

**PAM PRACTICE BUREAU**  
**CATEGORY C: PERMIT DELIVERY II [ BUILDING CONTROL]**

NO.	DATE	ENQUIRY	RESPONSE FROM TEAM
1.	9 October 2022	<p>I would like to seek your advice on the illegal sewerage system built by the neighbour:</p> <ol style="list-style-type: none"> <li>1) I am a house owner at a development which has not been handed over to the council</li> <li>2) The land sold at this development is classified as <i>kediaman</i> land not agricultural</li> <li>3) As the central sewage system is not operational since the beginning of the project (25years ago), an individual septic tank for the new bungalow is allowed by IWK</li> </ol> <p>My problem arises when,</p> <ol style="list-style-type: none"> <li>1) My back neighbour, who is on a higher ground started building the bungalow. There is a 10' drop from the front of their land (where the drains are) to the back of the land which shares a common border with my property.</li> <li>2) They have installed their septic tank at the back of their land and that septic tank drains out to my house.</li> <li>3) My Neighbour is not returning my WhatsApp after telling him about his illegal sewerage system.</li> <li>4) The bungalow in question is almost ready for occupation.</li> </ol> <p>The question:</p> <ol style="list-style-type: none"> <li>1) What are the channels of complaint and redress available? Thanks.</li> </ol>	<p>We refer to your query as received on 9 October 2022 and write in reply as follows:</p> <ol style="list-style-type: none"> <li>1. Based on your attached photographs, we are unable to comment or advise if your neighbour's septic tank has an overflow draining into your property.</li> <li>2. Under the Water Services Industry Act 2006 (WSIA), the regulatory body in charge of septic tank design and installation would be the <b><i>Suruhanjaya Perkhidmatan Air Negara</i></b> (<a href="http://www.span.gov.my">www.span.gov.my</a>) and we would advise that you contact them, should you have any queries or complaints.</li> <li>3. Should you have any queries regarding your neighbour's construction though, we would advise that you contact the Building Control Department of your relevant Local Authority ("<i>Majlis</i>") to ascertain if the building and its drainage have been constructed in accordance with any approved plan or are in compliance with the relevant Building By-laws. Based on your submitted photos, it would seem that the relevant Local Authority is the <b><i>Majlis Perbandaran Nilai</i></b>.</li> <li>4. We would also advise that you re-check if any part of your neighbour's drainage or sanitary system does indeed flow or discharge into your property. Kindly note that under the National Land Code (and subject to any conditions which may be attached to your land title or any sale and purchase agreements), your neighbour may only make use of part of your property (for his benefit) with your registered consent in the form of an <i>easement</i>. If his drainage system indeed does discharge into your property, you may wish to seek <b>legal advice</b> on how your rights as a property owner may be maintained.</li> </ol>
2.	27 July 2022	<p>Would appreciate it if you can advise me on the minimum staircase width by law for double storey house as I found my staircase is less than 900mm and the architect replied to LAM is so simple, stating that</p>	<p>Dear Sir,</p> <p>We refer to your e-mail as received on 28th July 2022 and provide the following general advice based on the information received:</p>

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		<p>contractor shall widen the staircase to how much, but I'm not very sure when is developer nor the the contractor will start, but I'm also not sure.</p> <p>My question is, can an architect issue CCC when there is a design or construction defect and can an architect discharge his duty for this housing project after issuing CCC? Who or which site architect will monitor and verify all defect work was done correctly as stipulated in SAP?</p> <p>Please advise. TQ.</p>	<p><b>1. Minimum width of the staircase</b> The statutory requirement for the dimension of staircases may be found in By-law 106 of the State of Malacca, Uniform Building By-laws (UBBL). As your house would fall under Purpose Group I (Small Residential) (as defined under the 5th Schedule of the above Uniform Building By-laws), there is no specific or minimum width specified for the staircase. Nevertheless, we would advise that you check with the Architect on the expected width of the staircase and its compliance with the UBBL.</p> <p><b>2. Issuance of Certificate of Completion and Compliance (CCC)</b> When the Architect issues the CCC, he generally certifies that the building has been completed to his satisfaction and the building has been built by the relevant Act, Bylaws and the approved plan. There are other conditions which must be complied with and these can be found under By-law 25 of the above UBBL. However, should there be any defects, the architect is still obliged to look into these defects and act according to his/her contractual or statutory obligations.</p> <p><b>3. Architect's duty after issuance of CCC</b> The issuance of CCC normally signifies the fulfilment of <i>part</i> of the architect's statutory obligations. It does not however relieve the architect of his/her other duties and obligations towards the said development, i.e., such as those found under the Building Contract.</p> <p><b>4. Supervision of defect rectification</b> "Conventionally", instructions to rectify defects are issued by the architect based on his role as the Building Contract Administrator. As the party issuing the instructions, he/she would also normally, be the party to verify the rectification of the defect. Nevertheless, it must be noted that based on your standard Sales &amp; Purchase Agreement (SPA) for your house, there are no specific requirements for the architect to monitor and verify the defect rectification. The method of monitoring and verifying defect rectification is up to the developer. The developer has the option to appoint an independent</p>

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3.	8 Feb 2022	<p>I have purchased a property in Kota Bharu and the Architect is based in KL.            Since it's during this pandemic, I doubt that completion is done during the claimed period.            My problem is whether I can write to ask the Architect firm about the completion stage.            I have written twice to the architectural firm but so far there is no feedback nor any reply.            What can I do?</p>	<p>We are responding to your query received on 8th February 2022 and based on the information provided; we note that your email did not include adequate details, such as:</p> <ul style="list-style-type: none"> <li>a) the type of property and the Sales and Purchase Agreement ('SPA') you have entered into;</li> <li>b) whether this is about stage completion certificates issued by the architect or about the Certificate of Completion and Compliance ('CCC');</li> <li>c) whether or not you have inspected the property to ascertain the completeness of the project in person</li> </ul> <p>We provide the following general advice based on the limited information as received:</p> <ol style="list-style-type: none"> <li>1. First of all, as the SPA was entered into between you (the purchaser) and the developer, any concerns about the property should be first raised directly with the developer.</li> <li>2. Where possible and with proper arrangement with the developer (where required), the purchaser should also inspect the property in person to assuage doubts relating to the completeness of the project.</li> <li>3. If the property is a residential property purchased from a developer using a standard Sales and Purchase Agreement ('SPA') as per the Housing Development Act ('HDA') and Regulations, the Developer's architect is required to inspect the works before his issuance of the certificate of stage completion. The architect owes a duty of care to ensure that certificates under his responsibility are issued correctly.</li> <li>4. We are unable to comment on your doubts regarding completion during the "claimed period" as without sufficient information, we are unable to assess stages of the works as claimed and what approach had been</li> </ol>

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			<p>taken by the architect to inspect the works and subsequently issued his certificate(s).</p> <p>5. However, if the property is non-residential, the appointment of certifying person for stage certification would vary depending on the conditions of the bespoke SPA signed between you and the developer. It is prudent for you to read and understand the relevant conditions.</p> <p>6. Generally, you may write to the architect; but in the absence of any agreement between the architect and yourself, the architect may have no obligation to reply (and depending on his appointment with the developer, he may even be constrained in replying). Should you have any queries regarding the completion of your property, we would suggest that you direct your queries to the developer.</p> <p>7. If you have evidence of any certificate that was wrongfully issued, you may make a police report. Furthermore, if this is a housing development governed by the Housing Development Act (HDA), you may also complain to the Ministry of Housing, Local Government and Urban Well-being (KPKT).</p> <p>We hope the above has been of assistance.</p>
4.	26 Jan 2022	<p>Dear Sir/Madam,            I am seeking PAM's assistance on a problem relating to the implementation of the Street, Drainage and Building Act 1974 (Act 133) and Selangor Building By-Laws 1986 (Sel. P.U. 26) arising from the renovation works by my adjoining neighbour. At the same time, I am also bringing to PAM's attention the implementation by a Local Authority (LA) of a policy referred to as <i>PROGRAM KELULUSAN KHAS</i> (PKK) which included the participation of architects. At this juncture, I would like to notify</p>	<p>We refer to your queries dated 26 January 2022. Apologies for our delayed reply which is as follows:</p> <p>1. Based on the information received, we are unable to conclude and advise on whether the Local Authority (LA) in question has abused their powers. As your query involves <i>legal</i> issues (rather than technical ones), we would suggest that you seek legal advice on this matter.</p>

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		<p>PAM that I do not have the means to pay for the assistance rendered if there are any fees applicable.</p> <p>2. The brief facts of the problem are as follows:</p> <p>(1) In 2010 the neighbour extended his house until the boundary line for the ground floor while the upper floor is less than 5 feet from the boundary line. The back lane is 10 feet. In 2016 the upper floor is fully extended and the remaining 5 feet is now a balcony which resulted in my basic being fully blocked. During the 2010 renovation, a room on the upper floor of my house suffered damages after rainwater seeped through from the neighbour's renovation. It is also to be noted that during both renovations there was no PSP on site.</p> <p>(2) For the 2016 renovation, the approved Building Plan (BP) by the LA shown to me by the neighbour's contractor indicated that a flat roof will be constructed in the front part of the house and additional construction will be made to the upper floor at the back until the boundary line.</p> <p>(3) A complaint was made to the LA when I noted a deviation in the BP as the flat roof has become a balcony. The LA maintained that the renovation works were in order and that a new BP was issued subsequently and stamped with the words <i>PROGRAM KELULUSAN KHAS</i>.</p> <p>(4) I pursued the matter with the relevant authorities of the State and Federal Governments since 2016 but no resolution had been made to date. Apart from the</p>	<p>2. We note that under Section 133 of the Street, Drainage and Building Act (Act 133), the State Authority is empowered to make by-laws for matters such as the construction, alteration and demolition of buildings (sub-section xii), the submission of plans (sub-section xii <u>a</u>) and the manner and procedure for applying for building plan approval (sub-section xii <u>b</u>). Section 74 of the above act also allows the Local Authority to waive or modify any of the requirements which are prescribed under the Act.</p> <p>We apologise for not being able to assist you any further but would note that you may also contact Architect Centre Sdn. Bhd. (ACSB) if you have any further queries. Please be informed that ACSB is a company wholly owned by PAM which also provides building inspections and advisory services related to construction, building design, strata ownership issues, UBBL compliance, contract administration etc. You may contact them by email <a href="mailto:info@architectcentre.com.my">info@architectcentre.com.my</a> or by calling Puan Raja Selamah at 03-22016662(o).</p>

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