

Khan's ArtVault™

We are pleased to announce the set up of a state-of-the-art high secure facility to display and sell clients' works of art and antiques.

Please visit our website www.artvault.sg for further details and contact us if you are interested to value & sell your collection and/or buy the exquisite collections we have.

"UNIQUELY Singapore"

EN-BLOC SALES & RECENT CHANGES TO THE LEGISLATION

A collective sale (or more commonly known as en-bloc sale), is a sale whereby owners of a multi-unit development or several adjoining landed houses band together to sell their properties collectively at a premium to a buyer, usually a developer, to redevelop the site.

Appropriately, collective sale is a uniquely Singapore phenomenon. Started in late 1994 with the successful sale of Cosy Mansion which is widely known as the first in the country, the frenzy came to a halt with the regional financial crisis in 1997. However, the strong recovery in the residential property market in 1999 / 2000 boosted developers' confidence and triggered a series of aggressive bids for freehold sites. It was also in that year that the Land Title (Strata) (Amendment) Act 1999 came into operation. Under the amended law, unanimous consent from the owners is no longer necessary for a collective sale. The rationale of the Act was to free up land for redevelopment to higher intensity or plot ratio to cater to a population of four million at that time. Collective sale made a significant comeback in 2005 after four years of lackluster sale and the fever is, until now, still on-going.

The en-bloc sale legislation was recently amended and came in force on 4 October 2007. The changes in the rules aim to make the en-bloc sale process more transparent and include safeguards to ensure that all owners, both the minority and majority owners, get a fair deal.



Leedon Heights

Some of the key amendments are:

- An additional requirement for the definition of majority consent for en-bloc sale, to be based on the area of the units in the development. The existing condition that requires consent from owners controlling at least 80 or 90 per cent of a development's share value – depending on whether it is more than 10 years old or less, respectively – will still apply. But a second condition will require consent from owners of units forming at least 80 per cent of the total area of all the lots in the development if the development is more than 10 years old and 90 per cent if it is less than 10 years old.

- Collective sale committee must be elected at general meeting of Management Corporation (MC) by ordinary resolution (i.e. by simple majority of owners present at the meeting). There should be one sale committee per development at any instance. In addition, the tenure of the sale committee will lapse when the Collective Sale Agreement (CSA) lapses or if the sale committee is dissolved by ordinary resolution at a general meeting of the MC.
- An owner can change his mind at any time within a 5-day cooling-off period after signing the CSA. However, he will only be allowed to make use of the cooling-off period once for the same CSA. Also, a lawyer must be present during the signing of the CSA to explain the legal terms and liabilities and address any doubts that the owner may have.
- The Strata Title Board (STB) will be given power to increase sale proceeds for minority owners who have filed valid objections if STB is of the view that it would be fair and equitable to do so. STB will authorize the en-bloc sale only if the majority owners agree to the increase. The increase in sale proceeds to the eligible minority owners will be funded from a pool which will be constituted from contributions made by all owners in the development. The contribution required from each owner will be either 0.25% of the sale proceeds of his unit or \$2,000, whichever is higher.

The rationale for the latter amendment is to cater to instances where there is no financial loss and STB does not find any aspect of bad faith in the process to justify a dismissal of the en-bloc sale application, but yet STB


CONTINUED ON PAGE 2

CONTINUED FROM PAGE 2


"UNIQUELY Singapore"

EN-BLOC SALES: LEEDON HEIGHTS & LAUREL PARK

finds that certain minority owners may not have been treated fairly or equitably in the distribution of the sale proceeds.

In this respect,  **ROBERT KHAN** has prepared valuation reports for minority owners to assist them to substantiate their grounds of objections against the en-bloc sales. In fact, one of the common grievances amongst the minority owners is that they have not been fairly treated in the distribution of sale proceeds.


Leedon Heights was sold for S\$835 million in April this year, a price tag in what is believed to be the largest single transaction by land price for a residential site at the time of sale. The distribution of the sale proceeds as stated in the CSA and agreed by the majority owners is based on the apportionment by strata area. This method assumes that the unit rate is the same for units of all types (apartments and penthouses) and sizes in the development.


 **ROBERT KHAN** was appointed by the minority owners to comment on the method of distribution of the sale proceeds. Our research shown that the distribution method was inconsistent with the body of actual market evidence, specifically, in Leedon Heights and generally, in the property market at large, whereby, unit rates of apartments were transacted at a reasonable premium over that of penthouses. Our conclusion was that the method of distribution based solely on strata area was unfair and inequitable as the method clearly deprived the apartment owners of the premium on the unit rates which they usually enjoy if they sell their



Laurel Park


apartments in the open market.

 **ROBERT KHAN** then proposed a fairer and more equitable method of distribution of sale proceeds based on 50% share value and 50% strata area. Based on this method, the unit rates on the apportioned sale proceeds due to the apartment owners would have a reasonable premium over the unit rates on the apportioned sale proceeds due to the penthouse owners. Our report and proposal submitted to the Strata Titles Board successfully assisted the minority owners to obtain an additional one million dollars in their total sale proceeds.

 **ROBERT KHAN** was also appointed by the minority owners of **Laurel Park** to determine the Market Value of the site and to comment on the method of distribution of the sale proceeds. In our valuation of the site, we were advised by an architect engaged by the minority owners on the highest and best use of the land. Similar to Leedon Heights, the distribution of the sale proceeds as stated in the collective sales agreement and agreed by the majority owners is also based on the apportionment purely by strata area. The development comprises 32 maisonette units situated within two 4-storey walk-up blocks. The strata area of each of the 16 lower maisonette units includes a private enclosed space (PES). The area of contention is whether to ascribe a full unit rate to the PES, like the covered strata area. Our proposed method of distribution involved carrying out a valuation of each of the units in the development and to address, amongst other things, equitably, the issue of the

PES.

In land scarce Singapore, en-bloc sales provide an avenue to free up land for redevelopment to higher intensity or plot ratio. It is foreseen that more land in this country will have their plot ratio enhanced in the revised Master Plan in 2008 to cope with an anticipated rise in population to 6.5 million. This is likely to keep the en-bloc sale fever, albeit abated slightly recently, going for a few more years to come. The changes to the en-bloc sale legislation to provide additional safeguards and greater transparency for all owners involved in the sale are therefore timely.

It is poignant to note that whatever legislated safeguards there may be to make an en-bloc sale process smoother and fairer, would-be owners of strata-titled properties should be aware what their rights and obligations are before they make a commitment to purchase. 

*As the year draws to an end,
we are grateful for the
confidence and trust placed
on us by our clients which
made 2007 a busy and
exciting one. We take this
opportunity to wish all our
clients worldwide a
prosperous and healthy 2008.*

