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## MALAYSIAN STRATA LEASE SCHEME: A CONCEPTUAL FRAMEWORK

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### Abstract:

This paper aims to create a conceptual framework for a study on the strata lease scheme in Malaysia. The framework was designed using library research as the methodology. It was discovered that the conceptual framework for a strata lease scheme comprises various principles derived from land law, strata title law, and strata management law, which are utilised as the foundation for the framework. These elements, identified from the laws, form the structure of the entire conceptual framework, with themes such as land development, land registration, land lease, strata scheme entity, strata title leasing concept, development process requirement, and legislation requirement being grouped together to complete the overall framework.

### Keywords:

Conceptual Framework, Land Law, Strata Law, Strata Lease Scheme, Strata Title.

## Introduction

As of 2022, there are a total of 1,953,917 strata titles registered in Malaysia, spread across 22,898 schemes (JKPTG Infographics, 2023). However, only 31 strata lease schemes are estimated to be in Penang and 26 in Johor. As of today, there are no other states with strata

lease scheme projects (Zainal et al., 2022b). Table 1 describes the details of the strata lease scheme project available in Malaysia.

**Table 1: Malaysian Strata Lease Schemes**

Strata Lease Scheme (Name)	No. of Scheme (estimation)	No. of Strata Title (estimation)	State
Khoo Kongsi	24	10,981	Penang
Wakaf Strata	4	248	
MBPP Strata Scheme	1	651	
Sri Pangkor & Marina Bay	2	620	
Medini Lease Scheme	26	8,385	Johor

Source: Penang & Johor Land & Mines Department (2022)

In the last few years, the strata lease scheme development has sparked debates among scholars where in a recent study by Zainal, Samsudin & Md. Azmi (2024b), it was found that there were five significant issues concerning the strata lease scheme projects. The study has considered all papers and articles published from 2018 to 2023, considering every issue highlighted by the authors and scholars. Figure 1 shows the significant issues of strata lease schemes according to Zainal, Samsudin & Md. Azmi (2024b) study.



**Figure 1: Five Major Issues in Strata Lease Scheme Development**

Source: Author's Illustration

Understanding issues helped researchers design the proper library research to obtain comprehensive literature. However, without a suitable conceptual framework, the research may lack novelty as there is no established knowledge or theory being made in the absence of a conceptual framework. A conceptual framework is a crucial component of research projects. It provides a structure for organising and interpreting data, guiding the research process. To begin, the conceptual framework for a study on Malaysia's strata lease schemes is based on the Malaysian legal framework that regulates the development of strata lease schemes. It begins by examining the relevance of these laws in supporting the requirements of strata lease scheme development. Therefore, this paper aims to design a conceptual framework for a study on the strata lease scheme in Malaysia. This paper will be based on the research scope guided by the relevant Malaysian land and strata law, considering the inputs relating to the strata lease scheme project in Penang and Johor.

## **Literature Review**

Previous studies by notable scholars (refer to Table 2) relating to strata lease schemes help this study to establish the following components: land development, land registration, subdivided buildings, strata titles registration, strata schemes entity, processes need and legal requirements. These components are crucial in understanding the Malaysian legal framework that governs the development of strata lease schemes. The study on the strata lease scheme must consider the National Land Code [Act 828], the Strata Titles Act 1985, and the Strata Management Act 2013, the primary laws regulating strata schemes in Malaysia. These laws play a critical role in developing strata lease schemes; hence, the laws are part of designing a conceptual framework. The steps in creating a Malaysian strata lease scheme's conceptual framework are elaborated below.

### ***Designing a Conceptual Framework***

Designing a conceptual framework can seem daunting. However, breaking down the process into steps can make it less intimidating. The initial step involves identifying the research problem. This includes determining the research question the researcher is attempting to answer, defining the scope of the study, and identifying the key variables that will be examined. Once the research problem is identified, it's crucial to conduct a thorough literature review. This process helps uncover all the relevant components and elements of the study. The literature review served as a foundation for constructing the conceptual framework. From this review, the key components and elements that need to be applied in the study are established. Moreover, the interrelationships between these critical components and elements are identified and anticipated to interact. The key components and elements and their relationships are presented in a diagram or visual representation of the conceptual framework. This can be a flowchart or another type of graphic representation.

### ***Implementing the Conceptual Framework in a Research***

Once the conceptual framework has been developed and refined, it guides the research process. The data were collected and analysed based on the variables and relationships identified in the framework. The designed conceptual framework is used to interpret the study results and draw sound conclusions. By following these steps, researchers can create a framework that provides a structure for organising and analysing data, taking the research process to the next level.

## **Method**

To design a conceptual framework for a research study on developing the strata lease scheme in Malaysia, the qualitative research approach is used as the methodology. The research focused on cross-sectional data related to strata lease scheme projects in Malaysia. Unstructured interviews were conducted with the respondents to allow them to share their experiences with these strata lease schemes freely. In addition, relevant documents such as law books and journals were reviewed to validate and verify the information provided by the respondents. Through thematic analysis, the critical components that contributed to the formation of strata lease schemes were identified. These findings served as the components for developing the conceptual framework, encompassing other essential elements required to create Malaysian strata lease schemes.

## **Findings and Discussion**

The main goal was to establish a conceptual framework for the research study on developing the strata lease scheme in Malaysia. To accomplish this goal, the researcher meticulously reviewed various literature sources. The study's conceptual framework has been crafted after

extensive reviews of multiple fields related to the context of the strata lease scheme. It is elucidated via conditions aligning with the requisite processes involved in every step of developing a strata lease scheme, from planning to termination of lease or strata title, the governing legislation encompassing the entire concept of the strata lease scheme, and the features of the strata lease scheme that differentiate it from the regular strata scheme. The extensive literature review assessment has determined that the principles are associated with land lease registration, strata scheme entities, and relevant legislation and processes. Table 2 utilises these principles and creates the elements needed for a conceptual framework design.

The conceptual framework was designed using the topic discussed in the literature review chapter of the research on strata lease scheme development. The topics and subtopics discussed in the literature review are presented in Table 1. Tabulating the topics and subtopics from a comprehensive literature review chapter. Summarising the literature review in table form, such as Table 2, provided a clearer understanding of the elements used to design a comprehensive conceptual framework for the research. The literature review topics cited from the previous study and legislation review were tabulated to establish a basis for the principles of the strata lease scheme. This approach allows the ideas from any literature review chapter of a study to be critically evaluated.

**Table 2: The Principle of Strata Lease Scheme Development from Literature Review**

Literature Review Topics Relating to Strata Lease Scheme	Citing Previous Studies & Legislations
<b><u>Principle 1: Land Development</u></b>	
Definition of Land	Section 5 NLC [Act 828]
Land Disposal	Section 5 NLC [Act 828]
a) Land is State Matter	Schedule 9 <sup>th</sup> Federal Constitution
b) Power to Make Law Relating to Land	Article 76(4) Federal Constitution
c) Power to Dispose Land	Section 40, 41 & 42 NLC [Act 828]
d) Method of Land Disposal by State Authority	
• Air Space Use Permit	Section 75A NLC [Act 828]
• Land Reservation	Section 62 & 63 NLC [Act 828]
• Removal of Rock Mineral Permit	Section 70 NLC [Act 828]
• Temporary Occupation License	Section 65 NLC [Act 828]
• Land Alienation	Section 76 NLC [Act 828]
Building Subdivision	Section 6(2) & 6(1) STA 1985, Section 7 STA 1985, Section 8(2) STA 1985, Section 9 STA 1985, Section 10(1) STA 1985, Section 12(1), 12(2) & 12(3) STA 1985, JKPTG (2014), Zamri (2019)
<b><u>Principle 2: Land Registration</u></b>	
Title Registration	

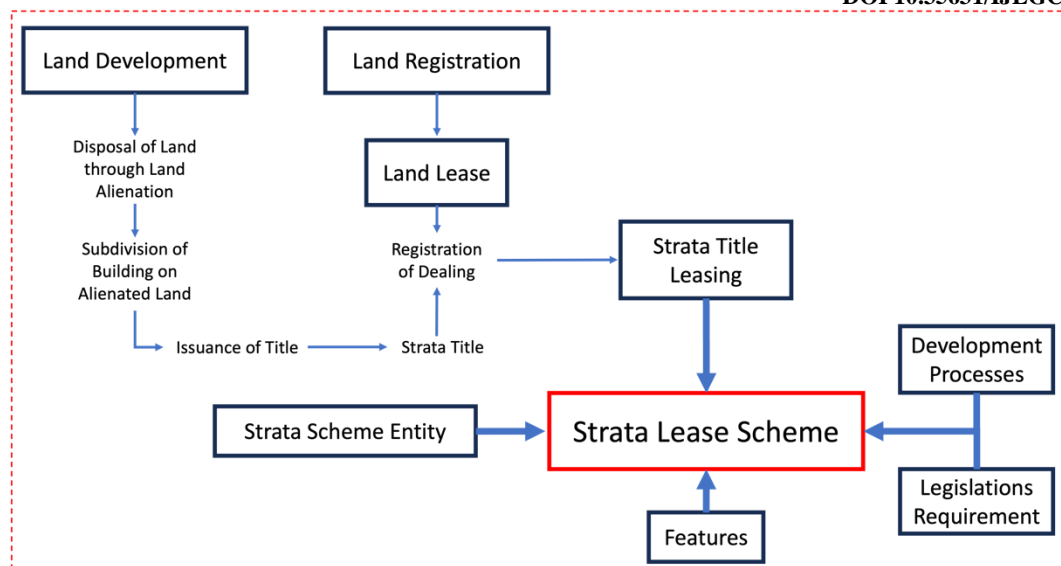
Literature Review Topics Relating to Strata Lease Scheme	Citing Previous Studies & Legislations
a) Land Title	Section 396 NLC [Act 828], Section 192 NLC [Act 828], Section 178 NLC [Act 828], Section 189 NLC [Act 828], Section 178(1) [Act 828], Section 178(2) NLC [Act 828], Hazyzul (2023), Maidin & Syed Abdul Kader (2022)
b) Strata Title	Section 10(1) STA 1985, Section 12(1) & 12(2) STA 1985, Section 13(1)(e) STA 1985, Section 14 STA 1985, Section 15 STA 1985, Section 16 STA 1985, JKPTG (2014), Teoh (2003), Maidin et al. (2008), Juliana (2023)
Registration of Dealing	Division IV NLC [828] including Part 14, 15, 16, 17 & 18 but excluding Part 19, Section 5 NLC [Act 828], Section 205(1) NLC [Act 828], Section 292(1) NLC [Act 828].
<b>Principle 3: Land Lease</b>	
Definition of Lease	Section 5 NLC [Act 828]
Characteristics of Leasing Grant by State	
a) Definition	Section 76 NLC [Act 828]
b) Creating Leasehold on Land	Section 76 NLC [Act 828]
c) Indefeasibility of State Leasehold Title	Section 92 NLC [Act 828]
d) Extension of Lease Term	Section 90A NLC [Act 828]
e) Reversion of State Leasehold	
• Expiring of 99 years term	Section 46(1)(a) NLC [Act 828]
• Acquisition of land	Section 22, LAA 1960
• Forfeiture of land due to errand in rent	Section 130 NLC [Act 828]
Characteristic of Leasing Through Registration	
a) Definition	Section 221(3) NLC [Act 828]
b) Creating Lease Using Instrument	Section 221(4) NLC [Act 828]
c) Indefeasibility of Registered Lease	Section 340(1) NLC [Act 828]
d) Extension of Lease Term	Section 228(1) NLC [Act 828]
e) Reversion of Registered Lease	
• Expiring of lease term (Cancellation of lease by land registrar)	Section 313(1)(a) NLC [Act 828]

Literature Review Topics Relating to Strata Lease Scheme	Citing Previous Studies & Legislations
<ul style="list-style-type: none"> <li>Surrender of the lease by lessee/lessor</li> </ul>	Section 239(2) NLC [Act 828]
<ul style="list-style-type: none"> <li>The lease is forfeited due to breach of contract</li> </ul>	Section 234 NLC [Act 828]
<b><u>Principle 4: Strata Scheme Entity</u></b>	
Strata Scheme	Section 15 STA 1985, Dredge & Coiacetto (2011), JKPTG (2020), Faizal (2014), Zainal et al. (2022b)
Strata Scheme Components	
a) Definition of Parcel	Section 4 STA 1985
b) Definition of Accessory Parcel	Section 4 STA 1985
c) Definition of Common Property	Section 4 STA 1985 Section 2 SMA 2013
d) Definition of Joint Management Body	Section 2 SMA 2013 Section 17 SMA 2013
e) Definition of Management Corporation	Section 17 STA 1985 Section 2 SMA 2013 Section 46 (1) SMA 2013
f) Definition of Strata Title	Section 16 STA 1985 Section 89 NLC [Act 828] Juliana (2023), Kamaruzzaman et al. (2010), Christudason (2005), Dredge & Coiacetto (2011), Kiris (2018), JKPTG (2020)
<b><u>Principle 5: Development Processes</u></b>	
Strata Scheme Development Processes	Marzhuki et al. (2019), Md Zan et al. (2018), Juliana (2023), Kathitasapathy et al. (2023), Izanda et al. (2020; 2021; 2022), JKPTG (2014), REHDA Institute (2016)
<b><u>Principle 6: Strata Title Leasing</u></b>	
Strata Lease Scheme	Zainuddin et al. (2023), Abu Bakar et al. (2023), Zainal et al. (2022a), Zainal et al. (2022b; 2022a; 2023a; 2023b; 2024a; 2024b), Abu Bakar et al. (2021), Mohsin et al. (2020), Zainuddin et al. (2021), Siang et al. (2015), Izanda et al. (2020; 2021; 2022). Section 221(4) NLC [Act 828], Section 221(2) NLC [Act 828], Section 221(3)(a) NLC [Act



Literature Review Topics Relating to Strata Lease Scheme	Citing Previous Studies & Legislations
	828], Section 218(1) NLC [Act 828], Section 5(1) STA 1985, Section 5(2) STA 1985, Section 17(1) STA 1985.
<b>Principle 7: Features</b>	
Strata Lease Scheme in Other Countries	Dredge & Coiacetto (2011), Everton-Moore et al. (2006), Ploeger & Bounjouh (2017), Walters & Kent (2000), Phang (2000), Christudason (2004; 2005; 2011), Yip & Dalholm (2006),
<b>Principle 8: Legislation Requirement</b>	
The Law of Strata Lease Scheme	Abu Bakar et al. (2021), Mohsin et al. (2020), Zainuddin et al. (2022), Zamri (2019), Teoh (2003), Chang (2020), House Buyer Association (2021), Teoh (2003) Izanda et al. (2020; 2021; 2022), Zainal et al. (2022a), Zainal et al. (2022b), Zainal et al. (2023a; 2024a), Mohamad et al. (2023), Suliman et al. (2020), Siang et al. (2015), Doraini & Lukman (2021).

A practical conceptual framework for developing strata lease schemes was created based on an understanding of these topics from the literature review, as shown in Table 2. These topics were the elements employed in the themes of principles used to formulate a structural conceptual framework, which functions as a comprehensive guide to comprehending the various aspects of a strata lease scheme. The conceptual framework comprises eight principles: land development, land registration, land lease, strata scheme entity, strata title leasing concept, features, development process requirements, and legislative requirements. Figure 2 shows a conceptual framework for the strata lease scheme for this study. Figure 2 presents a conceptual framework representing the fundamental principles and their interrelationships. It helps to understand the development concept underlying the strata lease scheme.



**Figure 2: The Initial Design the Conceptual Framework**

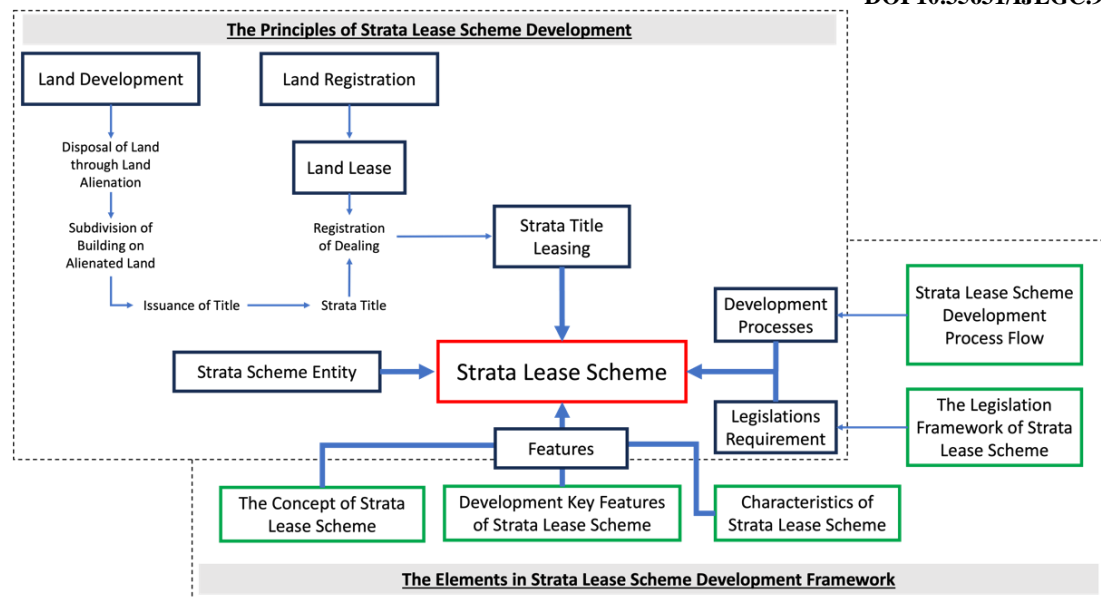
Source: Author's Illustration

The conceptual framework in this study examines elements based on literature review topics discussed in detail, providing a comprehensive overview of the principles underlying a successful strata lease scheme development. Designing the proper conceptual framework was necessary for formulating a suitable strata lease scheme development framework, which will result from this study.

The literature review in a strata lease scheme study outlines a conceptual framework for studying the development of strata lease schemes. The conceptual framework is built upon eight (8) principles, including land development, land registration, and land lease, creating a strata scheme entity and implementing process and legislation requirements. Together, these principles form the foundation of strata lease scheme development. To ensure the scheme operates effectively, it is essential to establish a clearly defined roadmap that encompasses all necessary processes and legal requirements, along with other relevant elements that can enhance development.

During the study, additional elements may be identified that contribute to developing a comprehensive strata lease scheme framework. These elements include the concept of a strata lease scheme, the defining characteristics, the development process flow, the legislative framework governing strata lease schemes, and the critical features of the development. Therefore, by combining the eight principles with the five elements from the strata lease scheme study, an expanded version of the framework is formed, as shown in Figure 3 below. The eight principles are highlighted in the black box, while the five elements are highlighted in the green box, as shown in Figure 3.





**Figure 3: The Final Conceptual Framework**

Source: Author's Illustration

Several novel insights have been uncovered throughout the study, establishing eight principles and five elements as new knowledge has been discovered. More importantly, the field of strata lease scheme development has recently witnessed the emergence of another new knowledge: the definition of a strata lease scheme. This discovery holds great significance for the field, as it can contribute to a more comprehensive understanding of strata lease scheme development.

To summarise the contribution of a new body of knowledge, the land development within legislation requirement boundary, strata leasing leading to the creation of the strata lease scheme, the definition of the strata lease scheme, the concept of the strata lease scheme, the characteristics of the strata lease scheme, and the development features of the strata lease scheme. It is important to take note of these new findings as new knowledge gained in the study of strata lease schemes. They contribute to a more comprehensive understanding of strata lease scheme development and lead to more efficient and practical approaches to this development area.

## Conclusion

This paper has achieved its aim and objective by designing the conceptual framework of the Malaysian strata lease scheme, which involves identifying the research problem, conducting a literature review, defining key components, creating a diagram or visual representation, refining and testing the framework, and using it to guide the design process. The findings reveal that the conceptual framework for a strata lease scheme is built on a diverse range of principles from land law, strata title law, strata management law, and expert insights shared in academic articles. The significant contribution of the study is that the conceptual framework provides a practical guide for implementing these principles, making it a valuable resource for anyone involved in developing and managing strata lease schemes in Malaysia. In summary, this conceptual framework is crucial for advancing the field of strata lease scheme development and promoting sustainable development for future strata lease scheme projects in Malaysia.

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