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The Implementation of Best Practice Model in Tenancy Management

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Abstract

Guidelines for property tenancy management in Malaysia have been set out in Malaysian Property Management Standards and several property-related acts. However, the implementation approach practiced by public and private practices differs according to the organization's functions and objectives. This study aims to develop a Tenancy Management Best Practice Model for Property of Mayor Kuala Lumpur, Kuala Lumpur City Hall (DBKL). Qualitative data collection, through three series of structured focus group discussions (FGDs) was conducted to develop a best practice model for tenancy management consisting of three tenancy phases, namely, (i) Pre-Tenancy, (ii) Tenancy Execution, and (iii) Post-Tenancy.

Keywords: Tenancy, management; best practice model

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1.0 Introduction

Tenancy management is an integral part of property management and is generally handled by a registered property manager. Tenancy management guidelines in Malaysia, known as Malaysian Property Management Standards by the Board of Valuers, Appraisers, Estate Agents and Property Managers, are used by public and private practices. The researcher's observations identified that the implementation of tenancy management differs from organisation to organisation according to their functions and organisational objectives. Therefore, the objectives of this research is to study best practices in the Malaysian tenancy management implementation to benefit property managers in managing rental property and to identify tenancy management best practice criteria. This study was conducted using Tenancy Management for Property of Mayor Kuala Lumpur, Kuala Lumpur City Hall to develop a Tenancy Management Best Practice Model.

As of 2019, the Mayor of Kuala Lumpur, DBKL has a property portfolio that can generate approximately RM16.8 million per year; if 592 property units can be rented as non-tax income revenue. Even though DBKL's property rental revenue showed an increasing trend, the issue of accumulated and current rental arrears disrupted the rental collection performance every year. Rent arrears are the primary challenge property managers face in managing a rented property portfolio. Several actions were taken by DBKL, such as the issuance of rent arrears claim notices, default notices, termination notices, letters of demand, the appointment of a panel of lawyers, and court actions, but these issues remain. It was identified that the tenancy execution system, in terms of existing documentation, legislation, manual work

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processes contributing to bureaucracy, implementation constraints, and staff limitations of control, all contribute to rent arrears. The current manual working system also makes it challenging to integrate rent arrear data.

These issues are critically examined in this study, with inputs from other organisations and points of view from departments involved in managing the said property portfolios. The restructuring of tenancy management implementation work needs to be studied carefully; therefore, study findings on best practices are significant in improving DBKL tenancy management with a more systematic, prudent, proactive, efficient, and orderly approach in accordance with existing legal provisions and a reduction in the problem of future rent arrears. The said model is expected to be a benchmark for other organisations in Malaysia's tenancy management.

2.0 Literature Review

Tenancy management in Malaysia does not have a specific Act, but its importance has been emphasised in several Acts and guidelines related to real estate. It is complicated to take action if a tenant violates their tenancy agreement, such as rent arrears or leaving the rented property without settling the tenancy, other than through court action. The absence of a specific tenancy management act in Malaysia raises various issues between owners and tenants. According to a report by Abllah et al. (2018), developed countries, such as the United Kingdom (UK) have their own tenancy Act (Landlord and Tenants Act 1985), and both landlord and tenant can take action if issues related to the rental arise. In 2018, the Malaysian government began creating a specific rental Act and is still in progress. Problems between tenants and landlords can be reduced or resolved if a specific tenancy management Act is enacted (Abllah et al., 2018).

Internal and external factors, which lead to issues in Malaysian tenancy management, include (internal) financial problems (Kwok et al., 2008; Salleh, 2011; Akanvose, 2018), administrative issues (Salleh, 2011; Omar et al., 2015), services provided (Omar et al., 2015) and issues in the enforcement of laws (Seman, 2007) and (external) tenant's level of satisfaction (Salleh, 2011) and attitudes (Mat Isa, 2018). These factors have become key elements considered in the development of the theoretical framework of this study, which will be the basis for developing the model framework during data collection through focus group discussions (FGD).

2.1 Pre-Tenancy Phase

The pre-tenancy phase is the planning and rental management process that occurs before the tenancy period begins. The literature suggests that the selection of tenants is significant to avoid any tenancy problems. MyMetro (2016) reported that careful selection of tenants could reduce almost 90 per cent of the issues in managing rental properties. A desktop comparative study, through websites of several organisations and telephone inquiries by researchers in 2020, found that organisations who own rented buildings will make this initial screening an essential preliminary process in selecting tenants.

Before the Tenancy Execution Phase (Transition 1), the tenant must attend pre-tenancy training to clarify the legal aspects involved during the tenancy period, according to the clauses subject to the tenancy agreement or contract (Adewusi and Oguntokun, 2021). The tenant's understanding of the tenancy agreement is crucial to avoid misunderstandings and breaches of the tenancy agreement. In addition, financial management awareness campaigns, and rent payments organized, can foster and provide awareness to tenants on the importance of financial management to avoid the problem of late rental payments.

2.2 Tenancy Execution Phase

The criteria emphasized in this phase are the tenants' and landlords' responsibilities. A tenant is a person or business with the legal right to occupy a particular property under a signed and agreed-upon tenancy agreement with the landlord (Hayward, 2017). The right to occupy a property as a tenant is accompanied by responsibilities to be borne, including rental payments and other obligations specified under the tenancy agreement clause. A comprehensive system, such as online payment records, is strongly encouraged in monitoring rent payments by tenants (Fitzhugh et al., 2018) to overcome rent arrears problems. An unavoidable responsibility of the owner is the maintenance activities to keep the building, its services, fittings, and appearance in its original state; so that they may continue to provide effective use of the amenities while ensuring the property owner receives the best possible returns (Adesanya and Musibau, 2022).

2.3 Post-Tenancy Phase

Lease termination is either voluntary or through breach of contract. A review is performed to improve rental procedures. Upon termination of the tenancy contract, an inventory review and condition report preparation are conducted. The landlord will make a claim for payment from the tenant if the damage exceeds the collateral. If there are no problems with the tenant's file, the rental will be closed (Klang Municipal Council, 2013). In the event of a breach of contract by the tenants, property owners have the right to claim rent arrears. Section 97 (1) of the National Land Code 1965 clarifies that if the rent which the tenant is supposed to pay is in arrears, the Land Administrator may serve a notice of claim using Form 6A. Furthermore, a lawsuit can be made to recover the owner's rights of the rental property, according to Section 234 (2) of the National Land Code 1965.

3.0 Methodology

This study was conducted in three stages, namely (i) development of the theoretical framework, (ii) development of the model framework, and (iii) validation of the model. The Research Methodology Framework is shown in Figure 1:

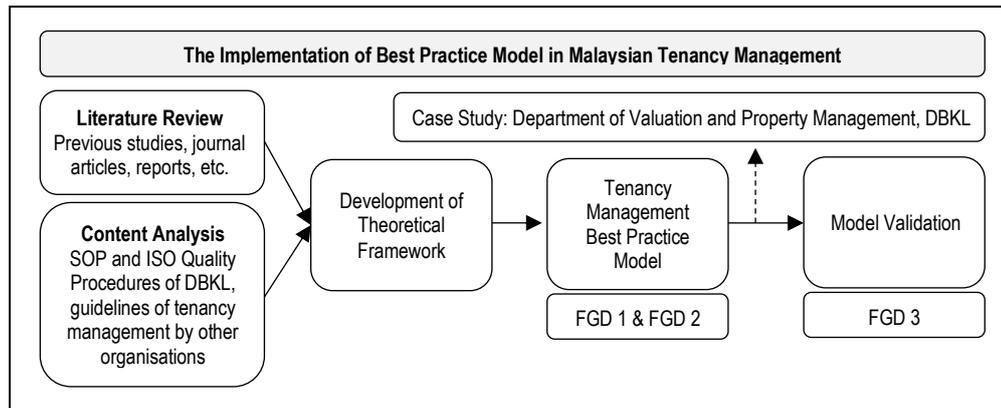


Fig. 1: Research Methodology Framework
(Source: The Authors, 2022)

3.1 Development of Theoretical Framework

Paul and Criado (2020) signify that researchers and practitioners can use a theoretical framework developed as part of a literature review as a base or lens in their research studies, whether quantitative or qualitative methods. To create a theoretical framework, the researcher must define any concepts and theories that will provide the grounding of the research, unite them through logical connections and relate these concepts to the study that is being carried out (Varpio et al., 2020). Therefore, during the first stage, the literature review is analysed to develop the study's theoretical framework. The literature review analysis consists of a summary of reading materials, such as journals, books, and other sources of information, that have been published concerning tenancy management. A comprehensive review of Standard Operating Procedures (SOP) and International Organisation for Standardisation (ISO) Quality Procedure, used by DBKL in contrast with other guidelines used by other organisations, was made to identify the preliminary criteria and attributes of the tenancy management practice.

3.2 Development of Model Framework

Models provide a scope specification and are usually prescriptive, including depicting a series of steps (Moulin et al., 2020), which is suitable to be implemented in this study. Two (2) series of focus group discussions (FGDs) were conducted in Q4 2020 to develop the best practice model framework. For FGD 1, 15 expert panellists were appointed among real estate professionals with a minimum of ten (10) years of industry experience in tenancy management, held at World Trade Centre Kuala Lumpur (WTCKL). Judgmental sampling was used in the invitation of selected directors of valuation and property management departments of the local authority, professors, chief executive officers, directors, and top management at property-related departments. The purpose of FGD 1 is to gain a consensus on the best practice criteria of tenancy management in Malaysia.

FGD2 involved 21 panellists of DBKL executing staff from related departments, i.e., the Valuation and Property Management Department, Legal and Prosecution Department, Enforcement Department and the DBKL Training Institute. FGD 2 panel selection was made based on the executing staff currently involved in tenancy management with a minimum of five (5) years of working experience. The purpose of FGD 2 is to identify the issues related to the tenancy management of DBKL properties and to review the current practice criteria of DBKL tenancy management.

3.3 Validation of the Model

The model framework that was developed during FGD meetings required a validation process to verify the model (Mik-Meyer, 2020). Validation of the model under this study was carried out using two processes, namely (i) model application to the case study and (ii) FGD 3. A series of meetings were held with the departments responsible for applying the model framework to ensure it was in line with DBKL needs.

After applying the best practice model to the case study, the researchers conducted the FGD 3 in Q2 2021 to gain consensus to refine the model. Twenty-eight (28) invited panellists were involved, from a combination of the same panellists in FGD1 and FGD2. The main author chaired all FGD meeting series of this study and was assisted by four (4) facilitators and rapporteurs.

4.0 Findings & Discussion

No specific tenancy management process is available to any organisation. The literature review highlighted the limitations to obtaining a comprehensive tenancy management process. Therefore, for this study, the researchers adopted a basic management process to ensure the procedures involved in the best practice model of tenancy management were more explicit and more systematic. The Best Practice Model of Tenancy Management, depicted in Figure 2, was developed based on three (3) different tenancy phases, with overlapping procedures and practices between each phase. These overlaps are called Transition 1 and Transition 2. The explanation of the criteria and their attributes are as follows:

4.1 Criteria A: Tenancy Policy Settings at Departmental Level

DBKL is to set the essential eligibility criteria for tenant applicants and tenant property portfolios to distinguish between business-oriented rented properties and corporate social responsibility. DBKL must also set the rental value according to the type of premises, determine the business category, and conditions before the rental advertisement is made. Rental vacancy offers are made through advertisements, and compulsory items to be advertised include tenant's criteria selection, property details, monthly rental rate, duration, method of application and contact details.

4.2 Criteria B: Tenants' Selection Criteria

This section explains the criteria and process for selecting qualified tenants to rent DBKL properties. Careful tenant selection criteria can reduce tenancy management problems. After document submission, preliminary screening is critical to review the applicant's essential eligibility criteria (i.e., financial aspects, etc.) and previous tenancy track record. Shortlisted applicants must submit detailed documents, such as personal information and verify supporting documents, before being called for an interview. This interview is to assess the social and individual aspects of the applicant that cannot be assessed during the initial screening session. There is also a suggestion to include a psychometric test during the interview. In terms of the authority of tenancy application approval, a special committee, and the parameters of the power of the party approving the rental, must be set to facilitate the approval process. After reviewing the documents submitted by the prospective tenants, DBKL will give an offer letter to the successful prospective tenants.

4.3 Criteria C: Pre-Tenancy Training

Successful applicants who have received an offer letter are compulsorily called to attend pre-tenancy training within their active tenancy duration; as part of DBKL's CSR in educating tenants. Modules cover both parties' legal and social aspects, safety, and responsibilities. Basic understanding of the tenancy agreement, financial management awareness campaign, rental payment, health and safety, harmony and well-being, and house rules for stratified properties are also covered. The main author was invited to provide mock pre-tenancy training at DBKL, which was successfully conducted on October 8, 2020.

4.4 Criteria D: Handover of Keys

Handover of keys is fulfilled after the tenancy agreements have been completed. This process involves; (i) an inventory checklist, (ii) the condition of the building being verified by a Professional Engineer providing a Building Condition Report at least once every ten (10) years, and (iii) record keeping. The information required for record-keeping includes tenant information, details of the responsible party, date and time of key-handover, and signatures of the tenant and officer in charge.

4.5 Criteria E: Tenant Responsibilities

As stipulated in the tenancy agreement, the tenant must perform their responsibilities throughout the tenancy period. Various options for efficient rental payment methods are available to them. The tenant is responsible for maintaining the inventory and the rented premises as stipulated in the tenancy agreement. Tenants must also use and take good care of the common property. In the event of damage, the tenant must make a complaint through the various channels provided by DBKL, such as the Damage Complaint Form, etc.

4.6 Criteria F: Landlord's Responsibilities

As stipulated in the tenancy agreement, the landlord must also perform their responsibilities during the tenancy period. DBKL should develop a 'que file' and a comprehensive digitalisation system for monitoring rental payments. The said system includes automatic reminder notices (generated by the system) to notify tenants (DBKL will give a reminder notice after seven days the rent is not paid). DBKL also need to refine their rental collection strategies. Effective maintenance requires efficient management; therefore, the owner must appoint qualified and experienced property managers to manage the property. Property owners are responsible for providing adequate facilities and amenities to facilitate and ensure the tenants' comfort. This study is parallel with DBKL in developing a digitalisation tenancy management system to replace current manual operating systems.

4.7 Criteria G: Enforcement

This section explains the procedures that deal with problems in the event of rent arrears and other charges. It clarifies the methods of reminders/notices, time allocation for the payment of arrears, and additional procedures as required. Gentle reminders are followed by warning notices and other notices that clearly state the type of arrears to be paid and any other charges. If the tenant violates the conditions stated in the tenancy agreement, DBKL can take action to evict the tenant. DBKL can also take action and claims against tenants who breach the contract, such as application for action under the Specific Relief Act 1950, delivery of notice of court action for vacancy or seizure of permit, and seizure of movable goods in premises and auctions.

4.8 Criteria H: Tenancy Renewal

Tenancy Agreements specify an option to renew the contract. Renewal requests must be made several months before the tenancy period ends. Before a contract renewal is signed, DBKL must verify tenants' track record of reasonable rental payments. Renewal applications are only allowed for tenants with arrears not exceeding two months. Successful applications must enter into a new tenancy contract. The tenancy renewal procedure is not permitted for tenants with a bad track record or not eligible to rent other premises owned by DBKL.

4.9 Criteria I: Termination of Tenancy Contract

Tenancy contracts can terminate either voluntarily or due to a breach of contract. Upon expiration of a lease contract, the owner conducts an inventory review. An inventory replacement clause (by the tenant) is recommended to be clearly included in the tenancy agreement. The owner is entitled to claim against tenants with rent arrears and other charges. Claims for total rent arrears and additional charges (if any) will be forwarded to tenants and guarantors.

4.10 Criteria J: Tenancy Review

After a tenancy agreement has expired, DBKL should review the owner's procedure or action to ensure that management can improve against problems that have arisen in an existing procedure. Matters to be considered for review by DBKL include tenancy policy setting, tenancy selection criteria, pre-tenancy training, building condition report and procedure updates.

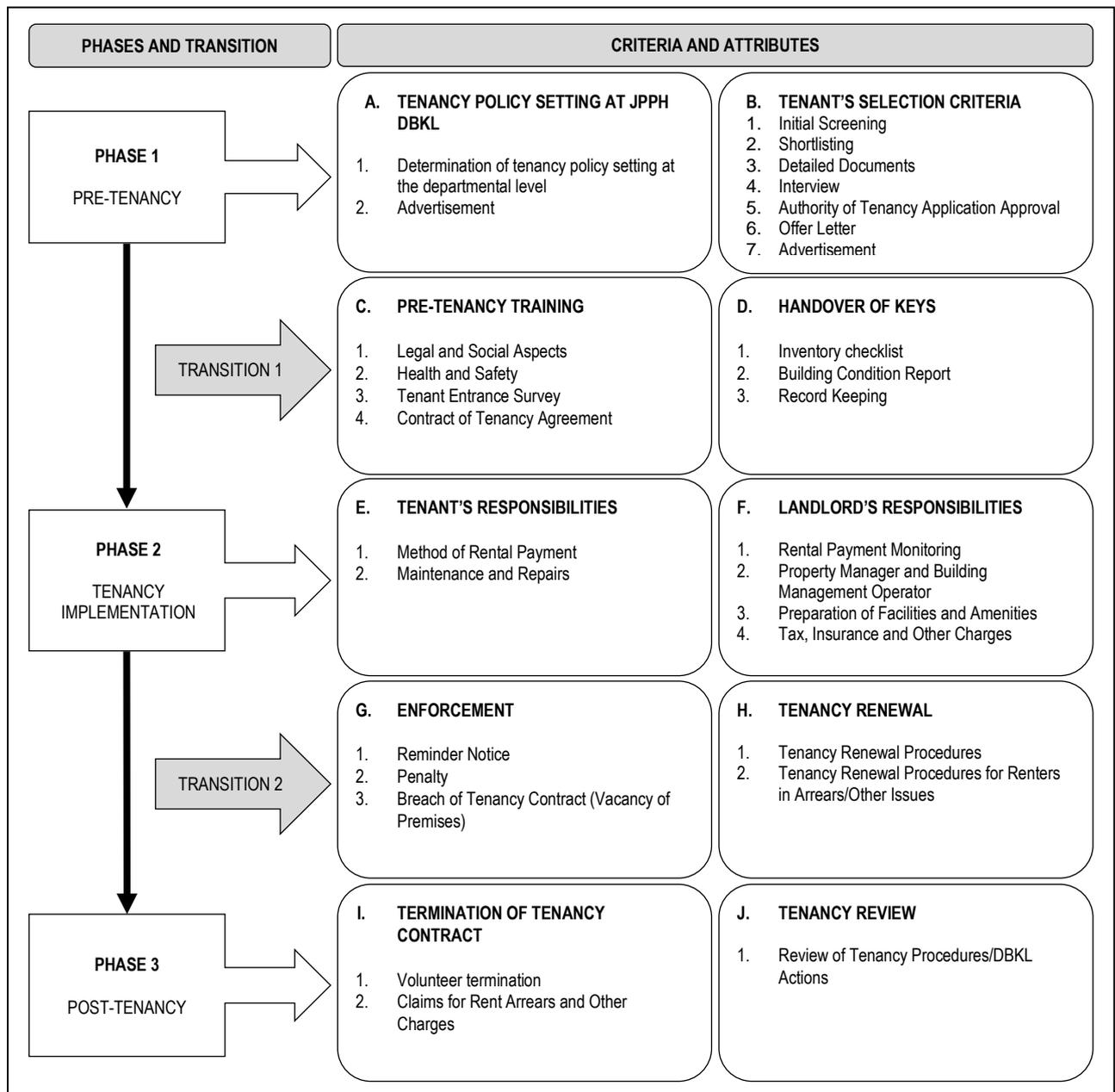


Fig.2: Tenancy Management Best Practice Model
(Source: The Authors, 2022)

5.0 Conclusion & Recommendations

This study evaluates the current tenancy management practices for the property of mayor Kuala Lumpur, DBKL. In conclusion, the tenancy management approach for each organisation differs according to its functions and purposes. Different management styles are seen in various types of properties managed. A property rental management best practice model was developed in this study to be used as a

benchmark, especially in government practice at federal, state, or local levels. The developed model is suited to most property types, i.e., business-oriented or corporate social responsibility rented buildings.

Therefore, DBKL implements best practices that contribute to property management research and opens opportunities for other researchers to study each of the criteria, attributes, and sub-attributes in more depth.

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Paper Contribution to Related Field of Study

This paper has successfully developed the first best practice model of tenancy management in Malaysia and is hoped to contribute to Malaysian tenancy management knowledge and practice.

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