



RERA BULLETIN 7

10 May 2020

NEW RESOLUTION ON THE MANAGEMENT OF LAYERED JOINT PROPERTIES

1. Introduction

Resolution 7 of 2018 commenced operation in September 2018, providing a framework permitting joint property buildings to use the simpler establishment procedures provided by Law 27 of 2017.

Since that time, there has been great interest in also having a management framework for the more complex joint properties, particularly those operating in:

- layered schemes recognised in Article 62F of Law 27 [where for example there are several joint properties all managed by an umbrella Main Owners Association];
- Special management scheme [the joint property must comply with a contract between the developer and service provider and that imposes specific obligations on the owners association].

As a result, RERA has prepared a new resolution that combines management procedures for layered joint properties and special management scheme and also for the simpler joint properties not within a layered scheme. This now replaces Resolution 7 of 2018. Resolution 1 of 2020 regulating the Management of Joint Properties, was gazetted on 7 May 2020 and commences operation on 8 May.

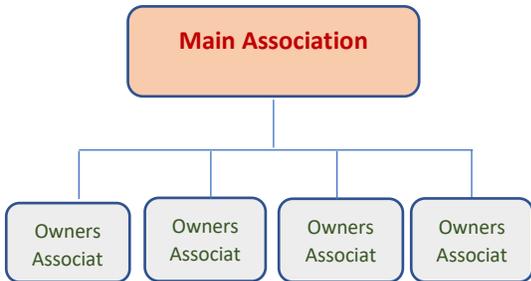
This Bulletin provides a quick reference document of the key changes affecting the management of the more complex layered joint properties and Special Management Schemes.

2. Defining layered joint properties

Article 62 of Law 27 contains various provisions relating to the establishment of owners associations. Paragraph F addresses the establishment of Main and Central Owners Associations. These are “layered joint properties” because they create several layers of management in larger developments. It is expected for future main and central joint properties that the development will proceed in a top-down manner. That is, the first plan will create either the Central or Main Joint Property. Then subsequent stages of the development will progressively add the subsidiary joint properties.

Larger joint property developments that include several related owners associations in an integrated development may have two levels of management (Main Joint Properties) or in the rare case where it is required, three levels of management. The following diagrams illustrate the structure of potential developments:

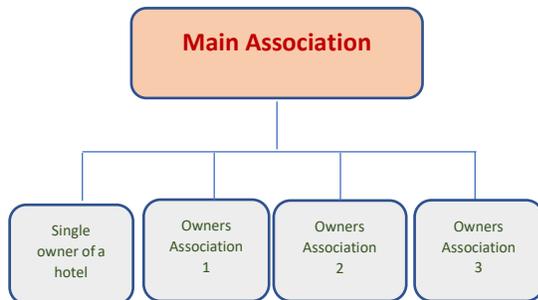
Diagram 1: Two levels of management in a main association with 4 subsidiary associations



Here the main owners association has four members, all subsidiary owners associations.

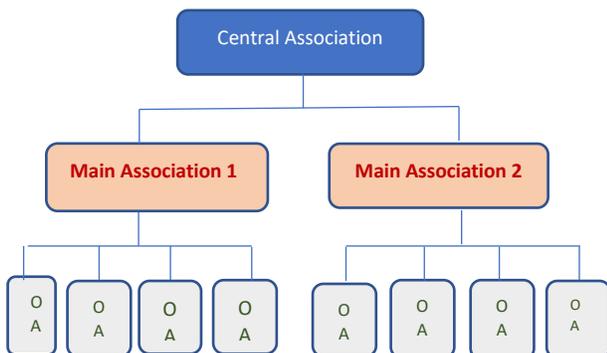
Diagram 2: Two levels of management in a main association with 3 subsidiary owners associations and a single owner

Where a main unit is retained in single ownership such as for a shopping centre, hotel etc, the structure is as follows:



The single owner is a member of the main owners association. This will be the developer or, where the developer has sold the hotel, the buyer of the hotel.

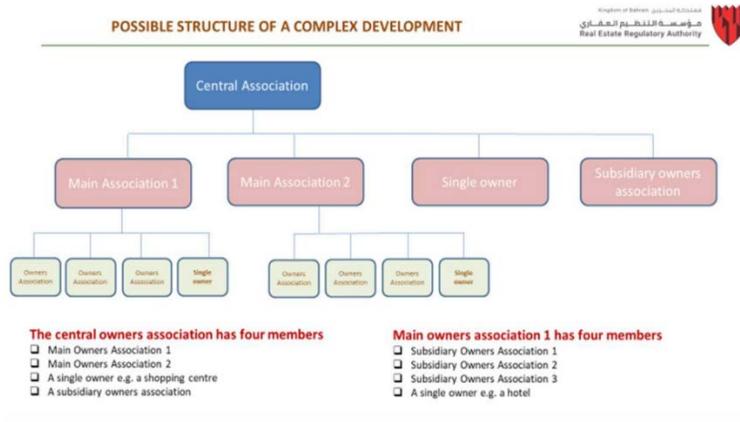
Diagram 3: Three levels of management in a central association



Here, the central owners association has two members, both main owners associations.

Recognising that there are many variations on structuring a large joint property, the Resolution also permits the following variations:

Diagram 4: A complex development under the resolution



New layered joint properties will be expected to establish their legal and subdivisional framework at the start of the development, because there are legal and practical difficulties if the developer tries to do so after some units are sold within the subsidiary developments. The developer will be required to obtain the consent of the buyers, thus reducing implementation flexibility.

Existing developments where units at the higher level (main or central) or lower level (subsidiary joint properties) were sold with a clear intention that a joint property will eventually be established may apply to transition under the new resolution, applying the methodologies set out in the sales contract.

3. New Layered Joint Properties

3.1 The plan creating the main joint property

If the developer proposes to initiate a Main Joint Property, with 4 members as in Diagram 2, a Property Location Plan must be prepared to define the 4 main units and main common area. Main units may be intended for further development, such as the construction of a building joint property or a villa joint property. A joint property will be a main joint property if it is intended that at least one main unit will be subdivided by a subsidiary joint property to create the second layer of management. The Property Location Plan will clearly be marked on the face of the plan that it creates a Main Joint Property and that the shared areas (road and park etc) are Main Common Area and not State assets.

a. The main joint property by-laws

A Main Joint Property By-law must also be prepared. It can set a theme for the whole development and address the following:

- Phases of development – this describes how the development will proceed as each of the 4 main units is developed.

Main units will generally be intended for further development, such as subdivision by a subsidiary building joint property or villa joint property. In this case the subsidiary owners association will be a member of the main association. For example, the four main units may be intended for the following:

Table 1: Sample structure of Main Joint Property in Diagram 2

Phase 1, Main Unit 1	Shopping centre, single owner	Retained by Master Developer.
Phase 2, Main Unit 2	20-storey apartment building	Sold to and developed by sub-developer 1. Units to be sold to buyers
Phase 3, Main Unit 3	15-storey apartment building	Sold to and developed by sub-developer 2. Units to be sold to buyers
Phase 4, Main Unit 4	Villa unit development	Developed by master developer and villas sold to buyers
Main Common Area	<ul style="list-style-type: none"> • access road; • landscaped areas – park areas and amenities; • visitor parking. To be constructed within Phase 1.	This may be used by all members of the main association. Unit owners in the subsidiary associations may also use the common area.

- Architectural and landscaping themes;
- Use of the recreational facilities on the main common area.
- Restrictions on use of each of the main units. This restricts use of each main unit according to the approval given by Planning.
- Construction Codes - this is intended to bind the sub-developers and any owner constructing or making changes to a building.
- Codes of conduct – enforcement of the operating rules against buyers
- The unit entitlements – that determine voting and contributions to the maintenance of common areas.

Note that the joint property by-laws for any subsidiary joint property must include in Part 4 [see the sample forms on the RERA website] a description of the benefits and obligations of the subsidiary owners association arising from membership of the main joint property. Further details will soon be provided in RERA’s Guide to Complex Joint Properties.

b. The Main Articles of Association

Main Articles of Association will also be prepared, regulating the functions and duties of the Main Owners Association and the conduct of meetings of the Main Owners Association and its board. In the main association in Diagram 2 and Table 1, the main association has four members. The Articles of Association will set out meeting and decision processes. The developer may use the Articles of Association published on the RERA website as a starting point, but these may be varied to suit the needs of the particular development.

In very large developments that envisage three levels of management, additional complexities arise and developers should review their plans with RERA.

4. Existing Joint Properties

Some subsidiary owner associations may have already been established by the sale of units in the subsidiary building joint property or villa joint property without the main owners association being formally created. If the sales contracts anticipate this, the development may apply to transition to an operational owners association under the resolution. , in this case a main joint property with subsidiary owners associations.

The developer and owners should follow the processes for conducting a meeting to approve the following drafts:

- property location plan defining the main units and main common area;
- the main joint property by-laws; and
- the main articles of association.

The subsidiary owners associations may already be operational and should follow the Resolution's procedures for representation at meetings of the main owners association.

5. Special Management Schemes

RERA is also encountering other joint property developments where the owners association in a building is affected by contractual arrangements intended to bind the owners association and the owners of unit. Examples to date are:

- ***Joint property over part only of a building*** – Where The joint property is over only PART OF THE BUILDING and another component of the building has another use and its owner is not a member of the owners association. Article 48 of Law 27 permits SLRB to register a Building Management Regulation to manage the relationship between strata and non-strata components of the building. The impact of the Building Management Regulation on the owners association and owners must be recorded in part 4 of its owners association's joint property by-laws.

- Serviced Apartments – the developer may enter into an arrangement before creating the owners association, permitting a serviced apartment arrangement to exist within the building. The serviced apartment contract will bind and restrict the owners association and the owners. This special management arrangement must be recorded in Part 4 of the owners association by-laws. Potential impacts are, for example:
 - all owners must use the service facilities;
 - in some situations of a managed investment of short-term occupancy arrangements, owners may not have the right to live in the unit.

- Branded Residences – here the building has the right to use a prominent brand name for marketing purposes under a branded residence contract. The impact of the contract must be recorded in Part 4 of the joint property by-laws, showing restrictions that bind the owners association. These may include:
 - display a sign of the brand name;
 - pay a brand fee annually to the brand owner;
 - preserve agreed high standards of maintenance of the exterior and interior of the building, to ensure the image of the brand is maintained.

RERA has also published on its website Bulletin 7 summarizing how the new resolution differs from the previous resolution. More information will be provided in RERA's Guide to Complex Joint Properties when available. In the meantime, additional information can be obtained from:

oa@rera.gov.bh

www.rera.gov.bh