



Residential Property Management Fees, Common Areas and Homeowner's Associations

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- Definitions
- Homeowners' Associations
- Common Areas
- Service Charges

- **Apartment:** A residential unit comprised of a suite of rooms, separated from others by partitions, within a building having multiple units. Often used interchangeably with “Condominium” but there may be legal differences dependant upon the geographical location of the property.
- **Condominium:** A type of ownership in real property where all of the owners own the property, common areas and buildings together, with the exception of the interior of the unit to which they have title. Often mistakenly referred to as a type of construction or development, it actually refers to the type of ownership.
- **Service Charge:** Fees collected and held in a fund to provide for the maintenance and operations of the common areas in a development. How the service charge is structured will vary with the type of premises and services provided.
- **Sinking Fund:** Fees collected and held in a fund to provide for future capital needs, e.g. painting of common property, replacing any fixtures on the common property, etc.

- **Common Area:** Those portions of a building, land, and amenities owned (or managed) by a homeowners' association that are used by all of the owners, who share in the common expenses of their operation and maintenance.
- **Subdivision:** A housing development that is created by a developer dividing a piece of land into individual lots for sale (with / without homes) at a premium price due to the facilities and amenities provided to the property by the developer, which includes clear rules and regulations on how the property may be used
- **Owner:** A person who owns property.
- **Developer:** An entity which builds structures; houses, apartments, etc.
- **User:** A party who has the rights to use property whether through ownership, lease, easement or license

- **Owner**

Association: An organized group of homeowners whose members regulate and enforce the rules and standards of their community and which manages the property.

These groups are known by other names, and may have more specific tasks in other parts of the world; such as, Body Corporate (New Zealand), Management Corporation (Singapore), Co-Owners Committee (Thailand), Tenants Association (UK), Homeowner Association (USA), Condominium Association (USA)

- **Lien:**

A notice in the public record that someone has a claim against the home owner in connection to a specific property.

- **Property Management Issues in Thailand**



- Condominiums Overview
- Rules & Regulations
- Condominium Governance Structure
 - Condominium Juristic Person
 - Condominium Juristic Person Manager
 - Co-Owner's Committee
- Service Charges & Budgets



Condominium Overview - Thailand

- Condominiums in Thailand
 - All private property which is deemed as a condominium unit has a title and is registered at the Land Department; otherwise it is seen as common property
 - Upon registration of the Condominium by the Developer:
 - the Condominium Juristic Person (HOA) must be created
 - Rules and Regulations need to be drawn up and registered at the Land Department
 - Thai Condominium Act introduced in 1979 to administer and manage condominiums with several amendments (most recently July 2008)

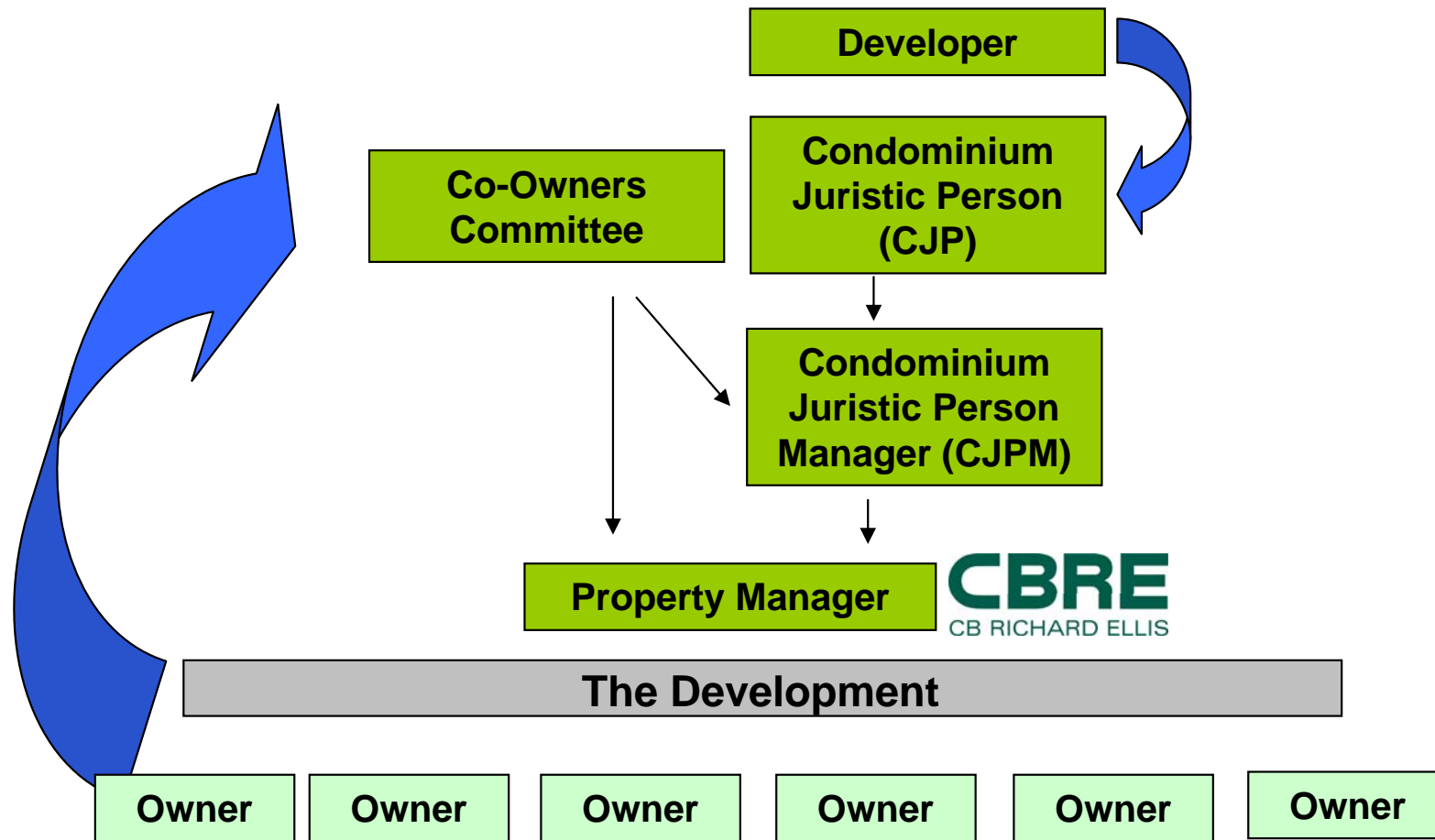


Rules & Regulations - Thailand

- Under the Thai Condominium Act, the rules and regulations for the condominium must be registered at the Land Department at the time the property is registered. By law they must include:
 - Name of Condominium Juristic Person
 - Objectives of the Condominium
 - Location of the office for the Condominium Juristic Person
 - Amount of expenses Co-Owners must pay in advance
 - Common Property – Detailed list over and above Condominium Act
 - Management of the use of the common property
 - Use of private and the common property
 - Ratio each co-owner has title to in the common property
 - Summoning a co-owners general meeting and the meetings procedures
 - Ratio of expenses the co-owners are required to jointly pay
 - The appointment, powers and duties, term of offices of CJP Manager



Condominium Governance Structure - Thailand



Condominium Juristic Person - Thailand

- Condominium Juristic Person (CJP)
 - A non-profit entity established upon transfer of the first title of a unit from the developer to its buyer
 - Tax exempt – no VAT, no corporate income tax
 - Governs bank accounts set up for Service Charges and another for Sinking Fund
 - Has the authority and power to act on resolutions made by the Co-Owners
 - Must appoint a Condominium Juristic Person Manager



Co-Owner's Committee (COC) - Thailand

- Co-Owner's Committee
 - Not required but mentioned in Condominium Act as a positive – *Best Practice*
 - Comprised of 3 (min) – 9 (max) members who are elected by a majority vote
 - A Chairman is elected from the Committee
 - Established at the 1st Annual General Meeting of the Co-Owners (must be held 6 months from date of registration – by law)
 - Responsible to oversee management of the CJP
 - The Property Manager reports directly to the COC and is instructed through regular committee meetings
 - Cohesive and active COC is important for the condominium!!



Condominium Juristic Person Manager - Thailand

- Condominiums Juristic Person Manager (CJPM)
 - Appointed by the CJP (appointed by the Developer)
 - Represents the CJP
 - Ensures Rules and Regulations are abided by
 - In cases of emergency has the power to use own initiative
 - May pass authority on to a third party such as a property management company (CBRE)
 - Has the authority and power to act on resolutions made by the Co-Owners (COC)



Common Areas - Thailand

- Common Areas are defined when property is registered; generally if the area does not have a title it is a common area
- Service Charges called Common Area Management Fees are collected from co-owners to operate and maintain common areas
 - Based on unit sizes
 - Paid quarterly/biannually in advance
 - Charges begin once the building is registered and transferred
- Developer pays fees only on units he owns or has not sold yet.



Service Charges - Thailand

- Service Charges fund the Operating Budget which is set up to operate and maintain common areas
- The Property Manager establishes the first budget which the Co-Owners Committee approves
- *Best Practice* for Service Charges to be collected annually in advance for the 1st year to ensure finances for initial start-up operations



Operating Budget Example - Thailand

- The Operating Budget includes, but is not limited to;
 - Management Office Operations
 - Management Staff
 - Security
 - Cleaning & Associated Services
 - Maintenance
 - Day-to-Day Repairs
 - Common Area Utilities
 - Sanitation Services
 - Landscaping
 - Insurance
 - Audit Fees
 - Miscellaneous Expenditure



Sinking Fund - Thailand

- Established at the time of title transfer with an initial payment made by the Co-Owners based on unit size
- Sinking Fund held in separate bank account
- Sinking Fund may need to be replenished periodically but will be decided upon by the Co-Owners Committee
- Property Manager should annually review all common areas for life span and replacement costs – *Best Practice*
- Any funds used from the Sinking Fund should be approved at the general meeting of the Co-Owners Committee
- The Sinking Fund should be large at the beginning – *Best Practice*



- **Property Management Issues in Singapore**

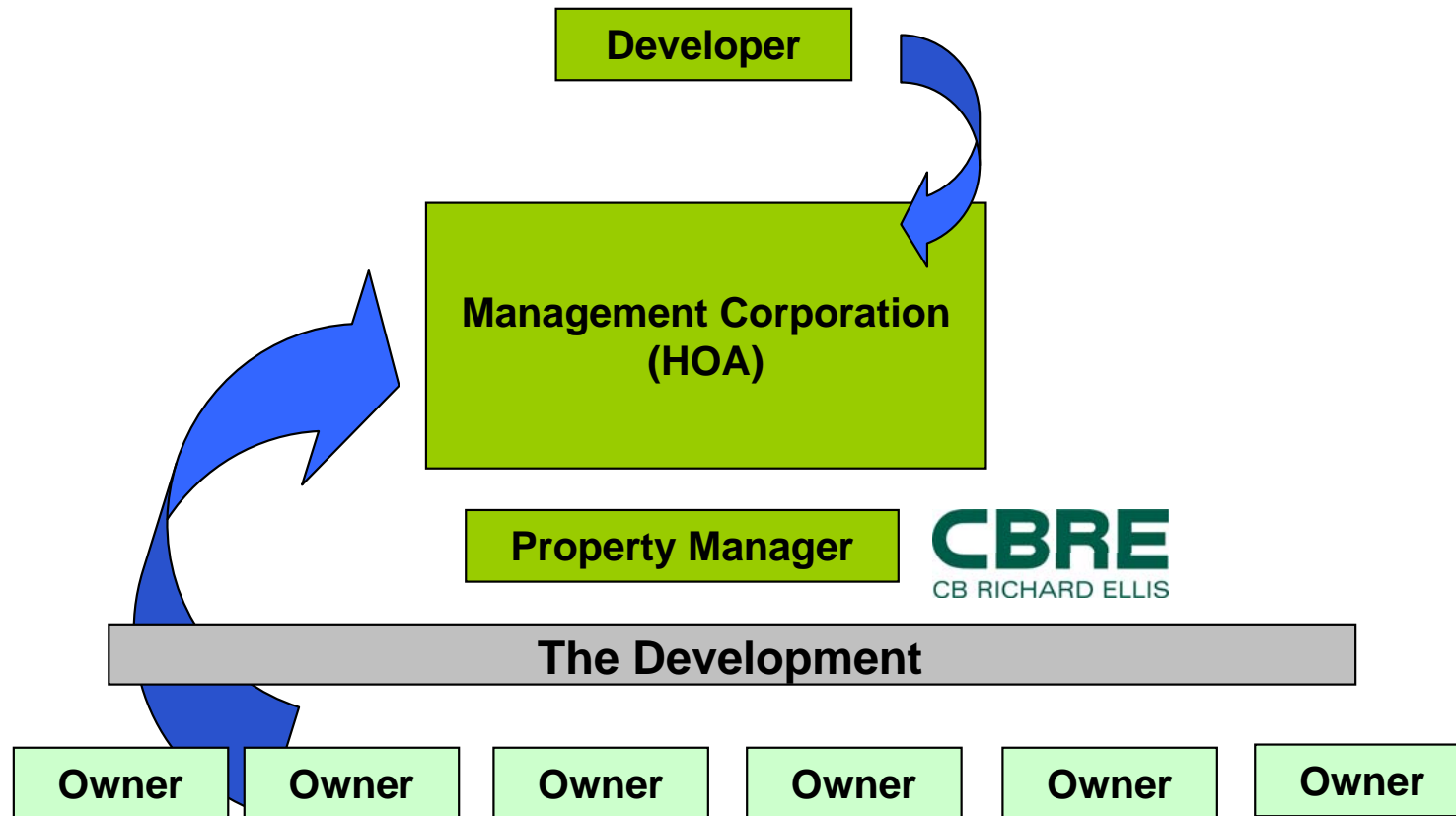


History of Associations - Singapore

- Previously there were two different governing laws; The Land Strata Act and the Buildings and Common Property Act
- 2005 marked the issuance of a single piece of legislation known as The Building Maintenance and Strata Management Act



Condominium Governance Structure - Singapore



Owners are referred to as "Subsidiary Proprietors"



Duties of the Developer - Singapore

- Until the Management Corporation (MC) is formed the Developer collects Service Charges and submits all paperwork for the formation of the MC according to law
- This fund is audited annually and submitted to the government and also made available to owners for inspection until MC is convened
- The Developer opens a bank account, turns over all funds and account records to the MC upon its start-up



Management Corporation - Singapore

- The Management Corporation is formed when the Strata Title Plan for the Development is lodged with the Chief Surveyor and a Strata Title Application is made to the Registrar of Titles, Singapore Land Authority
- Keep accounting and financial records
- Keep a listing of the owners of each unit in the development and the respective share values
- Hold elections for the MC Council who represent the MC body and are elected from the owners (up to 14 members)



Subsidiary Proprietors - Singapore

- A Subsidiary Proprietor (SP) is the purchaser to whom the developer has transferred ownership of a unit
- Each SP is required to pay Service Charges to the MC according to the share value of the unit



Managing Agents - Singapore

- The MC may appoint a third party to manage the property on a daily basis
- Third Parties may be CB Richard Ellis



Service Charges & Sinking Fund- Singapore

- Service Charges are calculated based on the floor area of each unit, measured by an independent surveyor, and then allocated a Share Value
- Service Charges are paid monthly to the MC for maintenance of common property and insurance for the building itself
- Sinking Fund fees are also collected by the MC



Insurance - Singapore

- Under the law every building must be insured by ... the Management Corporation and cover fire, lightning, explosions, and other occurrences.
- Individual owners are free to take out personal insurance on their units to cover liability arising from any thing that could fall from the unit (windows, a/c units, etc.)



- **Property Management Issues in the United States**



History of Associations - USA

- Traditionally Americans have lived in individual houses located on a plot of land, which they own.
- Greater numbers of houses are being built in Subdivisions
- Increasing numbers of Condominiums are being constructed, usually in high-density areas
- Homeowner Associations emerged as a way to manage and enforce rules and restrictions originally put into place by the developer in the sales contract/master deed for the property
- The USA seems like a single entity from the outside, it is not. There are 50 States and 50 Condominium Acts (beginning in 1964).

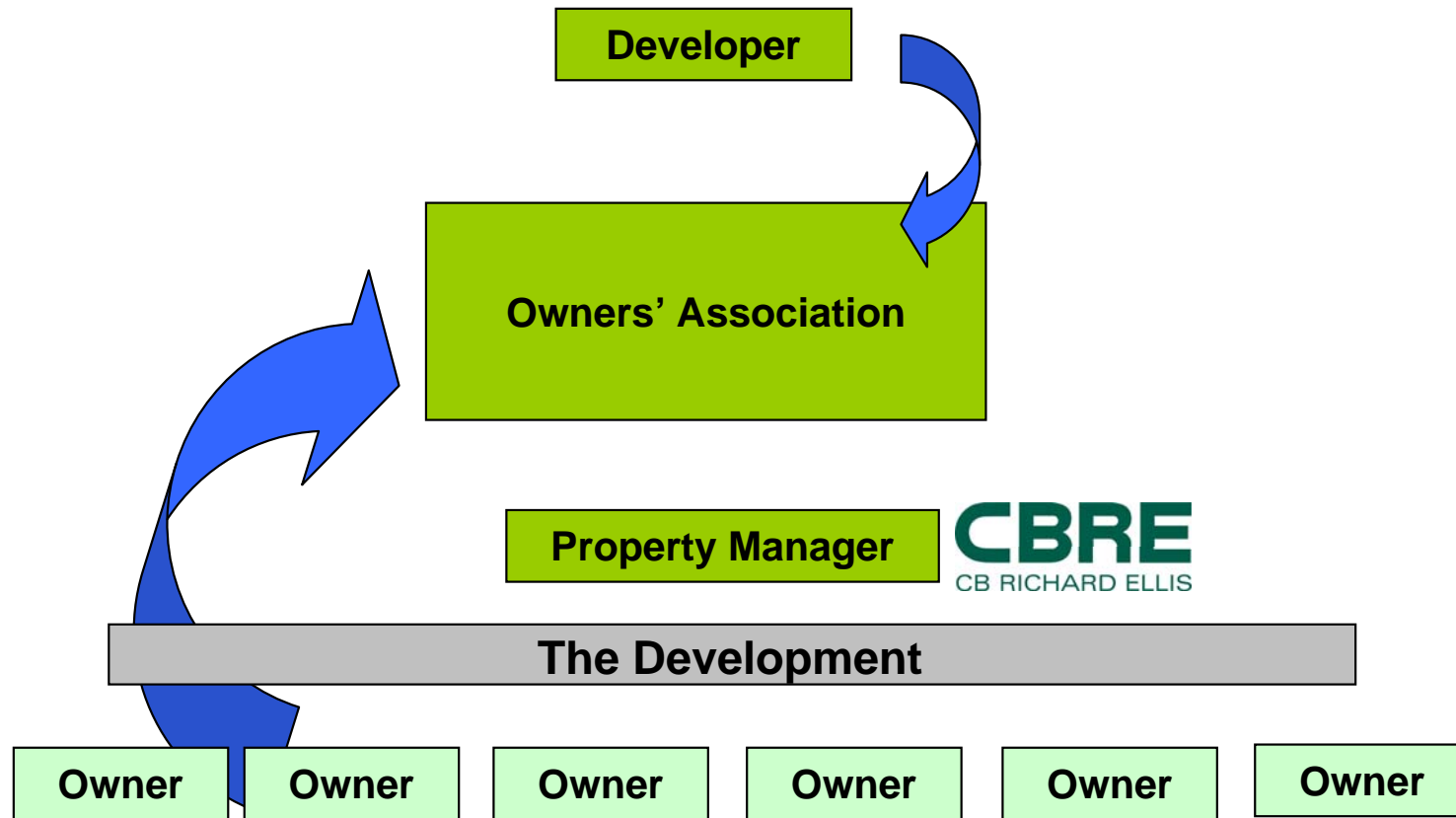


Establishment of Associations - USA

- With both condominiums and subdivisions the developer establishes and registers the Association.
- Associations are incorporated as non-profit entities and are exempt from taxation.
- Each state regulates the terms by which associations are established, but there is flexibility in establishing rules.
- The main responsibility of the HOA is to manage and govern the use of the common areas.



Condominium Governance Structure - USA



Homeowner Associations - USA

- Condominium Associations and Homeowner Associations (HOA) (in subdivisions) both address the issue of who is responsible for common areas, how they are managed and how costs are covered.
- In subdivisions, the boundaries between private and common areas are usually well defined in the sales contracts
- In condominiums, each homeowner owns an undivided interest in the entire project, with a special use right to his unit and a general use right to the common areas



Homeowner Associations - USA

- Developers like to control the associations as long as they own portions of the property by maintaining majority voting rights
- Developers do not have a long term commitment to projects, hence the need for a governance system to be set up
- The developer may retain or sell portions of the property such as restaurants, gym, parking, rather than turn them over to the HOA.



HOA Governing Boards - USA

- The Association governing board is made up of volunteers elected by the homeowners and is accountable to them (not the developer)
- Meetings must be held as specified in the bylaws; homeowners vote on issues, the percentage vote required to pass varies from 50% to 100%.
- The Association prepares estimates and budgets, but homeowners are ultimately liable for their share of actual costs, even if they exceed the estimates.
- The developer is no longer responsible for costs once the Association prepares an operating budget, except to the extent he is charged fees as an owner of units.



Charges & Voting Rights for HOA - USA

- In subdivisions, each lot pays an equal portion of the service charge, and has one vote in the HOA.
- In condominiums, service charges are usually based on unit size, but each unit has one vote in the HOA.
- Costs for amenities which are restricted to membership use may only be charged to members.
- The developer will be charged on the same basis for any lots or units held, however he may have a majority of votes if specified in the bylaws.



HOA & Service Charges - USA

- Once a budget is established and passed, the Association may bill the owners Service Charges
- Service Charges and Sinking Funds are held by the Association (in a Bank Account) and should be independently audited annually.
- Sinking funds are not usually required by law – *Best Practice*
- Service Charges can be billed annually or monthly.
- Unpaid Service Charges can become a lien on the property of the owner and may prevent the owner from selling the unit.
- Means of enforcement vary; in some states the association may foreclose on the delinquent homeowner similar to a bank.
- There is no requirement for the developer to contribute funds to the Association, unless they are an owner.

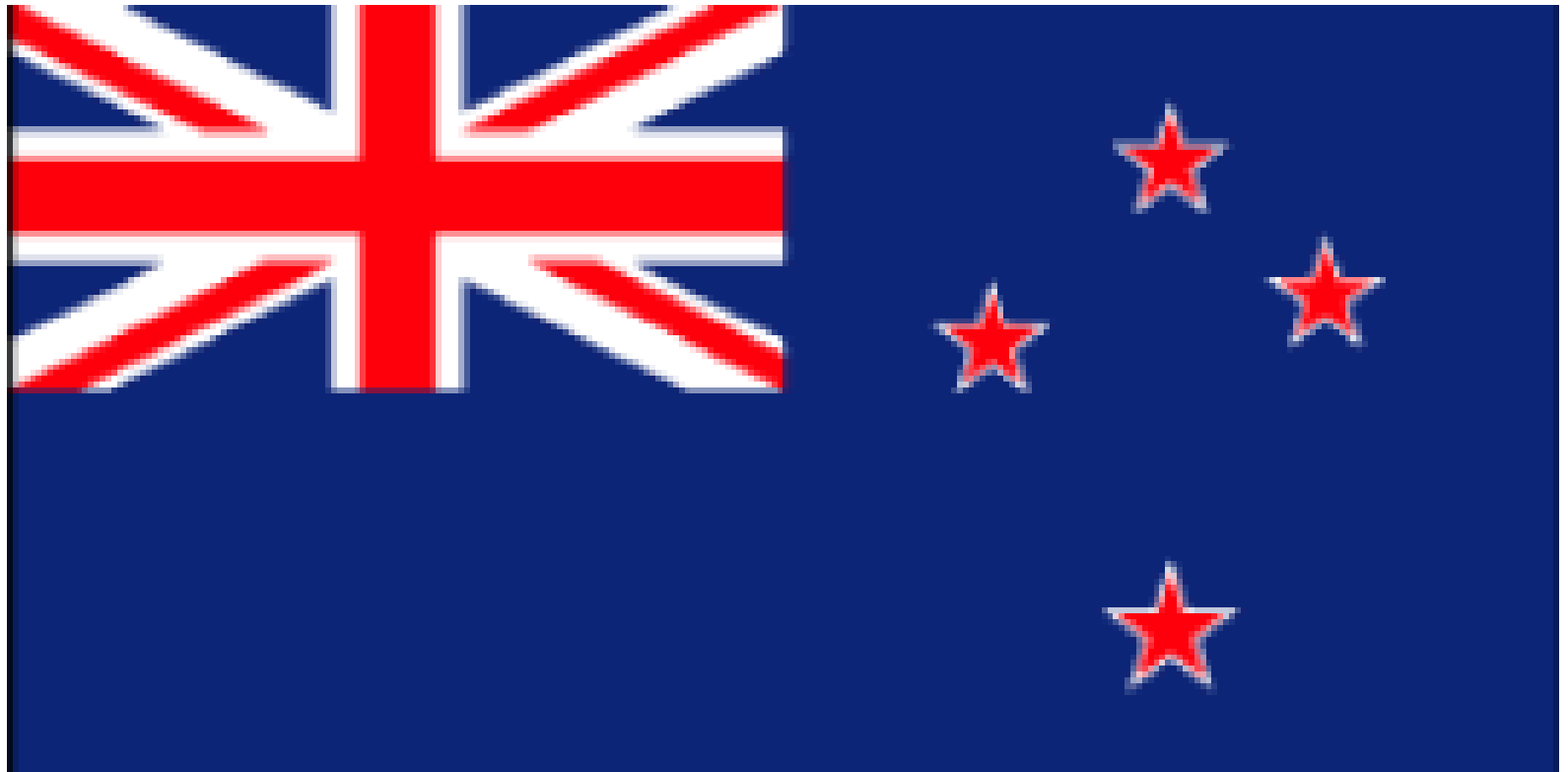


HOA & Service Charges - USA

- Charges depend on the type of project, the extent of the common areas and the number of amenities available to the residents.
- Homeowners are charged for all costs involved in operating or maintaining common areas and amenities, whether they use them or not.
- While the developer may provide an estimate of future charges to prospective buyers, it is not binding.
- The developer is liable for warranty defects only, not for maintenance costs.
- Service charges are almost always a difficult issue.



- **Property Management Issues in New Zealand**

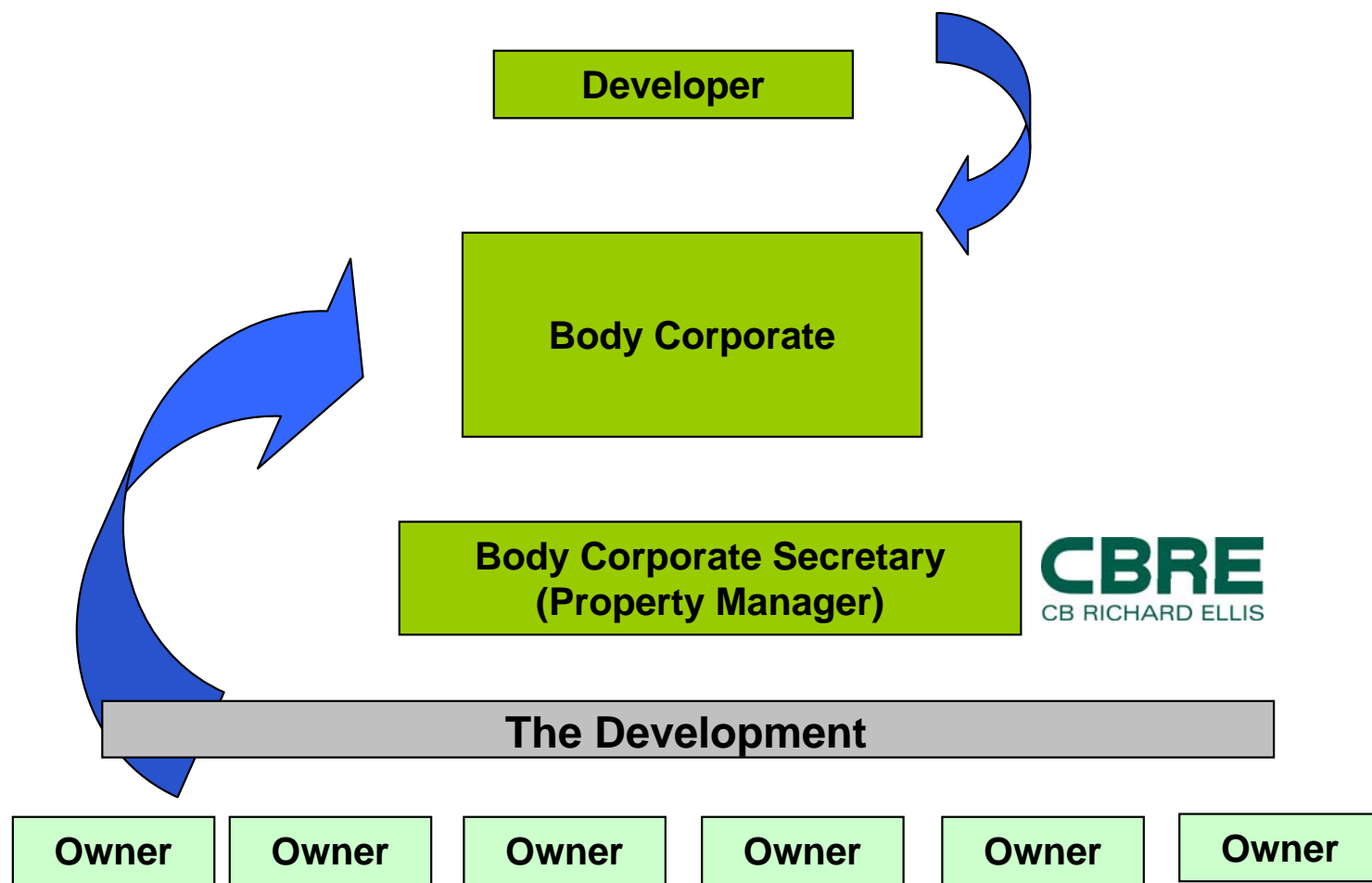


History of Associations - New Zealand

- Over the past 10 -15 years New Zealand has seen the development of apartment blocks and complexes which has in turn lead to the growth of residents associations known as Body Corporates.
- The governing law for Body Corporates is The Unit Titles Act 1972.



Body Corporate Governance Structure – New Zealand



Body Corporate (HOA) - New Zealand

- What is a Body Corporate?
 - A collective of all unit owners on the land described on a unit plan (a numbered legal document on file with Land Information New Zealand), and
 - Is created by the owners once the apartments have all been sold.
- The developer does not set up the Body Corporate but they will register the property as a Unit Title.
- A Body Corporate will generally also need to submit a tax return and will also be registered for VAT.



Body Corporate Responsibilities - New Zealand

- What a Body Corporate does:
 - Takes out insurance for the development;
 - Keeps the common property in a good state of repair;
 - Ensures obligations under the Unit Titles Act are met;
 - Maintains a fund sufficient to allow the Body Corporate to fulfill all their obligations by charging owners in proportion to their unit



Body Corporate Committee - New Zealand

- Once a Body Corporate has been established a Body Corporate Committee is elected.
 - Each owner has one vote no matter the size of the unit.
 - The Committee is usually elected on an annual basis.
- The role of the Committee is to enforce the rules and laws and any additional rules which the individual Body Corporate may have also agreed upon at the Annual General Meeting (AGM).
- The Annual Service Charge Budget is agreed at the AGM before implementation.
- Once elected, the Body Corporate Committee elects a Secretary. Companies such as CBRE are usually appointed to act as the Body Corporate Secretary
- The role of the Secretary is to manage the property on behalf of the Body Corporate



Service Charges - New Zealand

- Common Property belongs to the owners and Service Fees are based on size of their unit with sizes determined by a survey
- The establishment of a Sinking Fund is at the discretion of the Body Corporate but is promoted as “Best Practice”.
- If a Sinking Fund is established owners may be charged either a flat rate or on the same basis as the Service Charges.
- The developer does not contribute to the Service Charge or Sinking Fund unless they are an owner



BC & Service Charges - New Zealand

- The Annual Operational Budget sets the Service Charge.
- Service Charges are normally invoiced monthly.
- All Service Charges are held in a bank account and the Sinking Fund will be held in a separate bank account.
- Both accounts will be independently audited annually for transparency.- *Best Practice*
- From time to time there may be unforeseen expenditures which are not paid from the Sinking Fund, and must be charged to the owners.



- In summary there are many similarities with the global examples as described today
- Overall, owners associations allow owners to participate in the management of the complex.

Factors / Keys of Success

- Sales contracts which clearly define the ownership of units and that of common areas.
- Familiarity and compliance to both the legal framework governing these HOA's and the additional rules and regulations which may be set.
- Accurate budgeting of Service Charges and independent auditing of these accounts. The creation of Sinking Funds and again the independent auditing. This gives both transparency and a level of comfort to owners.
- The benchmarking of service contracts.
- HOA can create better lines of communication and this can be enhanced by the instruction of an independent property company such as CBRE.

Regional Examples of Service Charges

| Average management fee, US\$ psm per month | | | |
|--|-----------------|----------------|--|
| Location | Mid Range Condo | High End Condo | Terms and Conditions |
| Bangkok | 0.71 | 1.43-2.29 | Based on net area including balcony, excluding car park. Owners also pay a sinking fund (approximately US\$17 psm for luxury properties) on transfer date. |
| Beijing | 0.50-0.90 | 1.30-2.60 | Based on gross floor area of unit. |
| Guangzhou | 0.14-0.29 | 0.36-1.16 | Based on gross floor area of unit. |
| Hong Kong | 3.45-4.15 | 4.84-6.23 | Excluding tax, based on gross floor area of unit. |
| Jakarta | 0.80-3.00 | | Excluding VAT, based on net floor area of unit. |
| Kuala Lumpur | 0.90 | 1.50 | Approximately 25% comprises a sinking fund for anticipated recurrent expenditure. The sinking fund is a legal requirement. |
| Manila | 1.29-1.40 | 1.61-2.33 | Excluding VAT, based on gross floor area of unit. |
| Shanghai | 0.30-0.45 | 0.70-1.20 | Based on gross floor area of unit. |
| Singapore | 1.82 | 2.55 | |
| Taipei | 0.47-0.95 | 1.42-1.89 | Based on gross floor area of unit. |
| Tokyo | | | Fees vary depending on factors such as building age and size and common area facilities. There is no standard method for determining the fee. The law stipulates that fees should be as close to actual maintenance costs as possible. |

Examples from Hanoi and Ho Chi Minh City

| RESIDENTIAL SERVICE CHARGES HANOI AND HO CHI MINH CITY US\$ PSM PER MONTH – EXCL VAT | |
|--|--|
| The Manor – HCMC | \$0.95 |
| Cantavil | \$0.53 |
| Villa Riviera | \$0.50 |
| Sky Garden – District 7 | \$0.16 – 0.20 |
| The Lancaster | \$1.00 |
| Botanic | \$0.43 |
| Avalon | \$2.2 |
| Central Garden | \$0.43 |
| Tanda Court | \$0.36 |
| The Manor – Hanoi | \$0.38 |
| Vincom Park Place - Hanoi | This is a new project where the budget is expected to be set at a rate of \$0.80/sqm |
| Ciputra - Hanoi | \$0.16 |
| VinaConnex - Hanoi | \$0.50 |
| Pacific Place - Hanoi | \$0.80 |

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- Access to local and international CBRE resources and knowledge
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Thank you.