

### **1.2.3 High number of problematic housing developers remains despite the enforcement of compounding and blacklisting problematic housing developers**

Currently, the blacklisting of a problematic developer is done administratively, where a list of blacklisted developers is published on MHLG's website to inform the public.