Condominium as a solution to the housing requirement of the country

VISION

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MISSION

Constructing condominium property to be apposite with the benefit and welfare of residents and establishing management corporations for the systematic administration and management of such property and regulating their maintenance activities
The Condominium Management Authority is the regulatory body in Sri Lanka for the construction and registration of condominium property and for the disposing of ownership and solving problems associated with the maintenance of common elements and common facilities thereof.

The prime responsibility of establishing the authority was to ensure that the common elements and common amenities in condominium property constructed by the public and private sectors have been designed for the benefit of their residents. Further, to cause the owners to establish management corporations consequent to the disposal of ownership, as provided for by the above-mentioned acts for the maintenance of common elements and common amenities and to ensure that such common elements and common amenities of the buildings are kept in a state of good and serviceable repair is also a responsible of the Authority. The Authority for a period of 15 years since the year 2003 has fulfilled this responsibility with due diligence and efficiency and the Corporate Plan for 2018-2022 has planned to pursue this task with zest and vigour.
Construction of housing units as condominium property is the best solution for the ever increasing demand caused by the rapid urbanization and urban sprawl of the modern world. As per the Apartment Ownership Act No 11 of 2003 as amended by Act No 45 of 1982 and Act No. 39 of 2003, condominium property has been defined as a building of more than one storey and having more than one independent unit of residential or non-residential accommodation. The common term currently in use for condominium property is flats. Yet, apartment houses constructed vertically or horizontally as described in the above definition too are deemed condominium property.

Retrospective analysis into the history of condominium property in Sri Lanka indicates that apartment housing has been proposed as the main solution to replace urban shanties by the committee appointed in 1959 to study the housing problem of Sri Lanka. The session paper No. xxiii of 1963 presented by this committee can be deemed as the first policy statement in respect of the housing policy of Sri Lanka.

- The recommendation for the development of multi-storied housing for the densely populated zones is the first recommendation as regards the construction of condominium property in Sri Lanka. The report recommended the construction of multi-storied housing schemes for the low income group replacing shanties and line houses.
- The report also pointed out that need for the disposal of ownership and to have the repairs and maintenance of common amenities carried out by a society formed by the owners of housing units after the disposal and the report also emphasized the need for a legal framework for such an arrangement.
- It is worth mentioning here that the subsequent establishment of the National Housing Development Authority, Building Research Institute, Housing Planning Centre, Urban Development Authority, Institute of Construction Training and Development was based on the recommendation of this session paper.

Through the housing fund established on the basis of the recommendation of this report, action was taken by the National Housing Department to construct a large number of multi storey houses. In subsequent years Torrington multistoried housing scheme as official quarters of public sector employees, Serpentine housing scheme for low income groups, Anderson multistoried housing scheme for the middle class were constructed.

The construction of condominium property (apartment housing schemes) with the intervention of the government saw a marked increase in the decade of 70 and though the Condominium Property Act No 12 of 1970 was introduced for matters connected with the registration and administration of condominium property, the Act was not practically implemented. Subsequently it was expected to address the problems in this sector through enacting the Apartment Ownership Act No.11 of 1973, but it too failed to incorporate a mechanism to secure extensive participation of the residents in particular towards administration and maintenance. To fulfill the responsibility of managing the common elements and common facilities of the condominium property in order to realize the objectives of participatory management, legal provisions for the establishment of management corporations were incorporated into Apartment Ownership Act through amendments introduced by Act No. 45 of 1982.

The decade of 1970/80 was a period during which the urban and housing development strategies of Sri Lanka were studied in depth. The Common Amenities Board was established under the Common Amenities Board Act No. 10of 1973. Under the Ceiling on Housing Property Law No 01 of 1973, houses in excess of the permitted number of houses were vested in the National Housing Commissioner. The maintenance and management of common amenities and common elements of line houses, tenement houses and flats thus vested in the National Housing Commissioner was handed over to the Common Amenities Board. Two other watershed events in the sector were the establishment of the Urban Development Authority under Urban Development Authority Act No. 41 of 1978 and the National Housing Development Authority under the National Housing Development Authority Act No. 01 of 1979.

To formulate a policy framework to deal with large scale movement of people into cities and urban development, a Colombo City development plan was prepared in 1986. Despite such groundbreaking legal and policy changes, the National Housing Development Authority remained the pioneer of the construction of condominium property on behalf of the government until the end of the decade of 80. The private sector participation in the construction of condominium property was at a minimal level. During the decade of the 1970/80, the government was the major player in the condominium property construction sector and the general policy was to give away housing units so constructed under lease or rent basis. Accordingly, the maintenance of common amenities and common elements was not a responsibility of the residents and that responsibility was entrusted to the government, i.e. the Housing Department which remained the proprietor of the property. Consequent to the establishment of the National Housing Development Authority under Act No. 17 of 1979, the maintenance and repairs of the above property were vested in the said Authority the Common Amenities Board which existed then was used to carry out maintenance and repairs. Under the Apartment Ownership Act No. 11 of 1973, the provisions for construction, registration and disposal of property were not complied with.

Though the concept of ‘management corporations’ was introduced under the Apartment Ownership (Amendment) Act No 45 of 1982, it could not be practically implemented owing to the abovementioned circumstances.
The need for a Regulatory Authority

During the tail end decade of 1990, the private sector also became heavily involved in the construction of condominium residential and mixed buildings. This gave rise to a slew of problems associated with potential buyers and residents together with issues of disposal. However the absence of an organizational structure or an authoritative public sector entity remained a serious issue. The following were some of the problems that emerged with the development of the sector.

- Though the occupancy has been handed over by private property developers having obtained the value of the house through a sales agreement, not transferring the ownership.
- Suspending the construction midway after having obtained advances from potential buyers.
- Constructions not complying with the building plan approved by the local government authority.
- Keeping common areas and common elements under the ownership of the developer and the developer himself carrying out maintenance activities charging money without setting up management corporations.
- Non provision of common amenities such as water, electricity, parking areas and lifts.
- Absence of a mechanism to solve problems between constructors and owners and between owners and owners who are the partners in the field of condominium property.

The Condominium Management Authority was established through Act No.24 of 2003 to address these problems, i.e. for the purposes of regulation, consultation, intervention and arbitration.

During the 10 year period from 2003 to 2018, the Authority was successful in finding durable solutions to the above problems.

However since the year 2008, the construction and purchasing of condominium property recorded a steep decline which could be attributed to the following reasons.

- Dwindling demand for condominium property due to the impact of global economic recession.
- Buyers losing faith in property developing companies as a result of financial irregularities committed by some of them.
- Inordinate delay in obtaining approval for building development licenses, building plans and certificates of compliance from many local authorities.
- Certain deficiencies in the banking system
- Many property developers according priority only to super luxury housing schemes without making a proper assessment on the need of urban housing.
- Being unable to register the property on account of regulations being violated by some property developers in the construction of buildings after having obtained approval for buildings.

As a result of collective impact of the above factors, there has been a drop in the construction of condominium buildings causing a steep fall in the income generated from the issuance of certificates—the main source of income of the Authority which in turn is having a detrimental effect on the very existence of the Authority. However the situation took a turn for the better by the year 2015 and the launch of the 500,000 housing project in the year 2015 also had a beneficial knock-on effect on the income of the Authority. Thanks to the programme initiated by the Authority to charge 25% of the certificate value at the time of issuing preliminary clearing certificate, the income of the Authority posted a significant improvement in the years 2015, 2016 and 2017.
Efficiently managing limited human, physical and financial resources available, the Authority managed to play a significant role since 2003 up to now in attaining its objectives in the field of condominium property construction and management. Diverse strategies such as field inspections, mediation and consultation were employed for this purpose.

During the past 10 years from 2003 to 30/09/2013, the Authority was able to set up 939 management corporations (state and private) while issuing 1151 certificates on common elements. It was also successful in finding permanent solutions for over 562 disputes in the sector. Plans are afoot to establish 470 management corporations within the next 4 years including condominium property to be constructed in the future.

### Structure of the Authority

The Condominium Management Authority which was established to address the aforementioned issues and other relevant social needs maintains its operation so as to cover the following areas.

- Condominium Legal Division
- Condominium Regulatory Division
- Condominium Operations and Maintenance Division
- Management Information Systems Division
- Human Resources Management Division
- Finance Division
- Internal Audit Division

The Authority has deployed a 117 member staff comprising 14 executive officers, 57 secondary level officials and 46 primary level officials and arrangements have been made to expand the staff to anno optimal level during the coming years with a view to further enhancing its performance since our objective is to make the services provided at present more efficient in the future.

### Unregistered Condominium Properties

A program has been drawn up for making residents of urban multi-storey housing schemes and other housing schemes freehold owners of them. As per the surveys conducted by the Authority concurrent to those plans, it has been found out that there are a large number of unregistered condominium properties throughout the island. They can be classified as follows.

- There are approximately 75 housing schemes constructed by the Urban Development Authority and the Colombo Municipal Council which are more than 30 years old.
- There are approximately 32 multi-storey housing schemes belonging to the Urban Development Authority and the Urban Settlement Development Authority.
- There are nearly 58 multi storied and apartment housing schemes constructed under the Tsunami rehabilitation program.
- There are around 120 multi storey housing projects constructed by the private sector but not registered so far due to various problems

The Condominium Management Authority has taken measures amend the Apartment Ownership (Special Provisions) Act No 04 of 1999 enabling the grant of titled deeds to the residents of old condominium properties belonging to the National Housing Development Authority, the National Housing Commissioner and the private sector as well as the Tsunami housing schemes which have not been not registered due to problems such as the non-obtaining of certificate of compliance, unauthorized constructions, disputed lands, non-compliance with the plan and the final draft of the Bill is now being
The Authority has taken measures to prepare the five year plan following a careful study of the state policies, emerging trends and future expectations as well as experiences of the Authority during the past 10 years.

**Strengths**

- Only regulatory authority in Sri Lanka in respect of condominium property
- Availability of skilled work force experienced in regulating condominium property
- Assessment regarding an advanced regulatory service on condominium property
- Ability to carry out regulatory activities with transparency and impartiality
- Relationship between condominium property owners and the Authority
- Relationship between condominium property developers and the Authority

**Weaknesses**

- Shortage of adequate and trained human resources in the Authority
- Absence of a regional office network of the Condominium Management Authority
- Planning old condominium property and the provision of common amenities being inconsistent with the condominium property
- Problematic situation regarding illegal constructions

**Opportunities**

- Increasing use of condominium property as an alternative housing method due to limitedness of lands available for housing in urban as well as rural areas
- Residents expressing the need for a regulatory process regarding non-condominium property though equipped with common elements
- Condominium property being constructed even in peripheral areas
- Middle class people embracing the concept of condominium colonies as a solution their housing problem

**Challenges**

- Adequate and updated regulatory powers not being directly vested in the Authority
- Understanding on the administration and management of common elements of condominium property not adequately integrated into society
- Changing the negative attitude of residents on the management of condominium property
- Maintaining continual relationship between condominium property developers and the Authority
- Existence of a large number of irregular properties due to various reasons
- Dismantling unauthorized structures
- The condominium property industry not being properly focused on the country’s housing requirements
- Having to deal with a large number of institutions established for diverse objectives to achieve the objectives of the Authority
Resolution of disputes relating to condominium properties

Issuing condominium certificates

Dismantling illegal constructions in condominium properties as per powers vested in the Authority
Objectives

The objectives of the Authority as statutorily set out in the Condominium Management Authority Act No 10 of 1973 are outlined briefly as follows.

- Guiding the management corporation for properly carrying out management, maintenance, control and administration of common amenities and common elements of condominium property.
- Ensuring proper maintenance and smooth operation of common amenities and common elements.
- Ensuring that common amenities common facilities are provided for the benefit and welfare of occupiers in a satisfactory manner.
- Regularizing insurance activities of condominium property.
- Taking action to prevent and remove unauthorized structures of condominium property.
- Ensuring proper functioning of management corporation
- Transferring as appropriate to the local authority the locations such as parks and roads belonging to the condominium property.
- Providing services on the request of the Management Corporation.
- Monitoring the progress of condominium property being constructed.
- Identifying property needed to be redeveloped and assisting in their development activities.
- Implementing or undertaking to have implemented the condominium development projects approved by the government

Targets

- Provision of a better quality regulatory service
- Provision of a more qualitative maintenance and management service
- Creating a harmonious and contented condominium lifestyle
- Protecting the rights of stakeholders (expecting to purchase)
- Ensuring sustainability of condominium culture
- Creating public trust on the use of condominium property
- Increasing the income of the Authority

Strategy

The following fundamental strategic plans are proposed for fulfilling the objectives of the Authority

1. Amending the legal framework as regards condominium property
2. Emphasizing the need for the common amenities compliance certificate
3. Creating awareness among condominium corporations, ensuring their active operation and appointing administrators when necessary
4. Releasing the residents from the responsibility of large scale maintenance activities of common amenities
5. Becoming the institution providing maintenance and repairing services on the request of the Management Corporation
6. Discouraging unauthorized structures
7. Establishing strong relationships between property developers and owners
8. Guiding parties for dispute resolution
9. Efficient intervention for offering solutions to problems in the pre-registration process relevant to the condominium property
10. Redeveloping condominium property unsuitable for dwelling
11. Integrating the concept of condominium property among the ordinary public
12. Employee motivation
The following activities have been planned for the attainment of broad objectives while taking steps for a robust regulatory role in the field of condominium construction and in the field of the administration of common elements and common amenities through the above mentioned strategic plans.
### Human Resources of the Authority

<table>
<thead>
<tr>
<th>Division</th>
<th>Designation</th>
<th>No</th>
<th>Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Manager</td>
<td>General Manager</td>
<td>01</td>
<td>Functioning as the chief executive officer with regard to the entire process</td>
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<tr>
<td></td>
<td>Office Assistant</td>
<td>01</td>
<td></td>
</tr>
<tr>
<td>Finance Division</td>
<td>Deputy General Manager (Finance)</td>
<td>01</td>
<td>Serving as an executive officer of the entire process of the institutional financial division in order to assist the Chief Executive Officer</td>
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<tr>
<td></td>
<td>Assistant Gen. Manager (Finance)</td>
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<tr>
<td></td>
<td>Accounting Officer</td>
<td>01</td>
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<td></td>
<td>Management Assistant</td>
<td>16</td>
<td></td>
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<tr>
<td></td>
<td>Office Assistant</td>
<td>02</td>
<td></td>
</tr>
<tr>
<td>Operations Division</td>
<td>Deputy General Manager (Regulatory)</td>
<td>01</td>
<td>Functioning as the Executive Officer of the overall process of institutional operations, legal, regulatory and operations/maintenance divisions in order to assist the Chief Executive Officer</td>
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<tr>
<td>Legal Division</td>
<td>Assistant General Manager (Legal)</td>
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<td>Functioning as the division responsible for all legal activities</td>
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<td>Management Assistant</td>
<td>02</td>
<td></td>
</tr>
<tr>
<td>Regulatory Division</td>
<td>Assistant General Manager (Regulatory)</td>
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<td>Functioning as the division responsible for regulating condominium property</td>
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<td>Customer Service Officer</td>
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<td>Engineering Assistant</td>
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<td>Management Assistant</td>
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<tr>
<td></td>
<td>Office Assistant</td>
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<tr>
<td>Operational Maintenance Division</td>
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<td></td>
<td>Engineering Assistant/Draughtsman</td>
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<td></td>
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<td></td>
<td>Management Assistant</td>
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<tr>
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<td>Site Officer</td>
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<td>Custodian (Mason/Carpenter)</td>
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<tr>
<td>Computer Division</td>
<td>Management Information Systems Officer</td>
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<td>Functioning as the division responsible for information technology network of customers connected to the entire institution</td>
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<td>Management Assistant</td>
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<td>Administrative Division</td>
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<td>Administrative Officer/Secretary</td>
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<td>Labourer</td>
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<td>Management Assistant</td>
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CORPORATE PLAN

2018 - 2022