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No. 4. Green Hall,
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JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

CPC 31/23

10 Nov 2023

To Members of the Penang Bar,

Outcome of the Discussion between the Conveyancing Practice Subcommittee and the Office of Lands and Mines, Penang (“PTG Penang”) on Issues faced by Members

Members of the Conveyancing Practice Subcommittee (“CPC Subcommittee”) headed by Ong May Joyce (Chairman) together with the CPC Subcommittee Members, Zemilah Binti Mohd Noor, Trish Ho Tsui Hsia (Secretary), Noorazah Binti Mohd Noor, Saradzuani Binti Salehuddin, Yeap Siew Chieng, Muhammad Effandy Bin Md. Hashim, Adelyn Low Jia Yee and Akunaji Farah Diva met with the PTG Penang on 10 Oct 2023 for a discussion on Issues faced by Members.

Members are requested to take note of the following matters that were discussed during the said meeting:

	Issue(s) or Matter(s) arising on PTG Penang	PTG Penang’s Reply(ies)
A	<u>e-Filing:</u> Court Order obtained by way of e-Filing: (i) Whether certification on court order obtained by way of e-Filing is required. If so, can the certification be done by lawyers? (ii) How about for transfers executed by Liquidator or Insolvency Department involving winding-up order?	(i) Court documents filed via e-Filing can be certified by lawyers. (ii) Manually filed court documents must be certified by court.
B	<u>Deceased’s Estate:</u> (i) For perfection cases, why is there a need to perfect the transfer from the Developer to the Deceased’s estate prior to transferring the property to the beneficiary? (Already covered under Section 346 NLC) (ii) Inconsistent practice among the PTG and PTDs	PTG Penang accept direct transfer from the Developer to the beneficiary as it is provided under Section 22D Housing Development (Control And Licensing) Act 1966 subject to the following conditions: (i) it is applicable for cases with the Grant of Probate / with the Court Vesting Order; and (ii) the Developer agrees to the same. PTG Penang take note of the inconsistent practice and inform will liaise with the PTDs during the upcoming meeting and will standardize the practice.
C	<u>PgLand: Slip Penyata Perserahan:</u> Presentation receipt generated too slow. Members who called PTG Penang were	PTG Penang commented that such delay is usually caused by the manner of documents presented for registration. Members are advised to:



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	<p>informed to wait for 5 working days for the payment process which contradict with the 3 working days informed during the launching of the PgLand.</p>	<p>(i) ensure the documents are organised in proper sequence before presentation for registration i.e. discharge, transfer then charge;</p> <p>(ii) Avoid omission of mandatory supporting documents such as current year quit rent receipt, company's board resolution, SSM search, parties' Mykads/ valid passports;</p> <p>(iii) Attach correct presentation receipts to the instrument of dealings for registration;</p> <p>(iv) Recite correct particulars of the parties and titles, PA number to the instrument of dealings; and</p> <p>(v) correct the mistake in the instrument of dealings in accordance to NLC requirement prior to presentation instead of requesting such amendments to be attended by PTG Penang by attaching sticky notes on the instrument of dealings</p> <p>Currently, PTG Penang still liaising with the solicitors in charge to rectify some of the above issues/errors instead of rejecting the problematic instrument of dealing in toto. However, this additional effort has indirectly contributed to the delay in processing the presentations made by other members.</p>



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D	<p><u>Kutipan Geran (Collection of Documents via smartbox):</u></p> <p>(i) We stressed that the 2 day collection period is far too short for collection of documents from the <u>smartbox</u> (<i>Sila pungut Dokumen dalam Tempoh 2 Hari Bekerja dari tarikh Emel ini dikeluarkan bagi mengelakkan denda dikenakan.</i>) We further informed PTG that most of the times, the emails will only be sent to us after 4:00 p.m. and that day itself is considered 1 working day.) On behalf of the Members, CPC Subcommittee requested for a 5-7 working days collection period.</p> <p>(ii) When there are a few titles to be collected under one collection slip/ email notification from PTG Penang and members failed to meet the deadline for collection, penalty charges will be imposed on the number of titles to be collected.</p> <p>(iii) There are too many emails received from the PGLand platform with the same subject (Status Urusan Perserahan Bagi No. Permohonan...). Members might overlook and request for specific subject, for example: KUTIPAN DOKUMEN BAGI NOMBOR PERSERAHAN.... to enable Members to be more alert.</p>	<p>(i) The term "2 working days" does not include the date of email sent to the Members. For example: if the email for collection of documents was sent at 4pm on Monday, there will be no penalty if the document is collected latest by end of work on Wednesday. Penalty will only be imposed if Members collect the document on the next working day i.e. Thursday.</p> <p>(ii) PTG Penang reiterate that there are limited slots in the smartbox. Any attempt to extend the period of documents collection will then affect the waiting period of the other members to collect the document of titles presented by them for registration in PTG Penang.</p> <p>PTG also informed that the extension of time to collect documents will increase the risk/security of the Title Deeds left in the smartbox</p> <p>(iii) PTG Penang has accepted CPC Subcommittee's proposal and will change the subject title for such emails to reflect the status of the collection of documents. <i>(Note: This has been implemented 2 days after the meeting with PTG Penang)</i></p>
E	<p><u>Rejection of Presentation:</u></p> <p>(i) CPC Subcommittee is seeking more tolerant be given by PTG Penang on those instrument of dealings</p>	<p>(i) PTG Penang will "<i>gantung</i>" when the PA number is incorrect but will "<i>tolak</i>" if the details in the stamp certificate of the instrument of</p>



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	<p>presented with clerical mistakes, insufficient registration fees, wrong PA number, wrong details in stamp certificate</p> <p>(for example: Legal Charge (Form 16A) by Public Bank Berhad requires 2 PAs details to be stated but members have no knowledge of such new appointment/arrangement. As a result, the presented legal charge is not in order. Such instrument of dealings can be "gantung" pending rectification rather than rejection. Members should also be given chance to pay shortfall of the registration fees, to amend PA details and details in stamp certificate as it is allowed by the LHDN before rejecting the instrument of dealing from registration.)</p> <p>(ii) CPC Subcommittee proposes to PTG Penang to allow members to trace the PA registration number using PGLand Website by adding additional feature such auto generation of SKW & Presentation No. in the system when particular of the attorney has been correctly entered.</p>	<p>dealing has been inserted wrongly.</p> <p>PTG Penang suggests to conduct a briefing on common mistakes occurred in the instrument of dealings presented at Penang Land Office</p> <p>(ii) From a technical perspective, it is possible to be done but there may be more than 1 SKW & Presentation No. for a bank's attorney. So, it does not avoid Members from picking the wrong option.</p>
F	<p><u>LPNPP Blanket Consent</u></p> <p>There is a letter issued by PTG Penang for projects under Lembaga Perumahan Negeri Pulau Pinang (LPNPP) whereby recital of the letter mentioned the application for state authority's consent but the contents stated approval is granted to obtain blanket consent. This letter was previous interpreted by PTG Penang as a pre-condition letter to obtain blanket consent instead of a blanket consent letter. (A copy of the letter is attached for the members' reference)</p>	<p>PTG Penang confirmed the document is a blanket consent letter.</p>



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G	<p>State Consent:</p> <p>(i) Many applications for State Authority Consent in respect of the property without strata title, and direct transfer cases especially when the Developer has wound up and liquidator is involved have been rejected on the following grounds:</p> <ol style="list-style-type: none"> a. there are discrepancies on property's description stated in the sale and purchase agreement, the Bank's letter of offer and/or the Liquidation's confirmation letter; b. Liquidators refuse to issue confirmation letter and/or the confirmation letter is lacking of information required by PTG Penang; c. there are clerical errors in the previous State Authority Consent Letter (SAC) or title description of the property stated therein is outdated and members are required by the consent department to rectify such error/ irregularity which was not attributable to the applicant or his appointed solicitors who handled his current sale of the Property; or d. Unavailability of the previous State Authority Consent Letter (SAC) and previous sale and purchase agreement (SPA) due to lapse of time or the legal firm applied for previous SAC or acted for the previous transaction might have ceased practice or no longer in possession of the SAC or the previous SPA or the solicitor in charge back then might have join another legal firm. In such event, PTG Penang will ask for 	<p>(i) PTG Penang acknowledged that SAC is required for registration purposes where the registration department only concern on the title details and not the address of the property thus the consent department should only ensure the accuracy of title details instead of the property address.</p> <p>(ii) Members to furnish confirmation on the address of the property in the event of inconsistency of description in SPA, LO and confirmation letter by developer or liquidator.</p> <p>(iii) CPC Subcommittee seek clarification on the contents of the court order requested by PTG Penang consent department for cases where the property has been transacted many times before issuance of strata title and the previous SAC and/or previous SPAs and/or the Developer's written confirmation of Property's ownership to prove the ownership of the vendor of the current transaction is unable to be produced by members. PTG Penang acknowledged the difficulties faced by members in this scenario and has agreed to have further discussion to achieve a solution which benefit both parties.</p> <p>(iv) PTG Penang has accepted CPC Subcommittee proposal to submit a working proposal listing all the different scenarios which the members often faced difficulties in the application of the SAC and to furnish proposed solution to each scenario which if accepted by PTG and will set as a guidance to the members in future.</p>



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<p>court order.</p> <p>(ii) When should the Statutory Declaration and/or the Deed of Gift be required to be attached in the state consent's application under Form PMC1?</p> <p>**Extraction from PMC1** <i>(*Sila sertakan salinan dokumen-dokumen berikut:</i></p> <p><i>i. Carian Persendirian terkini (dalam tempoh 6 bulan dari tarikh permohonan).</i></p> <p><i>ii. Cukai Tanah terkini.</i></p> <p><i>iii. K/P Baru penjual/pembeli/pencagar (sila sertakan K/P Baru/ Passport Pengarah, resolusi syarikat dan carian SSM syarikat jika berkaitan).</i></p> <p><u>iv. Perjanjian Jual Beli/Akuan Sumpah/ Deed of Gift.</u></p> <p><i>v. Ulasan Bah. Perumahan (untuk rumah kos rendah/kos sederhana rendah yang milikan kurang dari 10 tahun)</i></p> <p><i>vi. Surat Tawaran Pinjaman Bank (jika berkaitan).)</i></p>	<p>(v) A registered owner's Statutory Declaration declaring transfer of a property by way of gift is acceptable by PTG Penang when the deponent/applicant is unrepresented and there is no Deed of Gift entered between the parties. For cases where applicants are represented, PTG Penang will require a duly stamped Deed of Gift to be attached together with the state authority consent's application under Form PMC1.</p>
<p><u>Miscellaneous:</u></p> <p>Members seeking email / list of persons in charge of each procedure/department as we face difficulties in getting documentation procedure/guidelines</p>	<p>CPC Subcommittee is liaising with PTG Penang on organising a briefing for Members soon and PTG Penang will provide the list of officers for the respective departments/ divisions during the briefing.</p>

Members are advised to take note on all of the above.

Ong May Joyce
 Chairman
 Conveyancing Practice Subcommittee

