

Chapter 12

STAGED DEVELOPMENT OF A STRATA SCHEME

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STAGED DEVELOPMENT OF A STRATA SCHEME

1201 STAGED DEVELOPMENT

The Strata Titles Act does not contain a specific provision for the staged development of Strata Schemes as there are planning problems which are complex and as yet unresolved.

The Act does, however, provide two possible areas that may assist the developer.

- First, by amalgamation under Section 16 of the Act, and ← SEE Ch.11
- Secondly by amendment under Section 12 of the Act. ← SEE Ch. 10

In order to explain how both methods may work, it is presumed here that a developer wishes to erect a scheme of two buildings each containing four units.

Either method may have an affect on unit entitlements and an application to amend may be necessary. ← SEE PARA'S 1010.6 AND 1012.B

1202 STAGED DEVELOPMENT BY AMALGAMATION

First, the developer must obtain separate certificates of title (as allotments within the meaning of the Real Property Act) for each stage. ← SEE PARA 910

This may require division under Part XIXAB of the Real Property Act. The division will also provide the developer with an opportunity to ensure the scheme is viable by creating an allotment that can be a valuable asset should he/she experience financial difficulties before the scheme is completed.

Allotments can be, of course, adjacent (as defined in the Act). ← SEE PARA'S 910, 1102

Secondly, after completion of the buildings, a strata plan application can be executed over Stage 1. The exercise is repeated over the second allotment with the result that there are now two new adjacent and independent Strata Corporations in existence. Unit numbers in the second (and any subsequent stages) should commence with a number consecutive with the highest of the initial stage. ← SEE PARA 603

The exercise can be repeated over further allotments if necessary. It would be wise for the developer to bind purchasers of units (and encumbrancees) in either scheme to an agreement (but possibly subject to certain conditions) to consent to the amalgamation of two schemes pursuant to Section 16 of the Act. Execution of such an agreement lies within the province of a solicitor.

Thirdly, an application for the amalgamation of the schemes is lodged with the Registrar-General. ← SEE PARA 1015

The result would be the creation of a new single strata plan and Corporation. It may be prudent for the developer to seek provisional approval by the Council and the Commission before undertaking any stage. ← SEE PARA 705

An appurtenance of an easement to portion of the amalgamated site may be caused in some instances. These are discussed in Chapter 8 of this manual. Figures 75 and 76 illustrate the method. ← SEE PARA 818

Chapter 11 should be read before attempting a staged development by this method.

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1203 STAGED DEVELOPMENT BY AMENDMENT

Using this method, division of land into allotments is not necessary, however provisional approval should be sought prior to any construction.

← SEE PARA 705

First, the developer would construct the first stage as a strata scheme, with one unit (to be retained by the developer for the time being) containing the area to be developed as stage two as a yard, unit subsidiary.

It is of importance to note that the yard, unit subsidiary 4 should have upper and lower limits that would provide for the foundations and the roof of the building to be contained within that yard. Otherwise the Strata Corporation may become a joint developer.

Purchasers of units in stage 1 would need to be bound to agree to the amendment of the plan by the developer in a similar manner to that mentioned in the previous Para, after stage 2 is completed.

Secondly, the developer constructs (but subject to provisional approval) stage 2 on his yard, unit subsidiary and applies to the Council and Commission for a Land Division Certificate for the amendment of his unit.

If further stages are contemplated, the balance of the land should be designated a unit subsidiary of a unit to be retained by the developer. The process is then repeated over this yard.

← SEE PARA 1005

Thirdly, the Corporation must make application to the Registrar-General for the amendment of the plan. This would be by substitution of the floor plan and amendment of the site plan.

The importance of obtaining provisional approval of the Council and the Commission should be obvious.

Figures 77, 78 and 79 show the procedure.

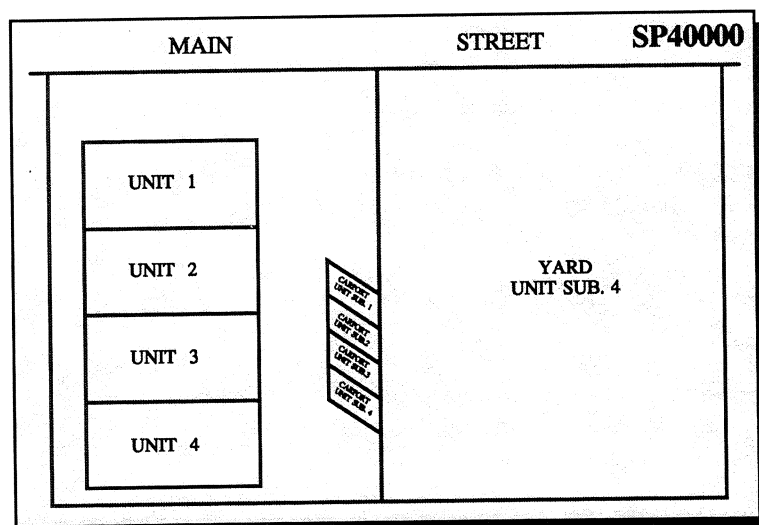


Figure 77 STAGE ONE SHOWING YARD UNIT SUB. INTENDED FOR FUTURE DEVELOPMENT

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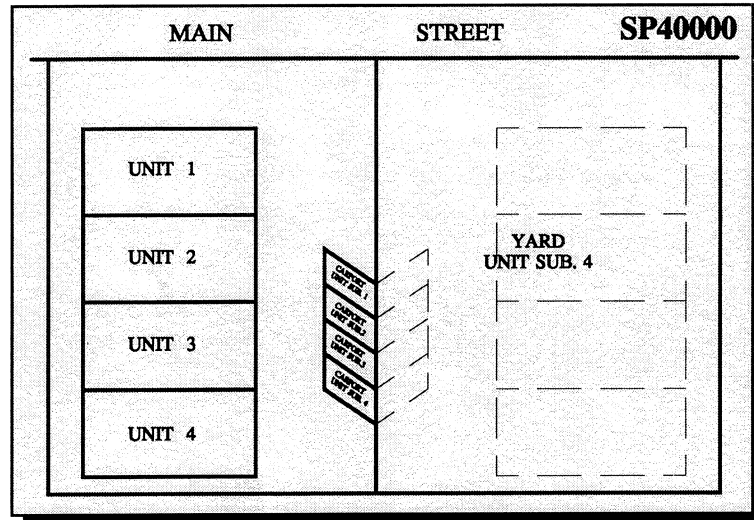


Figure 78 STAGE 2, CONSTRUCTION ON YARD
YARD UNIT SUB. 4 AS PER BROKEN LINES

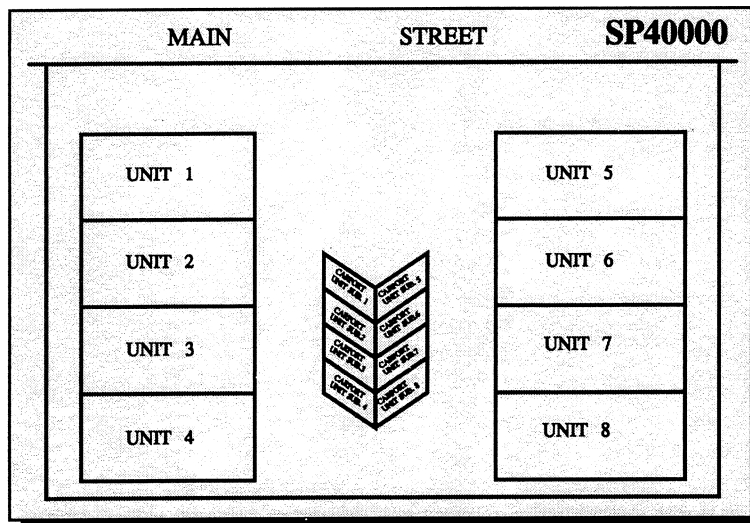


Figure 79 STAGE 2 IS REGISTERED BY AMENDMENT
OF ORIGINAL PLAN