MINUTES OF MEETING
OSC 3.0 PLUS WORKING GROUP MEETING NO. 1/2020

Date	:	**16 October 2020 (Friday)**
Time	:	**6.00 p.m. - 7.30 p.m.**
Venue	:	**Online Platform (Zoom Meeting)**

Mohamad Muzaffar Abdul Hamid
Timbalan Pengarah
MPC
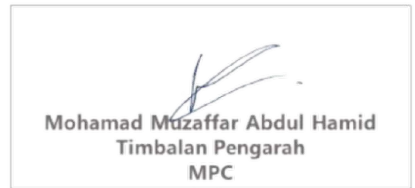
1. INTRODUCTORY REMARKS

(1) Tn Hj Syamsul Arman Yap welcomed all members to the first OSC 3.0 Plus Working Group and thanked members for attending the meeting.

(2) He elaborated that the working group is an initiative by REHDA represented by Mr Tan Ching Meng, following previous Technical Working Group Dealing with Construction Permits (TWGDCP) meeting to expedite the flow of OSC 3.0 Plus with extensive focus on Processes 1 and 2; Development Order (DO) and Building Plan (BP) in particular.

(3) Tn Hj Syamsul Arman Yap deliberated that the Working Group will be one of the platforms to pool issues experienced with OSC 3.0 Plus on the ground, to identify where the bottlenecks are and subsequently to resolve the issues. The focus will be on improving the OSC process.

2. DISCUSSION ISSUES IN OBTAINING SUBMISSION APPROVAL THROUGH OSC 3.0 PLUS

(A) **The following issues/ matters were raised to be addressed/ noted by the meeting:**

(1) Case 1: Departments engagement outside of OSC 3.0 Plus and issue with BOMBA submission following approved Development Order (DO)

(i) The meeting discussed one of the cases delayed in receiving Development Order (DO) and Building Planning (BP) approval: a 40-storey transit-oriented development (TOD) project. It took a total of 15 months (March 2019 to June 2020) from DO submission to BP approval.

(ii) The initial BP approval was issued seven (7) months from DO submission with condition, subsequently requiring a resubmission for endorsement. This

timeframe was considered still tolerable by the developer. Delay issue arose during the BP resubmission, when the developer was directed by OSC officers to engage with several technical departments outside of the OSC 3.0 Plus system. Engagement had taken up a long time since the head of departments had to go through their own OSC technical meetings to scrutinize even minor details i.e. walkways and design.

(iii)   The project experienced even longer delay in obtaining the title's Express Condition (Syarat Nyata): over eight months period from November 2019 to July 2020, after BP is approved. It is viewed redundant to approach Exco for approval when everything else is already finalised at the Land Office. It is pointed out that the recent political change and COVID-19 Movement Control Order (MCO) also played a role in determining the timeframe.

(iv)   Another issue arose when the developer was told that the island circulation plan for BOMBA was not in place, after DO was obtained. The developer's concern is if BOMBA rejects the plan, they would have to backtrack to revise DO and would delay even more in getting BP approval. He mentioned that this process flow seems counter-productive as one would have to revert to DO stage if BOMBA approval is not obtained.

Comments:

(v)   Currently BOMBA is not one of the agencies involved in DO approval, and that it should remain so. This is to avoid adding more agencies checking for DO as it would impose more restrictions at the early stage of the project.

(vi)   The underlying issue with BOMBA is actually due to the incompetency of the professionals/ consultants preparing the documents for submission. In the first place, the consultants preparing layout submission for DO approval must already know the basic requirements for BOMBA i.e. fire engine access and fire hydrant. The consultants must consider and incorporate these elements into the layout planning as per requirements.

(vii)   Further, requirements for fire access is detailed in Uniform Building By Law (UBBL). The basis of island concept requirement is to allow for fire engine access all around. In some projects, BOMBA allows for cul-de-sac or separated roads at their discretion, as long as fire engine can access the whole area although it is not connected. This too creates confusion at times, as the information conveyed differs from one BOMBA officer to another.

(2) <u>Case 2: Long appeal period for Development Order (DO) conditions</u>

(i) DO delay for a project under Dewan Bandaraya Kuala Lumpur (DBKL) due to appeals on some of the DO conditions. Initially the land came with previous DO for shopping mall development when it was first bought. The land use was subsequently converted into serviced apartment. However, developer has to appeal to omit the conditions of previous DO which are only applicable to shopping malls (e.g. nursing area, etc). The appeal took 154 days, which was viewed to be a long period just for an appeal.

(ii) Developer's experience in BP approval stage – concern with delays/ roadblocks is in BOMBA and Land Matters. However, for this project land matters have been resolved by previous owner. It was also informed that pre-consultation with BOMBA has helped expedite BP approval stage to 46 days, otherwise it would normally take three to six months for BOMBA approval.

<u>Comments</u>:

(iii) DO takes a longer time for approval with Kuala Lumpur City Hall (DBKL) as there are more requirements imposed compared to other local authorities.

(iv) By right once documents are submitted to OSC, the duty of consultants/ submitting persons are concluded for that stage. OSC should be the one responsible to distribute the application documents to all relevant departments. These departments then are to direct their comments back to OSC to be compiled and to approving authorities. However, this is not what is commonly practiced on the ground. At times, consultants / developers are instructed by OSC officers to follow up with the relevant departments chasing for approvals and comments etc.

(v) Further, there are also cases where some local authorities require pre-consultation and clearance letters from the relevant departments prior to the application submission. This is an incorrect practice by the officers on the ground. Often officers implement the system according to their own interpretation, due to lack of knowledge of the system.

(vi) Tasking OSC with timekeeping does not resolve the issues too, rather it causes OSC to push issues outside of the OSC system to appear as if they are on the right schedule. Hence, the surfacing of additional pre-consultations and clearance requirement before submitting to OSC, without the real issues registered into the OSC system.

(3)   <u>Case 3: Local authority's internal KPI for OSC meeting</u>

(i)   Majlis Perbandaran Selayang (MPS) apparently has an internal KPI: allowing a project only maximum three times to go into the OSC meeting.

(ii)   If a conditional approval is issued, the consultants/ developers are given a specific timeframe (ranging from 14 to 30 days) to obtain approvals (feedback) from the required relevant departments. Technically OSC has the right to cancel the project if conditions for approval are not met within the timeframe. Instead they impose pre-conditions much earlier to avoid cancelling the project to maintain their internal KPI and appear efficient.

<u>Comment:</u>

(iii)   Monitoring the timekeeper and process flow i.e. with internal KPI results in the underlying issues to be pushed out to applicants and deviate from the actual practice of OSC 3.0 Plus system. Based on the system, approvals and comments from relevant departments have to go through OSC and subsequently to the applicants. However, sometimes when OSC is unable to obtain comments from the technical agencies and approving authorities, approval with conditions are given. The conditions being applicants to obtain comments from approving authorities and to comply with it.

(iv)   Regulators impose unnecessary conditions easily since there are no burden on their side. This gives rise to knowledge mismatch between what the consultants are trained with and what is practiced on the ground. For instance, Majlis Perbandaran Pengerang Johor impose a new condition in their guideline that CCC cannot be issued without clearance letter from building department attached.

(v)   Enforcement from federal, state and local government is crucial for a standardised submission process.

(4)   <u>Additional and non-standardised pre-conditional planning requirement such as Traffic Impact Assessment (TIA) conditions</u>

(i)   Different local authorities, even within the same state impose different pre-conditional planning requirements on applicants e.g. different conditions for requirements of a Traffic Impact Assessment (TIA). To illustrate, Majlis Bandaraya Johor Bahru (MBJB) requires a TIA report for development comprising more than 100 carpark. Looking at the traffic impact on a single site,

without coordination with other surrounding sites, is impertinent as the road network work interconnectedly to cater for more than just one site.

Comments:

(ii)   TIA falls under the duty of planning department to ensure city's infrastructure is in place. Infrastructure masterplan and development are supposedly under the purview of the local authorities to coordinate the development as a whole, not the responsibilities of the consultants/ developers.

(iii)   Developer is expected make contributions to local authorities to overcome the impending traffic issues as a result of uncoordinated dense traffic planning. The current practice is not a shared cost, hence one developer tend to pass on the infrastructure cost to another.

(iv)   It is suggested that infrastructure improvement fund should be calculated on a catchment basis. Cost for infrastructure development to be shared out, including contributions from local authorities to cover where there are gaps in infrastructure services. Cost can later be recovered when the gaps are developed in the future.

(i)   Currently there are no coordinated masterplan to integrate power, water supply, sewerage and traffic information. Insufficient data leads to inadequate submission quality. A gazetted study of masterplan by the local authorities will greatly alleviate the submission process. Coordinated information can be obtained easily so design proposal is according to the capacity of the road and other utilities.

(5)   Other issues/comments related to OSC 3.0 Plus

(ii)   OSC officers not trained in technical negotiations, while members are expecting some wiggle room and flexibility. OSC Working Group to figure out to help local authorities be confident in negotiating and making decisions. There is a need to educate local authorities and submitting persons with a common syllabus/framework.

(iii)   It was informed that one of the members of the Working Group will be conducting a judicial review against local authorities' abuse of power and administrative obstruction i.e. imposing rules to insist only town planners can submit plans although lacking competency in layout plan preparation hence partly contributing to delay in approvals. This violates the Town and Country Planning Act (TCPA); the act states that any other qualified person provided in

other laws are entitled to submit, not only town planners. Similarly, recently only geotechnic engineers are entitled to submit geotechnical report. Only a limited number of consultants are available nationwide, and high fees are charged just to submit the report. Abuse often occurs as these parties have interest when sitting as government officers in local authorities. Local governments', under the state planning committee use their influence to insist only a certain group is entitled to submit plans.

(iv)   Under TCPA, a provision of planning appeals enables a tribunal to be set up to properly hear all the decisions of planning department. However, the planning appeal board is either not set up by the state government or comprises of unqualified people.

(v)   Not all issues are related to local authorities, some of them are technical issues online; the current OSC 3.0 Plus system prevents concurrent submission unlike the previous system. Through the online system, local authorities are not able to help applicants although they would like to, as there is no "option" button available.

3. PARAMETERS TO DETERMINE PROPOSED SOLUTIONS FOR OSC 3.0 PLUS ISSUES

(i)   The meeting discussed the setting of parameters to study the issues surrounding OSC 3.0 Plus. These are then to be compiled into a final report/ proposal for a comprehensive understanding of the challenges within OSC implementation:

a)   Wishlist and pain points from the developers/ consultants side to bridge the gap with the proposal from approving authorities side.

b)   Categorising issues faced when dealing with submission; whether it is administrative, technical or systemic/ regulation issue

c)   Geographic scope of study within a reasonable time frame; beginning with DBKL and eventually cascading to other states i.e. Klang Valley, Johor, Penang etc

d)   Actual scenarios to eliminate perceptual issues e.g. infrastructure masterplan

(v)   A think tank session is to be organised to propose solutions for the issues. REHDA KL will be funding the comprehensive report tackling issue by issue, and the departments involved to resolve it.

(vi)   It is also pointed out that the issues shall be approached with a neutral middle ground to successfully garner positive responses from the local authorities. Local authorities' point of views should also be taken into consideration; requests from developers side to be reasonable with local authorities' capability and competency to deal with the high volume of applications. There should be flexibility and tolerance between developers/consultants and approving authorities in negotiating reasonable timeframe.

(vii)   The issues shall be segmentalised and validated so as to not give the wrong perception to local authorities.

(viii) Uniform policy across the nation is difficult to implement due to different circumstances in each locality e.g. conditions in a city is not applicable in countryside/ rural areas.

(ix)   In gathering more issues/ concerns, members and industry players are encouraged to forward them to MyMudah platform. MyMudah mediates public and private sector to overcome issues of the regulations.

The meeting agreed that:

(a)   To compile some headings of issues and invite REHDA members to respond to issues for data gathering. Members can also channel the issues to Mr Tan Ching Meng which will subsequently be shared with the Working Group.

(b)   To invite a few other developers in the next meeting to share their experiences/ problems faced within the system.

(c)   To lay out the format/ framework and content for final report compilation.

Action: REHDA

(d)   To identify issues into three segmented categories: technical, human error and systemic issues.

(e)   To organise open talks/forums with local authorities to find balance/middle ground between private sectors and enforcement bodies.

Action: OSC 3.0 PLUS WG

4.   **ADJOURMENT OF MEETING**

Tn Hj Syamsul Arman Yap adjourned the meeting at 7.30 p.m. and thanked the members for their attendance. The date of the next meeting will be notified to the members.

SECRETARIAT TWGDCP
19 OCTOBER 2020