

MANAGEMENT RESPONSIBILITY VS RESIDENT'S RESPONSIBILITY

Company: BRS Building Services Sdn Bhd | 20 August, 2021

For Malaysian property owners who were more familiar with landed houses decades ago, the term "strata" was certainly a foreign idea. But, for many property owners and investors, it has now become commonplace. Scarcity of land, increasing land costs in various Malaysian cities and a rising need for security measures become factors of the soaring popularity of strata buildings. Owning a strata property surely is an exciting experience. However, when there are damages that happened on their property, each strata property owner must know which parties should be responsible, the correct procedures, and the actions to rectify the damages.

Strata properties are basically divided into various individual units and common properties which borderline the extent of responsibilities between Joint Management Body (JMB) or Management Corporation (MC), the strata property owners, and the local authority. Any individual unit in a high-rise residential or commercial building is referred to as a parcel under the Strata Management Act 2013 [1]. Meanwhile, any other space in the building that does not belong to an individual strata property owner or parcel is referred to as common property, which, on the other hand, is shared by all property owners.

Common properties are managed and maintained by JMB or MC with the monthly maintenance fees collected from each strata property owner. Any complaints done by the community or damages on these properties should be swiftly rectified by the management as written by the Law. However, damages that occur in the individual parcel are to be sustained at its cost by different parties, depending on the situation.



Figure 1: Parcel vs Common Property on Strata Scheme
Source: Ministry of Housing and Local Government (2020) [2]

Table 1: List of Items from Figure 1

A. COMMON PROPERTY		B. PARCEL	
A1	Roof leakage	B1	Internal Wall (crack, leakage, paint)
A2	Water Tank leakage	B2	Inter-floor leakage
A3	Gutter leakage	B3	Pipe leakage / clogged
A4	Rainwater Downpipe leakage	B4	Windows
A5	External Wall (crack, plaster, paint)	Note: Including lift, stairs & corridor.	
A6	Sewerage Pipe leakage	C. OUTSIDE STRATA SCHEME	
A7	Crack on Apron, Drainage	C1	Outside of fence
A8	Windows	C2	Slope
A9	Retaining Wall	Note: Outside of common area is under responsibilities of local /relevant authority	
A10	Playground area		
A11	Fence		
A12	Sewerage Pipe		
A13	Manhole		
A14	Garbage Room / Hall / Mosque		

Inter-floor / Party Wall Leakage: Which party is responsible?

Inter-floor leakage occurred when there is dampness, moisture, or water penetration that seeping through the ceiling of certain part of internal parcel, common property or limited common property. On the other hand, party wall leakage is the same occurrence but is onto the wall that separates two different individual parcel or separates a parcel from the common property.

As stated by the Strata Management Act 2013, the property owner of the affected parcel may write a notice to the Management (Developer, if within the Defect Liability Period or JMB/MC, if otherwise) ^[1]. It is advisable to inform the Management through a written notice as a record of evidence to avoid any misinformation. Management shall take action to inspect and identify the causes and the party who responsible for its rectification within seven (7) days of the notice issuance. A Certificate of Inspection (Form 28) will be issued within five (5) days after completion of the inspection by management. As such, the cause of damage and the party who shall liable to rectified will be identified.

- 1) If the leakage is caused by the Developer due to poor workmanship or others under Defect Liability Period, the property owner of affected parcel shall claim the rectification cost against the Developer as stated in the Sales and Purchase Agreement. For affected common property, the property owner shall claim against the Common Property Defect Account.
- 2) If the leakage is caused by or attributable to a parcel or any part of it, the property owner of the affected parcel shall claim against the said owner to rectify the damages with his own expenses within seven (7) days of Form 28 issuance. However, shall the said owner fails to rectify the damages, Management shall takeover to rectify the damages and claim the cost to the respective owner.
- 3) If the leakage is caused by or attributable to a common property/ limited common property, the Management shall rectify the damages on affected parcel within seven (7) days of Form 28 issuance.

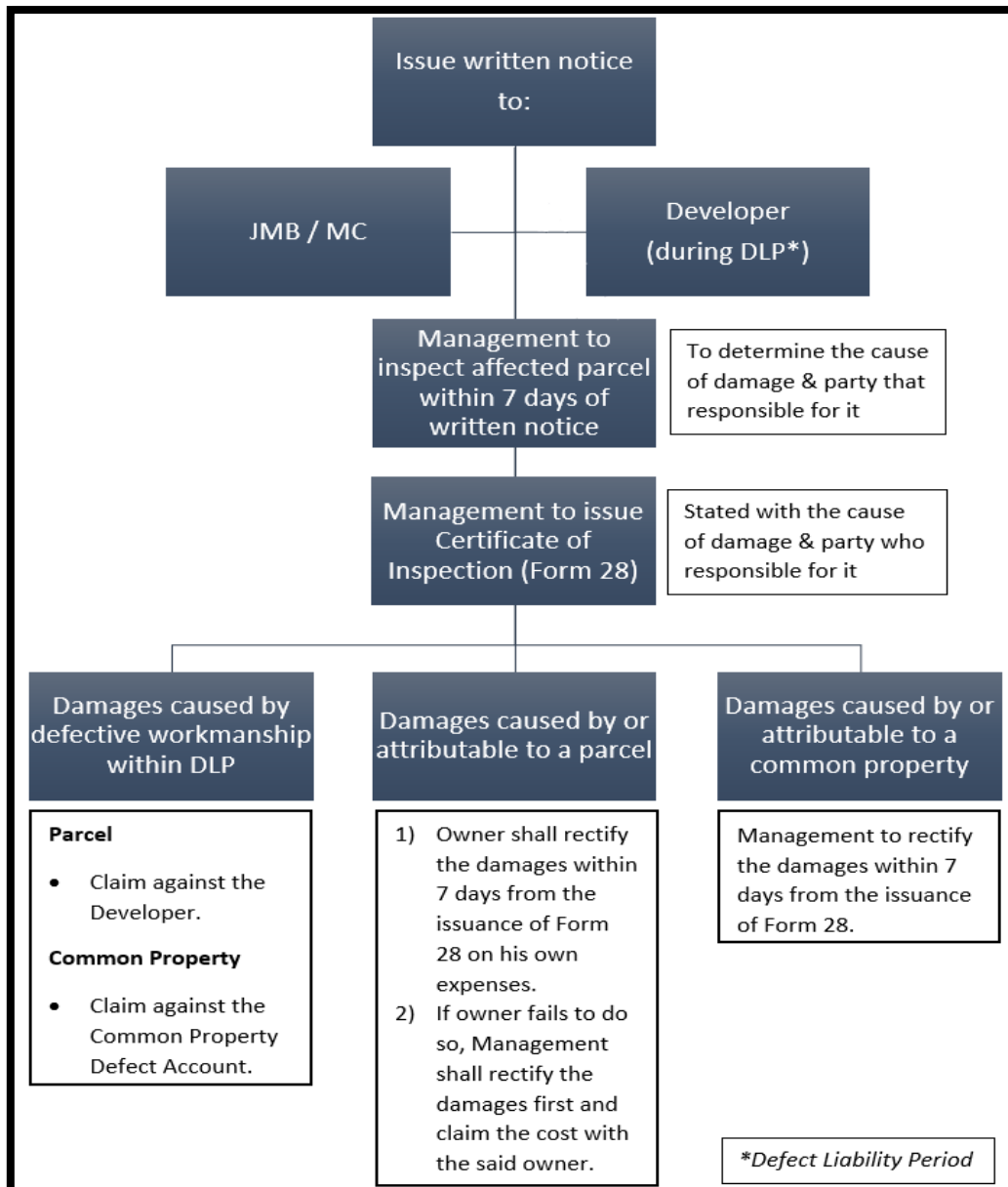


Figure 2: Procedures of Rectifying the Inter-floor / Party Wall Leakage

In conclusion, owning a strata property is different from owning an individual property. The defects that happened in a building could be arguable between neighbours as well as the management committee. It is crucial that both strata property owner and the management committee know their responsibilities and obligations as spelled under the Strata Management Act. With that, the disagreements between parties shall able to be resolved.

References:

- [1] Laws of Malaysia. Strata Management Act 2013 (2016). Retrieved on 19th August 2021 from <http://horizonresidence.com.my/wp-content/uploads/2016/10/Strata-Management-Maintenance-Management-Regulation-2015-eng-version.pdf>
- [2] Ministry of Housing and Local Government (2020). Petak Harta Bersama. Retrieved on 19th August 2021 from <https://www.kpkt.gov.my/index.php/pages/view/634?mid=380>