

Abstract

Optimisation of land use through innovative legislation in Singapore

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As Singapore's national planning authority, the Urban Redevelopment Authority (URA) is responsible for planning and facilitating Singapore's physical development. With just 680 square kilometers to apportion among competing land uses and a population of 4 million to house, planners and developers in Singapore are constantly challenged to introduce measures to optimize land use.

One solution has been high-rise, high-density private residential developments

In January 1999, the Master Plan 1998 which guides all development of land in Singapore, introduced the Development Guide Plan (DGP) approach to planning for the first time. This was a more comprehensive and systematic exercise in planning and capturing land use intentions in 55 planning areas in Singapore. In a review of its rules on the standard plot ratio height control typology, the URA concluded that increasing the storey height within the stipulated gross plot ratio (GPR) up to an acceptable limit based on planning considerations would yield manifold advantages; it would encourage flexibility and innovation in design and more efficient use of communal space within residential developments, not to speak of a substantial corresponding increase in the number of residential units.

Close on the heels of the GPR revision and underpinned by the same rationale of optimizing land use, radical amendments were effected to strata-title legislation in Singapore. The latter had been closely modeled on the Conveyancing (Strata Title) Act of New South Wales 1961. These amendments which provoked much controversy but led to a flurry of collective sales, have been severely criticized as they vitally affect owners' enjoyment of their bundle of rights in private property. This paper considers the implications of the above.

Keywords: Planning, land scarcity, high-density private residential developments, enhanced plot ratios, strata-titled property, collective sales.

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Background and Introduction

At 680 sq km, Singapore has very limited land to apportion to meet the needs of its people and a growing economy. After setting aside land for the necessary infrastructure like airports, ports, sewage treatment plants and water catchments, planners are left with little more than 50 per cent of the land to use for homes, offices, factories, roads, parks and schools.

Much of the legislation pertaining to real property in land-hungry Singapore has been enacted as a result of the need to optimise the use of this scarce resource. To this end, legislative controls in the form of (amongst others) the State Lands Act, Residential Property Act, Land Acquisition Act, Planning Act, and Land Titles (Strata) Act have been imposed over a variety of matters ranging from land ownership and land acquisition, to land use and development. However, it is not possible to consider here the implications of *all* the above legislation which has evolved to facilitate a judicious allocation of Singapore's scarce resource. This paper focuses on the implications of the Planning Act and the critical role which has been played by the Urban Redevelopment Authority, (URA) Singapore's national planning authority. In particular, this paper highlights a rather controversial legislative measure targeted at private residential strata-titled developments. This was introduced in the form of amendments to the Land Titles (Strata) Act and accelerated the phenomenon of 'collective' sales in Singapore.

Planning and Development in Singapore

The Ministry of National Development

The mandate to plan, regulate, facilitate and execute development projects for the physical development of Singapore lies with the Ministry of National Development (MND). The MND carries out these responsibilities through a number of departments and statutory boards. Within the MND, the task of planning for the physical development of Singapore lies with the Urban Redevelopment Authority (URA). The URA is a statutory body created by the Urban Redevelopment Authority Act 1989 and acts upon the direction of the Chief Planner.

The Master Plan and Development Guide Plans (DGPs)

In January 1999, the Chief Planner of the URA gazetted the approval of the Master Plan 1998. The Master Plan 1998 was approved by the Minister for National Development to guide all development of land in Singapore. This Master Plan was the first comprehensive review of land use, plot ratio and building heights since 1985. The Master Plan 1998 is also the first set of plans to be prepared through the Development Guide Plans (DGP) approach. In 1993, the URA had released fifty-five DGPs. Each of the DGPs released represents the planning vision for its area and sets out the control parameters such as land use, plot ratio building height, provision of facilities and amenities. The plot ratio and height controls indicated in the DGPs were based on the standard plot ratio and building height typology drawn up by URA earlier.

The typology shows the stipulated maximum plot ratio of a site and the maximum height control. All residential developments are required to comply with the stipulated plot ratio and height controls as indicated in the DGPs. Height controls are necessary to achieve a more harmonious and aesthetic living environment

With the objective of guiding the physical development in specific planning areas, the DGPs have unlocked the redevelopment potential of many freehold and 999-year leasehold land parcels. The DGP process is thus a more comprehensive and systematic exercise in planning and captures more effectively the land use intentions of the 55 planning areas. (<http://www.ura.gov.sg/>)

Enhancement of Plot Ratios and Increasing storey heights

As part of its continuing efforts to review all rules periodically, the URA undertook a review of the standard plot ratio height control typology. In this review, URA concluded that by increasing the storey height within the stipulated gross plot ratio (GPR) up to an acceptable limit based on planning considerations, architects will have more flexibility in building design. In addition, there would be more efficient use of space within residential developments. Revised height controls would apply for those areas that fell within the standard plot ratio height control typology (subject to compliance with technical height controls) as shown in the table below.

Table: Revised GPR / Storey Height Typology

Gross Plot Ratio	Storey Height Control	
	Existing	Relaxed
1.4	4	5
1.6	10	12
2.1	20	24
2.8	30	36
>2.8	>30	> 36

Source: ura website <http://www.ura.gov.sg/>

The relaxed height control was for flat and condominium developments which fell under the standard plot ratio and building height typologies. The implications of this are considered below.

Multiple Ownership of Property and “Subdivided” Buildings

Putting land to its highest and best use would mean that rather than constructing *one* bungalow on a plot of land, that land should be used to erect a *multi-storey* structure that could fulfill the housing needs of many. While individual ownership of land still exists in Singapore, the proportion of land so owned remains very small. Property so owned also remains costly and unaffordable to the majority. A large percentage of its population resides in high-rise developments thus resulting in multiple ownership of property

Multiple ownership of property, whether it is for residential, commercial, industrial or mixed use, requires that there is a proper system to allocate, manage and control the ownership and use of such land. In Singapore, the Land Titles (Strata) Act (the LT(S)A) which was modeled on the New South Wales ‘Conveyancing (Strata) Title Act of 1961’ was enacted in 1967 to meet this need and generally forms the legal framework for communal living in condominiums and apartments.

The Land Titles (Strata) Act (LT(S)A)

The concept of the LT(S)A was to permit the subdivision of land into strata and thereby confer to a number of individuals, ownership and use of a space of any shape below, on or above the surface of the land¹. With this concept in place, developers were able to construct multi-storey buildings, divide them up both horizontally and vertically, issue individual titles in respect of the subdivided units and sell them to various individuals thus creating a development that has multiple owners occupying a single piece of land. (Christudason, 1996) This led to increased land use density and intensity, which facilitated land to be put to its highest and best use. This system of multiple ownership has been very successful in Singapore with the number of residential, commercial, industrial and mixed-use developments registered under the strata title scheme as at the end of 2002 being approximately 3000². The success of the scheme has been partly attributed to the fact that such developments provide the opportunity for individuals to own ‘private’³ property at more affordable prices.

It is in the context of developments with multiple ownership that the collective sale phenomenon is discussed below.

¹ Land Titles (Strata) (Amendment) Act 1999, Part I, Section 3.

² The statistic quoted is based on the number of management corporations that have been registered with the Building Control unit as at end September 2002. In Singapore, management corporations are predominantly of multiple ownership. There are however, some developments that have been registered as management corporations but continue to be owned by a single owner. Nevertheless the point is, these developments are *capable* of multiple ownership.

³ In the context of housing ‘private’ as opposed to ‘public’ housing provided by the Housing and Development Board under the Housing and Development Act

“Collective” Sales

A collective sale is often interchangeably referred to as an *`en bloc`* sale. However, the latter usually refers to the situation where a building is sold as a block as if it is a single unit, whereas a collective sale is a type of real estate transaction whereby *individual* owners in a development band together to sell their properties jointly as an entity to a single buyer. These owners typically consist of different individuals who may own condominiums units, apartments or adjoining landed properties. Their subject properties are private residential developments, often having freehold titles and located in prime districts.

Freehold titles have dwindled in number as a result of the aggressive mechanism for compulsory purchase in the form of the Land Acquisition Act¹ which facilitated Singapore’s highly successful public housing programme, and the State Lands Act², which made 99-year leasehold titles the order of the day. While collective sales are possible for developments with 99-year leasehold titles, they are seldom transacted due to the lack of financial incentives to redevelop such sites; in fact, additional costs have to be borne by developers in the form of a differential premium which must be paid to the Government in order to renew the lease for the land. This makes existing freehold properties even more desirable to developers.

Background to the collective sale phenomenon

Several factors triggered the phenomenon of collective sales in Singapore in the mid-1990’s. They include the following:

(i) Redevelopment arising from Development Guide Plans and Enhanced Plot Ratios

Redevelopment has been defined as a process whereby existing structures on site are purchased and demolished to create land for new uses (DiPasquale & Wheaton, 1996). It represents an adjustment process by which housing capital is gradually replaced, resulting in a higher density from the historic density. In order for redevelopment of a site to be viable, the net residual value of land if developed optimally must exceed the gross value of land and capital that currently exists on the site, as well as the cost of demolishing the old capital ((DiPasquale & Wheaton, 1996). Thus, the relative physical obsolescence of the building and the availability and proximity of infrastructure (for example schools and public transport) may point to a greater intensification of land use and maximization of land resources through a collective sale and redevelopment.

Bearing the above in mind, it follows as discussed above, that if an existing development is sold jointly by individual property owners to a developer in the open market, there is the possibility of reaping windfall gains far above what the individual units can fetch, where sold individually; this is because the higher development potential arising from the enhanced plot ratio enhances the value of each individual owner’s interest.

Where properties had previously been assigned a lower plot ratio, there is still room for maximising the land potential for these developments if the maximum plot ratio stipulated in the DGP is higher than what had been built on the existing plot of land. Thus for example, the original plot ratio for properties in Walshe Road had initially been fixed at 1.04, subject to a 2-storey height control. However, under the Tanglin DGP (which Walshe Road falls within) the land can now be developed to a maximum plot ratio of 1.6 with a 10-storey height control. Hence, there is potential for further development of the land, making it a worthwhile investment for developers.

(ii) Legislative Changes Affecting Collective Sales – background to the amendments to the Land Titles (Strata) Act (LT(S)A)

Major amendments which radically altered fundamental and vested rights of ownership in strata-titled property in Singapore were made to the Land Titles (Strata) Act (LT (S) A) in late 1999 with the professed objective of optimization of land use.

At the time when collective sales made its debut in 1994, there was the requirement of *unanimous* consent among property owners within the development before they could collectively put up their properties for sale. Therefore, in those developments where one person or a minority refused to give their consent to sell their unit, the collective sale could not materialize. As a result of this, there were many situations where a majority of the owners lost the opportunity to realise the capital gains from such a type of sale. In response to the numerous and frequent complaints and appeals received from frustrated owners whose efforts to complete such sales had been thwarted by a (very often) small minority, a proposal was made by the Minister of State for Law and Home Affairs in June 1998, to amend the LT (S)A so as to facilitate collective sales. The concerns of the majority were accepted by Parliament as legitimate and the actions of the dissenting minority were described as “[impeding] efforts to maximise the development potential of *en bloc* sale sites, and [preventing] the rejuvenation of older estates” (Report of the Select Committee, (1999). It was in these circumstances that radical amendments were effected to the LT (S) A. These are discussed below.

Nature and effect of the amendments to the Land Titles (Strata) Act (LT (S) A)

The amendments to the LT (S) A which took effect in October 1999, removed the need for unanimity as a pre-requisite for collective sales. The amendments allowed for a collective sale to proceed *without the unanimous consent* of owners within a strata-titled development, requiring instead, merely a *majority’s consent*. It was hardly surprising that the proposed amendments led to vehement protests from strata-titled property owners who were *not* willing to participate in collective sales. (Report of the Select Committee on the Land Titles (Strata) Amendment Bill (1999). As the upshot of the amendments was that such owners would be *compelled* to agree to the collective sale, it was felt that this made a mockery of their ‘freehold’ titles which are synonymous with perpetual ownership⁴.

⁴ Subject of course to the law of compulsory acquisition where the individual’s interest is sacrificed for what is deemed the public good, public interest and public benefit. See Land Acquisition Act, section 5.

Such owners also perceived the amendments as an abrogation of their fundamental rights in private property, and on an entirely different footing from compulsory land acquisition. An analogy had been drawn with the latter during Parliamentary debates leading to the enactment of the amendments (Christudason, 2000).

While the requirement for unanimous consent among unit-owners was removed, other conditions were imposed. These include replacing the requirement for unanimity with minimum percentages which were required to constitute the majority which could push the collective sale through, subject to the approval of the Board. The Board, which is modeled on the Strata Titles Board of New South Wales, was the tribunal set up for resolving disputes relating to strata-type properties.³

At the time of writing, twenty-three applications for collective sales had been heard by the Board. The approximate total value of collective sale transactions alone (residential) which have occurred since year 2000 to the 2nd Quarter of 2002 is about \$1,865 mil. (CB Richard Ellis, 2002) Without the amendments and based on pre-amendment information on collective sale efforts (Report of the Select Committee on the Land Titles (Strata) Amendment Bill (1999), it is unlikely that proprietors would have succeeded in seeing such sales through so expeditiously.

Summary and Conclusion

Singapore has a seemingly unsolvable land scarcity problem. In the face of this, innovative (albeit somewhat radical) changes have been made to the legal framework regulating land use. This paper has considered some of these.

In the light of the Planning Act provisions, this paper has discussed the critical role played by the Urban Redevelopment Authority in the evolution of Singapore's residential skyline. Together with the 1998 Master Plan and revisions to the Development Guide Plans which increased the storey heights typology and enhanced plot ratios, the way was paved for higher and greater density private residential developments.

Tying in neatly with these revisions were the controversial amendments to the Land Titles (Strata) Act in 1999. On the one hand, with the potential of prematurely terminating freehold titles, these amendments were accused of abrogating fundamental rights of property ownership. However, it was said by the Minister of State (Law) Professor Ho Peng Kee that the amendments would on the other hand, allow and encourage developers to take advantage of the enhanced plot ratios, help rejuvenate older developments and create more homes in prime areas. (Report of the Select Committee on the Land Titles (Strata) Amendment Bill (1999). Based on the number and volume of transactions which have been facilitated to date pursuant to the amendments, this has borne out to be true.

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