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Comparative Studies of Real Estate Agency Practices and the Way Forward

Zarita Ahmad@Baharum¹, Ting Kien Hwa², Sharuzaman Mohd Salleh³, Sharon Yam⁴

**Corresponding Author*

¹ Pusat Pengajian Harta Tanah dan Ukur Bangunan, Kolej Alam Bina, Universiti Teknologi MARA, Shah Alam, Selangor, Malaysia,

² Faculty of Built Environment, Tunku Abdul Rahman University of Management & Technology, Kuala Lumpur, Malaysia

³ TransAsia Property Consultancy Sdn Bhd, Shah Alam, Selangor, Malaysia

⁴ Department of Economics, Finance & Property, School of Business, Western Sydney University, Australia

zarit928@uitm.edu.my, tingkh@tarc.edu.my, sharuz1961@gmail.com, s.yam@westernsydney.edu.au
Tel: 60355444216

Abstract

This paper conducted a comparative analysis between Malaysia, Singapore, Indonesia, Australia, and Hong Kong. The study contrasted real estate agency practices based on their practices and regulatory bodies. The cross-comparative analyses displayed evidence of commonalities in the ways that regulatory organizations, registration, and codes of ethics are implemented. The paper will be used as a platform for more in-depth studies to ensure that Malaysia's real estate agency practices are sustainable and robust.

Keywords: Real Estate; Agency Practices; comparative study

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1.0 Introduction

Real estate agency practices involve representing oneself to the public for a commission or fee as an agent in the sale or letting of land and buildings. Governed by the Valuers, Appraisers, Estate Agents and Property Managers Act 1981, administered under the Ministry of Finance, Malaysia's real estate sector operates within a structured legal framework emphasizing ethical conduct and accountability. The dynamic landscape of the profession reflects the nation's resilience in adapting to economic shifts and technological advancements, creating a stimulating and rewarding environment for practitioners. This paper aims to benchmark real estate agency practices using a comparative study to unravel the complexities and nuances that provide insights into the industry's unique features and challenges. This can be a basis for further research and improvement to the Malaysian real estate agency practice.

2.0 Literature Review

The literature review emphasizes the significant variations in real estate agency practices across countries, attributing these differences to cultural, economic, legal, and market structure disparities. Comparative studies are crucial for comprehending these variations and their implications. Previous research by Rajkomar et al. (2018) underscores the importance of cross-country comparisons in preventing biases in machine-learning models and advancing AI tools in the real estate sector. As emphasized by Calomiris et al. (2016), legal frameworks play a pivotal role, and comparative studies can explain how legal differences influence lending practices and real estate

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dynamics. Nomran and Haron (2019) demonstrated the value of comparing governance structures in Islamic banks, highlighting the impact of institutional differences on real estate agency operations. Zhou's (2010) analysis of international real estate securities returns emphasizes the interconnectedness of global real estate markets, reinforcing the need for comparative studies to understand market dynamics comprehensively.

While current research provides valuable insights, there are knowledge gaps and avenues for future research in exploring the implications of cultural, economic, and regulatory differences on real estate agency practices, as suggested by Abidoeye & Chan (2016), Bentzien et al. (2012), and Ganji (2016). By comparing with other countries, we can use their experiences as benchmarks to enhance our real estate industry.

3.0 Overview of Real Estate Agency Practice in Malaysia

3.1 Profile of Estate Agency Practice in Malaysia

Before 1981, estate agency practice in Malaysia needed more government regulation, allowing individuals from various backgrounds to engage in the profession without proper qualifications. In response, the Malaysian Association of Real Estate Agents (MAREA) was established in 1974, later evolving into the Malaysian Institute of Estate Agents (MIEA) in 1989. This transformation aimed to regulate the profession by shifting from a trade association to a professional body. The term "estate agent" refers to registered agents whose names are entered into the Register of Estate Agents of the Board of Valuers, Appraisers, Estate Agents, and Property Managers (BoVEAP). Table 1 illustrates the number of firms registered with BoVEAP and the active members.

Table 1: Number of registered members of BoVEAP (active)

Type	Number
Registered Valuers (V)	2874
Probationary Valuers	1567
Estate Agent (E)	4142
Probationary Estate Agents	2357
Registered RENs	25,000

(Source: Author's illustration, 2023)

3.2 The law and subsidiary legislations

Act 242, effective September 7, 1984, places the real estate profession under the Ministry of Finance's jurisdiction. Regulated by the Board of Valuers, Appraisers & Estate Agents, Malaysia, it operates under the Valuers, Appraisers, Estate Agents and Property Managers Act of 1981, as amended. The regulatory framework includes the Rules of 1986, delineating specific sections of the Act, and the Standards of 1999, outlining best practices in Valuation, Estate Agency, and Property Management. Additionally, Circulars from the Board offer directives and guidance to practitioners in the field.

3.3 Regulatory Body

The Valuers, Appraisers, Estate Agents, and Property Managers Act is administered by the Ministry of Finance, with the Board of Valuers, Appraisers, and Estate Agents acting as its regulatory body. The President of the Board, nominated by the Director General of the Valuation and Property Services Department, is a registered valuer who advises the government on practice standards in valuation, property management, and estate agency. Board members appointed by the Minister of Finance include registered valuers from public service, those nominated by the Royal Institution of Surveyors Malaysia, registered estate agents, and other valuers and property managers nominated by the Board President. The Board's primary function is to administer the Act, Rules, and subsidiary legislation related to valuation, property management, and estate agency practice.

3.4 Qualification of Estate Agent

According to current regulations, individuals eligible to become estate agents must be at least 21, possess a qualification recognized by the Board of Valuers, Appraisers, Estate Agents, and Property Managers (BoVEAP), and have a clean record without bankruptcy or criminal offences. There are two pathways for eligibility: either holding a recognized diploma or degree from an institution of higher learning or a recognized professional institution or passing the Part I and Part II Estate Agents Examination conducted by BoVEAP. Successful examination candidates receive a Diploma and must complete one or two years of post-qualification practical experience, depending on their acquired qualification. Afterward, candidates may sit for the Test of Professional Competence (TPC), which includes practical and oral examinations. Before taking the TPC, individuals must apply to become probationary estate agents registered under the Board.

3.5 Qualification of Real Estate Negotiators

Real Estate Negotiators (RENs) and Probationers operate under a registered estate agent's immediate direction and supervision. Those aspiring to be RENs must undergo a 2-day Negotiator Certification Course (NCC) from a recognized firm or institution endorsed by the Board. Upon certification, individuals can apply to the Board for a REN registration number and tag, allowing them to work as real estate negotiators. Registered real estate agents employ negotiators, and each real estate negotiator is assigned a unique REN number upon

approval of their application by the board. Typically, salespersons and negotiators earn fees or commissions based on successful estate agency transactions. The roles of registered estate agents and negotiators are outlined in Table 2.

Table 2: Roles of Real Estate Agents (REAs) and Real Estate Negotiators (RENs)

REAs	RENs
Governed by the Act	Function as assistants to REAs
Manages the agency company	Work according to the Malaysian Estate Agency Standards
Operates a proper agency office	Can be employed/engaged under 'Contract of Service' or 'Contract for Service'
Fiduciary duties to their clients	Must be registered by the agency firm to the Board
Operates Clients account	Provision in the Act (amended 2017)
Trains and manages RENs.	
Accountable for any misconduct/misdemeanours by RENs under REA employment	

(Source: Author's illustration, 2023)

3.6 Structure of estate agency practice from a business competition perspective

In the Klang Valley, numerous estate agency companies are characterized by their small size and localized market coverage. Larger real estate companies typically own significant listings. Key competitive elements for these firms include Image and Reputation, Human Resources, Information Technology, competitor orientation, customer orientation, and Business Practice.

4.0 Problem Statement

In Malaysia's rapidly evolving landscape of real estate agency practices, the absence of recent legislative amendments, coupled with a lack of research examining the alignment of current regulations with industry advancements and technological disruptions, presents a critical challenge. This gap not only hampers the adaptability of real estate professionals but also raises concerns about the sector's continued relevance, reliability, and sustainability in the face of dynamic market shifts. A comprehensive investigation is imperative to understand the extent of this issue and chart a strategic path forward for enhancing real estate agency practices in Malaysia.

5.0 Methodology

The study involves a comparative analysis of estate agency practices in Singapore, Indonesia, Australia, and Hong Kong. The aim is to benchmark and identify best practices through a systematic methodology, including desktop analysis and interviews with relevant authorities. The process includes identifying specific components and requirements for comparison and analysing and interpreting the results. The goal is to collect reliable and insightful data to inform best practices in the field.

6.0 Discussion

6.1 Findings and Discussion

Comparative studies of real estate agency practices offer valuable insights into diverse approaches and strategies employed globally, shedding light on successful models, challenges, and areas for improvement. This study focuses on critical criteria to guide the way forward:

- i. **Regulatory Authority:** Examining regulatory frameworks across jurisdictions, comparing licensing requirements and compliance standards. Indonesia stands out as an exception without regulation.
- ii. **Legislation:** Exploring dedicated legislation for real estate in various case studies, with Malaysia incorporating valuation and property managers under a single legislation.
- iii. **Terminology:** Analysing terms under the Act, with variations in designations such as 'estate agent' and 'Registered Estate Negotiator.' Indonesia needs dedicated legislation.
- iv. **Coverage under the Act:** Assess the scope of the legislation, highlighting differences in holding both estate agents and salespersons liable, unlike in Malaysia, where only registered estate agents bear liability.
- v. **Penalties:** Examining penalty structures, noting variations in severity. Singapore, Hong Kong, and Australia impose heavy fines, while information is absent for Indonesia. Malaysia's penalties vary.
- vi. **Qualification:** Review qualifications and observe comprehensive structures in established countries (Singapore, Hong Kong, Australia), while data for Indonesia is unavailable. Malaysia outlines qualifications for registered estate agents and minimum requirements for Registered Estate Negotiators (RENs).
- vii. **Ethical Standards:** Investigating ethical guidelines, including conflict resolution, transparency, and client confidentiality. All case studies emphasize a code of conduct, underscoring the industry's high regard for professional ethics.

Table 3 summarises the comparative data between countries.

Table 3: Summary of comparative data between countries					
Country	Singapore	Hong Kong	Melbourne, Australia	Indonesia	Malaysia
Ministry	Consumer Affairs	Consumer Affairs	Consumer Affairs	Ministry of Trade	Ministry of Finance
Regulatory Authority	Council for Estate Agents (CEA)	Estate Agent Authority	Estate Agent Council	Badan Nasional Profesi Indonesia (BNPI) Lembaga Sertifikasi Profesi (LPS) Broker Properti	Board of Valuers, Appraisers, Estate Agents, and Property Managers
The Legislation	<i>Estate Agents Act</i> (Revised edition 2011)	Estate Agents Ordinance	<i>Estate Agency Act 1980</i> (amended 2012)	SIUP (Surat Izin Usaha Perdagangan) – under the Ministry of Trade There is no specific legislation on real estate agency practice	Valuers, Appraisers, Estate Agents, and Property Managers 1986 (amended)
	<i>Key Executive Officer</i>	NA	NA	NA	NA
Terminology: Under the Act	<ul style="list-style-type: none"> "Estate agents" means estate agency businesses (sole proprietors, partnerships, and companies) "Salespersons" means individuals who perform estate agency work. 	Estate Agent Salesperson	Real estate agent Agent's representative	NA	Registered Real Estate Agents Real estate negotiators
Coverage under the Act	Applied to both	Applied to both	Applied to both	Applied to both	Only Registered Real Estate Agent
Penalties	Wide coverage and heavy	Wide coverage and heavy	Wide coverage and heavy	Data Not found	Varies but not heavy
Qualification	<ul style="list-style-type: none"> Salesperson syllabus Estate agent syllabus <p>Registration criteria:</p> <ul style="list-style-type: none"> At least 21 years of age. A minimum of 4 GCE 'O' Levels passes or equivalent. Passed an industry examination. Registered with only one licensed real-estate agency at any point in time. Not a licensed moneylender or an employee of a licensed moneylender. No licensee or Key Executive Officer (KEO) of another real estate agency exists. Undertake mandatory CPD of at least six hours per year. 	<ul style="list-style-type: none"> Salesperson syllabus Estate agent syllabus <p>Salesperson's license or estate agent's license (individual) must:</p> <ul style="list-style-type: none"> Age of 18 years. completed an educational level of Form 5 or equivalent*; passed the relevant qualifying examination in the 12 months immediately before the application*; considered a fit and proper person to hold a license. <p>Estate agent's license (company) must:</p> <ul style="list-style-type: none"> Be a company. At least one director holding a valid estate agent's license. Have a licensed estate agent effectively control the company's business as an estate agent. 	<p>For unconditional registration as a Land Agent, satisfactory completion of one of the qualifications listed below.</p> <p>Option One CPP50307 Diploma of Property Services (Agency Management)</p> <p>Option Two Bachelor of Business (Real Estate Practice) offered by the University of South Australia</p> <p>Option Three: A law degree conferred by an Australian university or a law degree conferred by a person authorized to confer a degree.</p> <p>Option Four: A law degree conferred by an Australian university.</p> <p>Option Five Diploma of Business (Real Estate Management)</p> <p>Option Six Certificate of Real Estate Agency conferred by the Department for Employment, Training and Further Education.</p>	NA	<p>REN: with SPM (attended two days approved seminar)</p> <p>REA: Diploma or Degree in Real Estate (university that is approved and accredited by BOVEAP) Or Sit for the BOVEAP examination. (Part 1 & 2)</p>

	<ul style="list-style-type: none"> • Covered under Professional Indemnity Insurance valid for at least one year from the commencement date. • Must not have defaulted on Medisave contributions with the Central Provident Fund Board. • Must fulfill fit and not bankrupt; fraud, dishonesty, or breach of fiduciary; and not served detention or police supervision order • must wear an agent identification card. 	<ul style="list-style-type: none"> • have directors who are all considered fit and proper persons; • be considered a fit and proper person to hold a license. 	<p>Option, Seven Degree of Bachelor of Business (Property) or degree of Bachelor of Business in Property, conferred by the University of South Australia,</p> <p>Option Nine Graduate Diploma in Property, or Master of Business (Property) or Master of Business in Property, conferred by the University of South Australia</p> <p>Option Ten Master of Property offered by the University of Adelaide</p>		
Coverage Code of Conducts/ Ethics	Knowledge of and compliance with relevant laws, circulars and guidelines,	Good understanding of related legislation and requirements	know the relevant laws.	Fasal 3: Sharing and exchanging knowledge among members is beneficial	Knowledge of and Compliance with the Law
	Due diligence and compliance with law and statutory requirements	Ethical and moral standards during practice and responsibilities Exercising due diligence	exercise skill, care, and diligence in performing their functions.	Fasal 7: to cooperate with agents that have a high level of integrity only	Acting within the Law
	General duty to clients and public	Professional knowledge and competence are required.		Fasal 2: Acting with integrity and dedication to the client and public	Conduct of Registered Estate Agents in safeguarding the best interests of their clients by acting with Fairness and Integrity.
	Prohibition against bringing discredit or disrepute	Relationship between agents and ethical standards to agency business.	disclose to their client any personal or commercial relationship	Fasal 5: to appreciate and respect the professionalism	Transparency and Accuracy of Statements
	Duty to clients about the signing of documents		Act reasonably, honestly, in good faith, and to the best of their knowledge and ability.	Fasal 1: Uphold the good name of the profession	Provision of quality services with Courtesy, Fairness, and Integrity
	Obligations in respect of agreements	Compliance with the law	follow their client's lawful instructions,	Fasal 4: to receive fee and remuneration that is due to practitioners	Personal Interests and Relationships are to be disclosed.
	Obligation in conveying offers and counteroffers				
	Interpretation or translation if necessary				
	Duties in respect of advertisements			Fasal 6: to avoid securing appointments through inappropriate advertisement, commission, and influence	
	Duty to avoid conflict of interests.	Minimizing any conflict-of-interest situations			
Professional advice where appropriate					
Safeguarding confidential information					
					Continuous Professional Development Program

(Source: author's illustration)

The comparative analysis indicates that Malaysia aligns with Singapore, Hong Kong, and Australia in regulating estate agency practices through legal frameworks. Similarities in governing bodies, agent registration, and qualification are observed across these nations. Insights from developed countries emphasize the importance of regulating the profession to safeguard public interests, distinct legislation for real estate agencies, and inclusive empowerment of regulatory bodies. While Malaysia demonstrates alignment, opportunities for improvement are identified in areas such as sales representatives' qualifications, education and entry requirements, commission structures, enforcement mechanisms, and control and monitoring. These potential enhancements can contribute to refining Malaysia's estate agency practices to benefit the industry and the public.

6.2 The Way Forward:

The recommendations for improvement in the real estate industry encompass several key areas:

- i. **Legislation Enhancement:** Proposing dedicated legislation and regulatory boards for estate agents and introducing detailed provisions on scope, responsibility, and penalties for Real Estate Negotiators (RENs) and registered estate agents.
- ii. **Standardization and Ethical Practices:** Advocating for developing standardized practices and ethical guidelines and promoting the adoption of best practices to elevate professionalism and build trust within the real estate industry.
- iii. **Monitoring and Enforcement:** Establishing a robust Enforcement and Disciplinary Unit with ample workforce and resources and coordinating enforcement actions with related ministries to enhance monitoring and control of estate agency practices.
- iv. **Continued Education and Public Engagement:** Emphasizing the significance of continuous professional development and ongoing education for real estate professionals, including public engagement initiatives to foster awareness and understanding.
- v. **Consumer Education:** Initiating educational programs to inform consumers about their rights and benefits when engaging with Real Estate Negotiators/Registered Estate Agents (RENs/REAs) and supporting the creation of resources empowering clients to make informed decisions, such as campaigns, mobile information trucks, and talks for specific demographics like senior citizens.
- vi. **Community Engagement:** Encouraging real estate agencies to actively engage with and contribute to their local communities and highlighting the advantages of responsible corporate citizenship in the real estate agency sector.

7.0 Conclusion & Recommendations

In conclusion, a comprehensive comparative study can serve as a foundation for identifying areas of improvement and proposing strategies for advancing real estate agency practices. To strengthen the sector's resilience and ensure its continued relevance, it is imperative to initiate comprehensive research endeavours, legislative reviews, and industry-wide collaborations. Addressing these crucial aspects can pave the way for a dynamic and future-ready real estate ecosystem in Malaysia, fostering innovation, transparency, and the enduring success of industry professionals. The way forward involves a combination of industry collaboration, a commitment to ethical standards, and ongoing education.

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Paper Contribution to Related Field of Study

Real Estate Agency Practice

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