

## **Briefing Sessions on Amendments to the Building Maintenance and Strata Management Act (BMSMA)**

*The following notes is a compilation of the contents of briefing slides presented by BCA relating to the amendments of the BMSMA.*

### **General**

#### **1. Overview of the BMSMA framework**

The BMSMA came into force in April 2005, and is a legislation that provides a legal framework for the management corporations (MCSTs) to exercise self-regulation on the management and maintenance of strata-titled developments in Singapore.

To meet the new challenges of the changing strata landscape and needs of stakeholders, BCA had recently completed its review of the BMSMA to enhance the self-regulating mechanism by improving existing provisions in the BMSMA for better governance and transparency, as well as remove ambiguities for greater clarity.

#### **2. Public Consultation**

There were 3 public consultations held in 2012, 2013, and 2017, involving more than 1,700 respondents. BCA also formed a Focus Group Review Panel of industry experts to review the public feedback received and to recommend key amendments to the BMSMA. BCA held a Town Hall Dialogue where industry practitioners and SPs were invited to share their views and concerns on the recommended amendments.

#### **3. What is the progress of the BMSM (Amendment) Bill ?**

The Bill was passed in Parliament on 11 September 2017. The revised BMSMA has not come into operation. BCA will notify the MCSTs and stakeholders before the revised Act comes into operation.

#### **4. Besides amending the legislations, how will BCA help the public understand the BMSMA?**

BCA will be introducing a series of strata management guides to help stakeholders better understand the key provisions in the BMSMA. The topics covered in the guides will be based on areas that received frequent feedback. These publications will serve as reference for MCSTs to self-govern even more effectively.

Some of the more significant changes to the legislation are illustrated below:

## **Tightening the proxy system**

### **5. How does one determine the maximum number of proxies a person can hold?**

The cap is based on 2% of the total number of lots in the development or 2 proxies, whichever is higher. It will be calculated based on the **total number of lots and be rounded down to the nearest whole number.**

Examples of possible scenarios are appended below:

#### Scenario 1 – Development with 597 strata lots

*Number of proxies one can hold = 2% of 597 = 11.94 ~ 11 proxies (rounded down to nearest whole number)*

#### Scenario 2 – Development with 39 strata lots

*Number of proxies one can hold = 2% of 39 = 0.78 ~ 2 proxies (the cap on proxies is at 2% of the total number of lots in the development or 2 proxies, **whichever is higher**)*

### **6. How should a Subsidiary Proprietor (SP) appoint a proxy?**

As part of the review, we have included a prescribed proxy form in the revised Building Maintenance and Strata Management Act. A proxy is a person who has been authorised by a SP to represent him at a general meeting. As a good practice, every proxy giver should use one proxy form to appoint a proxy. The prescribed proxy form shall be:

- prepared and included as part of the general meeting notice, which is served on every SP and to be signed by both the SP and the proxy;
- deposited in the registered address of the MCST or in any other address specified in the notice of the meeting, not less than forty-eight (48) hours before the appointed time of the general meeting.

### **7. How should the proxy vote if a motion changes, when the proxy giver has already specified a decision in the proxy form?**

If the SP does not indicate his voting preference (i.e. for, against, or abstain) for a particular motion in the proxy form, the proxy holder may vote or abstain from voting at his discretion in relation to any matter which is put before the meeting (including ancillary motions) based on what the proxy holder knows of the intentions of the proxy giver.

If the SP has indicated his decision for a particular motion, the proxy holder shall vote in accordance with what the proxy holder has indicated. If there are changes to the motion or if there are ancillary motions raised in the general meeting that were not

previously represented on the form, the proxy holder shall abstain from voting on this motion.

### **Notice of a general meeting**

#### **8. Why is there a need to send a hard copy of the notice of general meeting to subsidiary proprietors (SPs) in addition to sending it by email?**

Some units in a MCST are not occupied by the SPs who own the units. They might prefer to be notified by email. Notwithstanding, it would be difficult for the MCST council to ensure that notices served by email were actually delivered to SPs. To minimise disputes on service of notices, we will require notices that are served by email to be also served in hard copies on SPs. General meetings are forums in which important matters concerning the estate are discussed and it is important that SPs are duly notified so that they are able to attend.

#### **9. What is the minimum period of notice for a general meeting?**

If all the motions in the agenda are decided by ordinary resolution, the notice and general meeting documents must be served on the SPs at least 14 days before the date of the meeting. The general meeting can only be convened on the 15<sup>th</sup> day (or later) after the notice is served.

If one or more motions in the agenda are decided by any resolution other than an ordinary resolution (i.e. special resolution, unanimous resolution, 90 percent resolution, comprehensive resolution or resolution by consensus), the notice and general meeting documents must be served on the SPs at least 21 days before the date of the meeting. The general meeting can only be convened on the 22<sup>nd</sup> day (or later) after the notice is served.

#### **10. What is the difference if notice of general meeting is served by pre-paid registered and ordinary post?**

The notice is deemed to have been duly served on the person even if the notice or document is returned undelivered:

- (i) on the 3<sup>rd</sup> working day after the day the notice or document was posted, if sent by pre-paid registered post;
- (ii) on the 4<sup>th</sup> working day after the day the notice or document was posted, if sent by ordinary post.

**11. Can BCA provide an example of the timeline MCST need to observe in serving the notice of general meeting?**

To illustrate the timeline requirements constituting a general meeting notice, please see example of counting the notice period runs for a 21-day notice.

*For example, the MCST wishes to convene a general meeting on Day 30 of a month and there are motions in the agenda that are to be decided by a special resolution. The MCST decides to send out the notice by ordinary post.*

**30-Day Month**

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
1	2	3 Posting of the notice	4 1 <sup>st</sup> Working Day	5 2 <sup>nd</sup> Working Day	6 3 <sup>rd</sup> Working Day	7
8	9 Notice deemed to have served on the 4 <sup>th</sup> working day after posting	10	11	12	13	14
<b>21-Day Notice Period</b>						
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31 Date of AGM				

*Points to note:*

1. Notice Period
  - Where a special resolution is tabled, the MCST can only hold the general meeting on the 22<sup>nd</sup> day (or later) after the notice and general meeting documents are deemed served on the SPs (Day 31 in the example above).
  - When calculating the number of days within the notice period is based on calendar days, the first clear day is on the Day 10 and the last clear day is on the Day 30 in the example.
2. Delivery of Notice
  - Where notice is served by ordinary post, the notice is deemed to be received by the SPs 4 working days after it was sent out, excluding the day the notice was actually posted out and non-working day (Day 9 in the example above).
  - The MCST is required to post out the notice latest by Day 3.

## **Election of Council for a mixed-use development such as a shopping centre with residential development**

### **12. How should the election process of Council be carried out?**

In a mixed-use development of a single-tier MCST, each property user group (e.g. residential / office / retail) is automatically allocated one seat in the council of MCST. The Chairperson should first check the number of nominees against the number of determined council seats (i.e. reserved seats for all the user groups, as well as open seats).

Examples of the different scenarios are appended below:

#### ***Scenario 1: If no. of nominees equals to or is less than no. of determined council seats***

*No balloting is required and all nominees will be elected as council members automatically.*

#### ***Scenario 2: If no. of nominees is more than no. of determined council seats***

*Step 1 - Allocation of the reserved seat for each user group should be carried out first.*

- (a) If there is only 1 nominee from that user group, that nominee will take up the 1 reserved seat for that user group automatically.*
- (b) If there are more than 1 nominee for that user group, then the nominee from that user group who garnered the highest number of votes will take up the 1 reserved seat for that user group automatically.*
- (c) If there is a tie in the number of votes between two nominees for that user group, the Chairperson of the meeting may decide by balloting in such manner as he determines.*

*Step 2 - Allocation of open seats for the remaining nominees (any user group)*

- (a) The remaining nominees with the highest no. of votes will be elected into the Council (corresponding to the no. of open seats available).*
- (b) If there is a tie in the number of "lowest votes" among nominees in the open seats, another ballot for these nominees is to be conducted.*

### **13. When happens when a council member resigns?**

The Council may appoint a person eligible for election to fill the vacancy. The Council should be prudent in ensuring that the person appointed to fill the vacancy represents the same class of use as the outgoing council member. This will be in line with the requirement whereby at least one representative from each user group is elected into the Council during election of council members.