



STRATA MANAGEMENT GUIDE: 7

Developer Handing Over after First Annual General Meeting



Preamble

This series of Strata Management Guides published by the Building and Construction Authority ("**BCA**") is intended to help councils of the management corporations ("**MCs**"), subsidiary proprietors ("**SPs**"), council members and managing agents ("**MA**s") better manage their estates.

The guide sets out recommended procedures and good practices to address common issues (e.g. how to conduct a general meeting, how to requisition a motion, etc.).

The guide is aimed at providing a consistent approach and standard for the strata community to facilitate better self-regulation.

Disclaimer

This guide has been prepared to provide practical information on the Building Maintenance and Strata Management Act ("**BMSMA**") and regulations made under the BMSMA ("**BM(SM) Regulations**").

This guide:

- Does not provide a legal interpretation of provisions in the BMSMA or BM (SM) Regulations; and
- Is not a substitute for independent legal advice.

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First published in April 2022

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Abbreviations

AGM	Annual General Meeting
BMSMA	Building Maintenance and Strata Management Act
BM(SM) REGULATIONS	Building Maintenance(Strata Management) Regulations 2005
MA	Managing Agent
MCST	Management Corporation Strata Title
MC	Management Corporation
SP	Subsidiary Proprietor

01

Introduction

(Sections 23 and 26 of the BMSMA)

- 1.1 The **Owner Developer (“Developer”)** refers to any person, who is registered as the proprietor of the land shown in the strata title plan immediately before the constitution of the **Management Corporation (MC)** of the land. The Developer is required to manage and maintain the strata development before the MC is constituted.
- 1.2 The Developer must convene the **first annual general meeting (AGM)** of the MC within the stipulated timeline and be prepared to hand over the control, finance, documents and all other relevant items relating to the management, operation and administration of the MC to the elected council immediately after the first AGM is successfully held.
- 1.3 While it is required that the Developer² must be the chairperson presiding over the first AGM, the Developer can be assisted by a **managing agent (MA)**. If the Developer fails to hold the first AGM as required under the **Building Maintenance and Strata Management Act (BMSMA)**, any SP may apply to the Commissioner to appoint a person to convene the first AGM. Any Developer who, without reasonable excuse, fails to comply with the BMSMA shall be guilty of an offence and shall be liable on conviction to a fine.

¹ See Guide 3 on ‘Preparation of General Meeting’ on requirements to convene First AGM.

² The Developer can appoint any suitable employee (or responsible officer, as defined in the BMSMA) from its organisation to attend and chair the first AGM. “Responsible officer” refers to

- (a) for an owner developer that is a corporation or limited liability partnership, means —
 - (i) any director, partner, chief executive or employee of the corporation; or
 - (ii) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation, or any employee of the corporation;
- (b) for an owner developer that is a partnership, means any partner in the partnership, or any employee of the partnership; or
- (c) for an owner developer that is an unincorporated association (other than a partnership), means —
 - (i) the president, the secretary, or any member of the committee of the unincorporated association;
 - (ii) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; or
 - (iii) any employee of the unincorporated association.

02

Preparation for First AGM



First Annual Budget (Section 26 of the BMSMA)

- 2.1 Besides the Notice of AGM, the Developer is required to prepare an annual budget before the first AGM for approval. The annual budget is to be for a period of 12 months starting on the first day of the month following the date of the first AGM.
- 2.2 The proposed first annual budget is to be distributed with the Notice of AGM of the first AGM. The budget and financial statement must contain the information on the transactions and financial position of the MC, detailing the opening balance of the management fund and sinking fund (surplus or deficit), estimated income from all sources and expenditures and the budget expenditure for the coming financial year and the proposed contribution rates for management fund and sinking fund.

Agenda For First AGM

- 2.3 The agenda for the first AGM must include the following:
 - a) number of council members and their election;
 - b) the amount of contributions to be raised for the management fund and the sinking fund;
 - c) whether insurance taken out by the Developer should be confirmed, varied or extended, and to confirm or vary the amount of insurance coverage, if applicable;
 - d) the matters that shall be determined only by the MC at a general meeting;
 - e) whether an MA is to be appointed and the powers, duties and/or functions of the MC to be delegated to the MA; and
 - f) adoption of the audited annual accounts of the MC for a period ending on a date within 4 months before the first AGM.

03

Delivery of Documents after the First AGM



Within One Week after the First AGM (*Section 23 of the BMSMA*)

- 3.1 Within one week after the first AGM, the Developer must transfer the control of the estate and the MC's funds to the newly elected council, such as ensuring that the MC funds in the bank are transferred to the legal name of the MC, and that all keys and other means of access in respect of the development, (e.g. keys to the electrical risers and pump rooms) are delivered to the council.
- 3.2 For 2 years following the transfer of control of the development to the MC, the Developer must keep financial records that relate to the MC's finances during the period before the transfer of control. During this period, the Developer must provide the MC with free inspection of the financial records but can charge the MC for the cost of copying the documents.



Within Two Weeks after the First AGM

(Section 26 of the BMSMA, and Paragraphs 5 and 6 of the BM(SM) Regulations)

3.3 By the end of two weeks after the first AGM, the Developer must:

(a) place before the meeting and delivered to the MC copies of all the following:

Relevant documents	Examples of documents:
i. all plans that were required to obtain a building permit and any amendments to the building permit plans:	<ul style="list-style-type: none"> • approved building plans for all buildings in the development;
ii. any as-built drawings in the Developer's possession that indicates the actual location of any pipe, wire, cable, chute, duct or other facility for the passage or provision of systems or services:	<ul style="list-style-type: none"> • architectural drawings • structural drawings • Air-con & Mechanical Ventilation (ACMV) drawings • sanitary and plumbing drawings • utilities drawings – water, electricity, gas, telecoms, etc. • fire protection drawings – sprinklers, hose reels, fire hydrants, DECAM, etc. • lightning protection system drawings • Civil Defence shelter drawings • various schematic drawings of services, including swimming pool filtration tank and pump, sump pit, lift, etc.
iii. all contracts entered into by the MC	<ul style="list-style-type: none"> • copies of all contracts entered into • a list of the names and addresses of every consultant, contractor and sub-contractor for that development; • service contracts, which includes <ul style="list-style-type: none"> ○ cleaning services ○ security services ○ managing agent ○ landscaping services ○ pest control services ○ fire protection services ○ swimming pool maintenance services ○ lift maintenance services ○ pump maintenance services ○ air-con services for common facilities such as function room ○ gym equipment services ○ legal services ○ other services such as car barrier system, intercom system, shuttle bus service etc.
iv. strata title plan	NIL

Relevant documents	Examples of documents:
v. the names and addresses of such contractors, subcontractors and persons who supplied labour or materials to the development during construction	<ul style="list-style-type: none"> the main contractor for the development; every nominated subcontractor for the development; every nominated supplier of labour or materials to the development during construction; and every subcontractor and every supplier of tiles or sanitary fittings to the development during construction.
vi. all warranties, manuals, schematic drawings, operating instructions, service guides, manufacturer's documentation and other similar information relating to the common property including lightings, pumps, intercom, etc;	<ul style="list-style-type: none"> warranties, which include: <ul style="list-style-type: none"> anti-termite treatment work water proofing and water tightness to wet areas membrane panel roofing works tiled roofing system floor hardener tile adhesive works aluminum works, glazing and curtain walling works external spray textured coating system laminated flooring shower screens; engineered façade system e.g. glazing glass, cladding, green wall, screen wall spilt unit air con circulation pumps including swimming pool, Jacuzzi pool
vii. all records required to be prepared or retained by the MC under the BMSMA	<ul style="list-style-type: none"> strata roll Schedule of Strata Unit for the development.
viii. any other records as may be prescribed;	<ul style="list-style-type: none"> the planning permission granted and final approved submission drawings showing the final gross floor area information in respect of the development; all notices or directions issued by the Government or any public authority in respect of the development; all current insurance policies relating to the development; an Asset listing of all furniture, equipment and movable property used or to be used in connection with the common property or limited common property, if any;

* The above list serves as a reference for documents that the developer should hand over but is not exhaustive.



Good Practice: Pursuing the Developer's Warranties

The Developer must take reasonable efforts to pursue any remedies under warranties in existence regarding the common property. Warranty periods will vary but they are often limited to one year or less, so any action must be commenced promptly.

What can the MC do?



The MC should identify any defects in the common property as soon as possible and examine if any of the Developer's warranties are going to expire. If there are defects, the MC could engage the Developer to inform the contractor and subsequently pursue the warranties directly as the deeds of warranties are usually transferred to the MC after handing over.

- 3.3 Please note that where there are prefabricated bathroom units that are incorporated in the development, the manufacturer's manual also has to be handed over by the Developer.
- 3.4 It is important for the Developer to keep track of the documents and information to be handed over to the MC for a smooth management and administration of the development.
- 3.5 If the Developer does not supply the above listed documents to the MC and the MC must pay money to third parties to obtain copies of the documents, the Developer must reimburse the costs of obtaining the documents to the MC.





Good Practice: Proper Record and Book-keeping of MC Finances

The Developer has a duty to ensure that all records relating to the MC are properly documented and ready to be provided to the MC.

What can the MC do?



The MC should request to obtain a copy of all financial records relating to the MC. The MC should tally the figures and check with the Developer if they have any doubts while the Developer is still able to recall the past expenditures.



Engage the Developer and have regular engagements to understand estate matters which will result in a smoother and comprehensive take over after the 1st AGM. It will be good to request for the Developer to organise and conduct training in respect of the common facilities and equipment in the development, for familiarisation and at the same time to take note of any existing issues.



Dispute on the use of maintenance funds, if any.



References:

BMSMA - Sections 23, 26

BM (SM) Regulations



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