

# Transfer ownership of strata titles or be fined

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By: The National House Buyers Association (HBA)

When one condo unit owner was asked on why she has not taken action to transfer the strata title for her unit from the developer to herself, she replied that she has not decided to whom or the charity organization she wants

the property to be registered in. This is an extreme case of naivety when this particular owner thinks there she can take her own sweet time to affect the transfer. Other owners gave excuses of not having prepared the cash for the transfer costs, while some say there are in the process of selling their units.

The good news for developers and management corporations tired of owners taking their time to transfer ownership of strata titles is that the Strata Titles Act, 1985 has been amended to include a deadline for such transfers as well as making it an offence for non-compliance.

This is the newly included section in the Strata Titles Act, 1985 from 1st April, 2007 (the operation date of the Strata Titles (Amendment) Act 2007):



## 40A. Transfer of ownership of strata titles

(1) Any original proprietor or any person or body appointed by a court of competent jurisdiction shall execute the transfer of strata titles to the parcel proprietors within twelve months from the date of issue of strata titles by the Land Administrator or any extended period approved by the Director upon the opening of the strata register.

(2) Any purchaser shall execute complete documents of transfer of strata titles within twelve months or any extended period approved by the Director from the date of notice of transfer of strata titles issued by the original proprietor or from the date of purchase of the parcel, whichever is the later.

(3) Any original proprietor or any person or body appointed by a court of competent jurisdiction or any purchaser who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit and not more than ten thousand ringgit per parcel.

As you can see from the above, the purchaser and also the original proprietor (developer or land owner) shall be guilty of an offence liable to fines of RM1,000 to RM10,000 per parcel (if convicted) if the transfers are not executed within the stipulated period. This is reason enough for owners to quickly execute the transfer once they have received the notice of the issuance of strata titles from the developer.

## How do you know when strata titles are issued?

For primary properties, the strata titles are first issued to the developer or land proprietor. Once issued, the developer will write to inform the purchaser, the purchaser's solicitor as well as the end financier. Normally, the notice will include instructions on the developer's solicitor's information, amounts to be paid or utility deposits to be transferred as well as a copy of the title and accessory parcel (if any).

## What is the process to transfer the ownership of strata title?

1
Developer and purchaser sign Memorandum of Transfer ('MOT') form (Form 14A, National Land Code)
2
Lawyer sends MOT to Stamp Office for adjudication to ascertain how much stamp duty is to be paid. Stamp Office then stamps MOT for a nominal value of RM10.00 (being adjudication fee) and returns MOT to lawyer.
3
Valuation Department then values property and informs Stamp Office of valuation amount. Stamp Office then issues the notice (PDS 14) of the stamp duty payable based on the said valuation. Lawyer collects stamp duty from purchaser and proceeds to stamp MOT. A penalty is imposed if the instrument is not stamped within the stipulated 30 days from the date of the notice.
4
After stamping MOT, lawyer presents the MOT and charge instrument (Form 16A) (for properties charged to a bank), to the Land Registry/Office for registration. On presentation, a presentation number would be allocated. It would take an approximate 6 to 9 months or earlier with the recent implementation of the Computerization System of Strata Titles.
5
Once the transfer is registered, you would receive the strata title from your lawyer. If the property is charged to a bank, the title would be sent to the bank. You should get a photocopy of the title from the lawyer for your record.

## What are the documents that you must provide to your lawyer?

1. Copies of all present and previous Sale & Purchase Agreements (if you are not the first purchaser, to show proof that you are the last buyer in the chain).
2. Copies of present and previous Loan Agreement, Deed of Assignment, Deed of Receipt and Re-assignment (if any).
3. Strata Title (from the developer)
4. Current year quit rent receipt.
5. Current year assessment receipt.

## What is the estimate amount to set aside for the effectual transfer process?

Normally, the two main cost of the transfer is the stamp duty and the legal fees shown below.

The stamp duty is a revenue payable when an application is made to register changes to a certificate of title or ownership.

### 1. How stamp duty is calculated

<b>On the first RM100,000</b>	RM1.00 for every RM100 or fractional part of RM100
<b>On any amount in excess of RM100,000 but not exceeding RM500,000</b>	RM2.00 for every RM100 or fractional part of RM100
<b>On any amount in excess of RM500,000</b>	RM3.00 for every RM100 or fractional part of RM100

This means if your property value is RM60,000 the stamp duty would be RM600 and for a property valued at RM350,000 the stamp duty would be RM6,000. There usually is a time lapsed from the purchase till the issuance of the strata titles. At the time of transfer, direct purchasers from developers usually pay the consideration value (the purchase price) of the property, whereas subsequent purchasers would have paid the stamp duty based on market value adjudicated by the Valuation Department.

For purchasers who have paid the full duties on the Deed of Assignment in sub-sale agreements, the stamp duty is a nominal sum of RM10.00. This has to be verified by the Stamp Office from the Deed of Assignment bearing the original stamped impression which also carries a serial number.

### 2. How legal fees for transfer of ownership of strata title is calculated

	1	2		
Consideration or Adjudicated Value	Scale of Fees	Purchases under the Housing Development (Control & Licensing) Act	Transfer legal fees (if using same SPA lawyer)	Transfer legal fees (if using a lawyer who is not the SPA lawyer)
<b>For the first RM 150,000</b>	1.0 % (minimum fee RM300)		25% of applicable scale fee from either Column 1 or 2 (subject to a minimum of RM200)	50% of applicable scale fee from either Column 1 or 2 (subject to a minimum of RM200)
<b>Next RM850,000</b>	0.7%			
<b>Next RM2,000,000</b>	0.6%			
<b>Next RM2,000,000</b>	0.5%			
<b>Next RM2,000,000</b>	0.4%			
<b>More than RM7,500,00</b>	Negotiable (but shall not exceed 0.4%)			
	RM45,000 or below	RM250		
	RM45,001 to RM100,000	75% of scale fee		
	RM100,001 to RM500,000	70% of scale fee		
	RM500,001 and above	65% of scale fee		

**Note:** The table above is compiled from the Solicitors Remuneration Order 2006 under the Legal Profession Act 1976. The fees might change so it is best that you check with your lawyer or the Malaysian Bar Council at [www.malaysianbar.org.my](http://www.malaysianbar.org.my) on the latest updated Order.

As an example for a property valued at RM350,000 (bought from a housing developer) the legal fees for transfer using the same Sale & Purchase Agreement transaction lawyer would be RM656.25.

## What happens after the strata title is registered in your name?

You are now the legal owner of the property. The developer will have to call for the First Annual General Meeting when an estimate one-quarter of the total owners have transferred the ownership of strata titles. This meeting marks the day, the developer hand over the ownership of the common property and land to the Management Corporation (MC) as well as relinquish control of the management & maintenance to the MC represented by the Management Council elected from members of the MC.