

NEW REGULATION ON OWNERS AND OCCUPANTS ASSOCIATION

On 14 September 2018 the Ministry of Public Works and Public Housing of the Republic of Indonesia introduced Regulation of the Ministry of Public Works and Public Housing of the Republic of Indonesia Number 23/PRT/M/2018 on the Owners and Occupants' Association of Multistoried Dwelling Units ("**Regulation 23**"). Regulation 23 is one of the further implementing regulations of Law Number 20 of 2011 on Multistoried Dwellings ("**Law 20**") and revokes older regulations on the similar subject which are still based on Law No. 16 of 1985 on Multistoried Dwellings, which has been revoked by Law 20.

Regulation 23 covers (i) the establishment of the owners and occupants' association of multistoried dwelling units (PPPSRS – *perhimpunan pemilik dan penghuni satuan rumah susun*), (ii) its members and organization, (iii) deed of incorporation, articles of association, bylaw and occupancy regulations, (iv) management, and (v) cooperation during the stages of development.

Establishment of PPPSRS

Regulation 23 requires that the developer to facilitate the establishment of PPRS, at the latest one year as of the first handover of the unit to the owner. During the preparation stage, the developer is required to carry out public awareness sessions to the occupants directly and through media since the units are being marketed to prospective buyer and before the establishment of the PPPSRS. The developer is then required to facilitate the owners to form a consultative meeting organizer (*panitia musyawarah*), which comprises representatives of the owners and representatives of the developer. *Panitia musyawarah* will then carry out the consultative meeting to establish the organizational structure, prepare the articles of association and the bylaw, elect the managers (*pengurus*) of the PPPSRS and elect the supervisors of the PPPSRS.

Membership and organizational structure

Members of a PPPSRS are the owners or occupants who obtained a power of attorney from an owner. A member of a PPPSRS has the voting right to determine matters relating to the occupancy, ownership and management. These would cover the establishment of the house rules and charges for security, cleaning and social matters, ownership of the common goods, areas and land ("Common Properties") and costs for the ownership of the units, and operation and maintenance of the Common Properties and payment for the management fee.

A PPPSRS should have a management board and supervisory board. The management board should least maintain the following structure:

- chairman;
- secretary;
- treasurer; and
- departments relating to management and occupancy.

The supervisory board should comprise of 5 members (or odd-number member) comprising a chairman, a secretary and 3 members from the unit owner. They will hold the office for 3 years.

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Deed of Incorporation, Articles of Association, Bylaw and Occupancy Regulations

The articles of association (*anggaran dasar*) and the bylaw (*anggaran rumah tangga*) of a PPPSRS must at least contain:

- the duties and function of the PPPSRS;
- the organizational structure;
- rights, obligations, restrictions and sanctions to owners or occupant;
- occupancy rules;

other matters agreed upon by the PPPSRS which are not in contravention of the laws.

Regulation 23 provides a standard format deed of incorporation. Regulation 23 requires that the deed of incorporation, the articles of association and the bylaw be registered with the government technical agency that oversee housing within 14 days after the consultative meeting. Changes to the members of the management or supervisory board must also be registered with the same agency.

Management

At the latest 3 months after the formation of the PPPSRS, the developer must transfer the management of the Common Properties to the PPPSRS, in front of a notary. Before that, the developer is required to conduct a financial audit by a public accountant mutually approved by the management of PPPSRS. The developer must also transfer the following technical documents:

- splitting document (*pertelaan*);
- deed of separation;
- technical data for the construction of the apartment building;
- as built drawing;
- all licenses.

The storing and maintenance of these documents become the responsibility of the PPPSRS.

The PPPSRS may form or appoint manager of the building, which must be done at the latest 3 months after the formation of the PPPSRS. This manager must be a legal entity and obtain a business license from the regent/mayor (in case of DKI Jakarta, from the governor) and has separate management structure with that of the PPPSRS. The appointment of the manager must be done through a transparent selection process.

Cooperation during stages of Development

For property development that is done in stages, a PPPSRS must be formed for each stage of development, whereby the PPPSRS for each stage must be done within a transition period of 1 year as of the first handover of a unit to the owner in each stage of development.

If there are Common Properties that are utilized by the owners or occupants of all stages of the development, its management must be conducted collectively by the PPPSRSs in a cooperation agreement stated in a notarial deed.

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