

WAQF LAND DEVELOPMENT METHODOLOGY MODEL

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Abstract

Traditionally, concentration of Waqf Land utilisations are mostly confining to the construction of mosques, grave yards, orphanage centres and old folks homes and the likes. Without doubt those are important and significant institutions, however there should also be creative and innovative ways of developing Waqf Land while in the meantime not to ignore the traditional utilisations of Waqf Land. Real estate is one of the most effective investment venture, and with professionally managed systems and efficient project planning and implementations, Waqf Land can yield very good return in both Monetary and Non-Monetary. The thousands of acres of the undeveloped Waqf Land in Malaysia and perhaps hundreds of thousands of acres or even millions of acres worldwide must be tackled in a holistic, systematic and efficient manner. The accelerated demand for housing, shop houses other real estate development components resulted in tremendous escalation of prices that are beyond the affordability of the ordinary people, must be resolved amicably. The objective of this paper is to highlight the key components of Real Estate Development's Financial Feasibility Study and the Development Model of Waqf Land as adopted by UME Sdn Bhd. The optimum development of Waqf Land hopefully can cushion this scenario. Cases of success stories of the real estate developments will be highlighted and discussed. By adopting an appropriate development methodology model and some improvements of relevant fatwas, hopefully it acts as a guide for a more sustainable Waqf Land development.

Keywords: *Real Estate, Developing, Undeveloped, Development Methodology Model, Sustainable*

INTRODUCTION

Real Estate is a multi task business process and diverse activities ranging from the refurbishment and renovation of existing buildings aim to get a better rental value to the purchase of land to be developed either for sale or lease. Joint ventures with the existing land owners are another approach in real estate development and sharing the benefits on an agreed term.

Waqf lands are unique in nature as the assets are already surrendered to Allah Taala in perpetuity and are managed by the trustees or 'Al- Mutawalli'. The development of Waqf land must be treated with extra care as we need to observe and adhere to few additional "Fatwas" from the Islamic Authorities in a particular nation.

The abundance of unlocked or undeveloped Waqf land worldwide need to be looked in a more holistic and pragmatic and progressive approach as this will eventually contributes to the prosperity of the Muslim Ummah.

Real estate is one of the most effective investment ventures, and with professionally managed systems and efficient project planning and implementations, Waqf Land can yield very good return in both Monetary and Non-Monetary.

This paper does not intend to provide the concept, historical perspectives, legality and the practices of Waqf during the glorious era of Islamic civilizations as I believe have been addressed in a lot of literatures but rather to share the experiences of Waqf Land development in Malaysia and in particular the state of Selangor, Malaysia.

WAQF AND ITS ECONOMIC POTENTIAL

Evidences of Waqf as mentioned in Al-Quran among others are follows: -

1. “The example of those who spend their wealth in the way of Allah is like a seed [of grain] which grows seven spikes; in each spike is a hundred grains. And Allah multiplies [His reward] for whom He wills. And Allah is all-Encompassing and Knowing” (Q.S. Al-Baqarah (2): 261).

“You, who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth. And do not aim toward the defective therefrom, spending [from that] while you would not take it [yourself] except with closed eyes. And know that Allah is Free of need and Praiseworthy” (Q.S. Al-Baqarah (2):267).

“Never will you attain the good [reward] until you spend [in the way of Allah] from that which you love. And whatever you spend – indeed, Allah is Knowing of it”. (Q.S. Ali Imran (3):92).

Al-Hadith related to Waqf as narrated by Nasai (No. 3541) :

Saidina Umar (R.H) obtained a piece of land at Khaibar and asked Rasulullah ﷺ, “Dear Rasulullah ﷺ, I obtained a piece of high value land at Khaibar which I never got any land dearer than that land”, and he asked Rasulullah ﷺ what to do with the land? Rasulullah ﷺ said, “If you want, retain the source and give the benefits”. Thus, Umar, gave away, it could not be sold neither becoming the heritage or to heirs. Umar gave the benefits to the faqir (hardcore poor), to families, to release slaves, to the Poor, for people going for jihad, travellers and visitors.

It is interesting to highlight what Dr. Adi Setia (2014) quoted “If we take the narrow view, then waqf is only of technical, legalistic interest, only a ‘hollow pragmatism’, a formal, operational variance, for the most part, to secular charitable trust which itself is largely an adhoc appendage to an over-arching neoliberal macroeconomic framework that has little or nothing to do with the ethos of autonomous, community-based philanthropy in which social welfare and communal solidarity are served rather than undermined by the (actually not-so-free) market. If we take the wide and comprehensive or holistic view then we will have to situate waqf within the larger context of integrative Islamic economic ethics and mu’amalah. In other words, we have to adopt a holistic vision of waqf as an integral part of a comprehensive alternative socio-economic package”.

Tan Sri Muhammad Ali Hashim (2014) quoted “Waqfs had therefore served as a core, **strategic institution for Islamic commerce, township, development and urban settlement on the one hand, and the materialization of Islamic civilizational achievements on the other.** Thus the Waqf institution offers Muslim societies tremendous potential for meeting

with today’s challenges. What is needed is new, innovative ways to enhance Waqf’s relevance to meet especially with a business- and corporate-driven global economic environment”.

It is now very timely for us to relook and analyse the huge potentials of Waqf Land to be developed in a systematic and industry approach manner.

WAQF LAND IN MALAYSIA

Zulkifli Hasan and Muhammad Najib Abdullah (2008, USIM), identified four (4) various obstacles and challenges in the investment of Waqf Land that includes lack of financial resources, undeveloped and unproductive Waqf Land, loopholes in the legal framework, unregistered Waqf Land and Waqf on leasehold land.

It is for those reasons that the setting up of development arm of State Islamic Religions Council (SIRC) is becoming more significant to enhance the potentials of the undeveloped Waqf Land. State Islamic Religions Council (SIRC) is ahead in this aspect with the formation of Selangor Waqf Incorporated (SWI), it’s development arm and subsequently the UME Sdn Bhd as part and parcel of its role as Mutawalli to the Waqf Land.

Another major Waqf Land development is at the Golden Triangle of Kuala Lumpur City, it was initiated by the Federal Territories Islamic Religions Council (FTIRC), Pilgrimage Fund of Malaysia, TH Technologies Sdn Bhd and Bank Islam Malaysia Berhad (BIMB). Their joint efforts resulted in the Completion of the 34 Storey Building at the cost of RM151 Million and currently as the BIMB’s Head Quarters.

According to Director General, Federal Department of Land and Mines, total area of Waqf Land as per 2013 was 11,091.84 hectares (27,396.84 acres) as display in Figure 1. This reflects the potentials of Waqf Land to be developed which eventually contributes yield a lot of commercial values to the well being of Muslims.

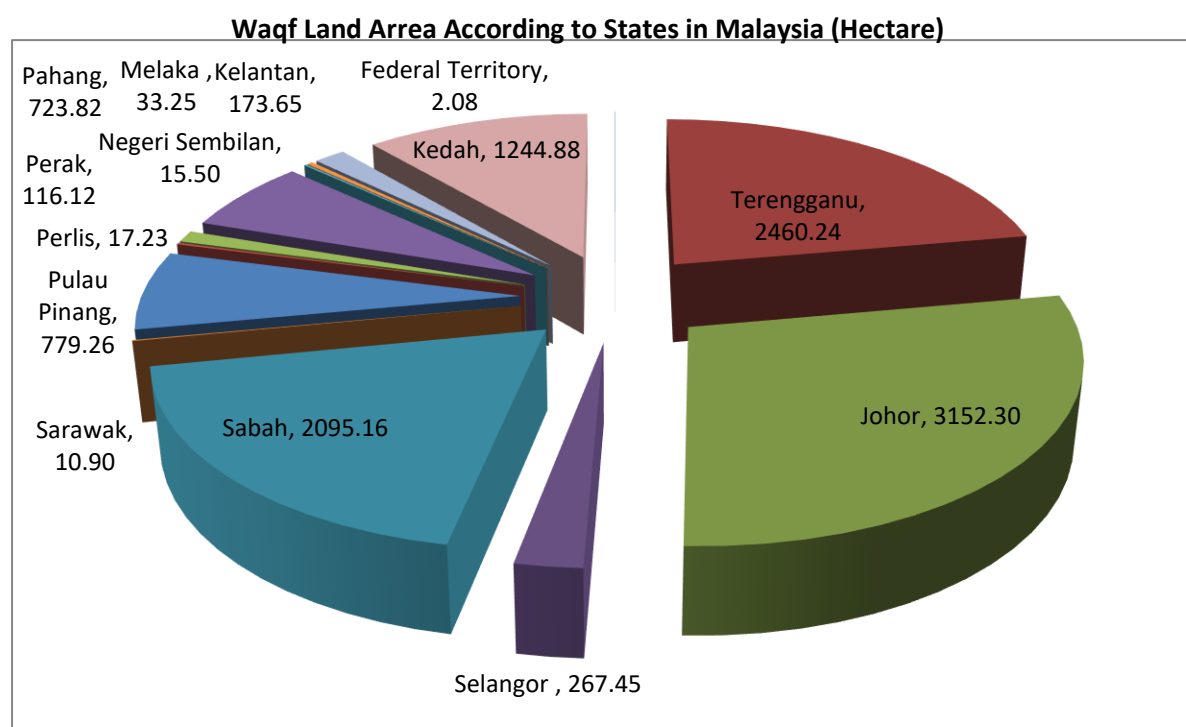


Figure 1: Waqf Land Area (Hectare) according to States
 Source: Director General, Federal Department of Land and Mines (2013)

THE FATWAS THAT MAKE THE DEVELOPMENT OF WAQF LAND POSSIBLE

In order for the Waqf Land to be developed as a commercial entity there are a few fatwas that need to be addressed, approved and gazetted by the Authorities. In the context of Selangor State, the fatwas are:

The approval of the 99-year lease contract between the lessor (SIRC) holding the legal entity and the lessee for the developed Waqf Land. The lessees are needed to pay the lease amount within an agreed period. The assets need to be surrendered to SIRC upon the expiry of the lease period of 99 year.

Certain percentage of the Waqf Land to be developed can be surrendered to the local Authorities for public usage.

The second fatwa is very significant as this adhere to the requirements of local Authorities before any Waqf Land to be approved for development.

FINANCIAL FEASIBILITY STUDY

The financial evaluation of the development projects is vital, it can be expressed as an annual percentage return where the project is generating rent to the client or terminal percentage return when the project is to be leased. The current practice of Selangor Waqf Land is on a 99 year lease period

The followings are the common information required to calculate the cost of the development which then be compared to the revenue either through long term lease or rental. The calculation can be in percentage return of investment or elaborate cashflows showing the comprehensive cash inflows and outflows and reflect the deficit or surplus of cash movement normally every year.

The components costs are similar to any other Property Development except that the developer need not pay the cost of land due to the Waqf in nature but is costed as part of project Financial Feasibility Study to see the real impact of project viability.

Table 1: Information Requirement for A Financial Feasibility Study

Item	Description	Cost
A.	Pre-Development Cost	
	Land Cost	
	Site Survey	
	Conversion Premium	
	Planning & Submission Fees	
	Land Titles	
	Title and Strata Survey	
	Building Plan Fees	
	Contribution to Authorities	
	Quit Rent & Land Premium	
	Traffic Impact Assessment (TIA) (if any)	
	Soil Investigation	
	Environmental Impact Assessment (EIA) (if any)	
	Sub-Total	_____
B.	Professional Fees	
C.	Contingencies	
D.	Reimbursable & Service Charge	
E.	Project Management Fees	
F.	Project Overhead Costs	
G.	Marketing and Legal Fees	
	Sub-Total I	_____
H.	Building Construction Cost	
I.	Landscaping Works	
J.	Infrastructure Works	
K.	Preliminaries	
	Sub-Total II	_____
L.	Financial Charges	
	Total Development Cost	RM _____
M.	Revenue Analysis	
	Residential	
	Commercial	
	Total Sales Revenue	_____
	Total Profit / Loss	_____
	(Total Revenue – Total Dev. Cost)	RM _____

The typical Financial Feasibility Study Components as in Table 1.0 are significant to be highlighted as this can become the basic checklist for the preparation of the Financial Feasibility Study which is the essential part of the Development Methodology Model.

THE ROLE OF THE DEVELOPMENT COMPANY UNDER SELANGOR WAQF INCORPORATED (SWI)

SWI's wholly own subsidiary company, namely UME Sdn Bhd, is the special vehicle created to focus on the following activities: -

- a) Real Estate Development
- b) Facilities Management
- c) Industry and Manufacturing and
- d) Investment Management and Financing

The objectives of UME Sdn Bhd especially with regards to Real Estate Development are:-

- i. Realising the sustainable development, competitive and achieving good return of investment
- ii. Maximising the benefits from the Waqf Land Development
- iii. Realising the strategic development of Waqf Land through systematic and effective means
- iv. Obtaining the best and Syariah compliance financing
- iv. Becoming the Corporate entity in managing the Waqf Land, providing Real Estate Management, Facilities and Waqf Fund Management.
- v. The developed Waqf Land is to be leased to Muslims only for a period of 99 years and cannot be sub lessed within a period of 5 years unless approved by the SSIRC

PROPERTY DEVELOPMENT MANAGEMENT PROCESS OF SELANGOR WAQF LAND

Based on my observation and facts findings, Selangor SIRC is a head than other states in Malaysia in developing Waqf Land. Selangor Waqf Incorporated was formed in February 2010 and subsequently the UME Sdn Bhd, a wholly own development arm of SWI was established in October 2014.

UME has a team of professionals managing the establishment, guided and led by experienced Board of Directors with various backgrounds even though newly, formed, it has proved the commitments and impact by launching a few housing and commercial development projects.

The developed residential or commercial units are leased to the Muslim lessees on 99 year term. The title of these developed units still remains under Selangor SIRC as Waqf titles.

At present, the profits from the proceeds then will be distributed between the beneficiaries that are allotted 30% that eventually be utilised for building of mosques, musallas or schools, 70% allotment are for SWI, UME Sdn Bhd, General Waqf Reserve of SSIRC. The Summary of Property Development Concept Waqf Land by UME Sdn Bhd is per Figure 2.

The similar approach, I recommend can be adopted by other states in Malaysia and other nations that are committed in fully utilising the Waqf Landbanks, all for the benefits of Muslims. In the meantime, it will cushion the uprising costs and value of Real Estates.

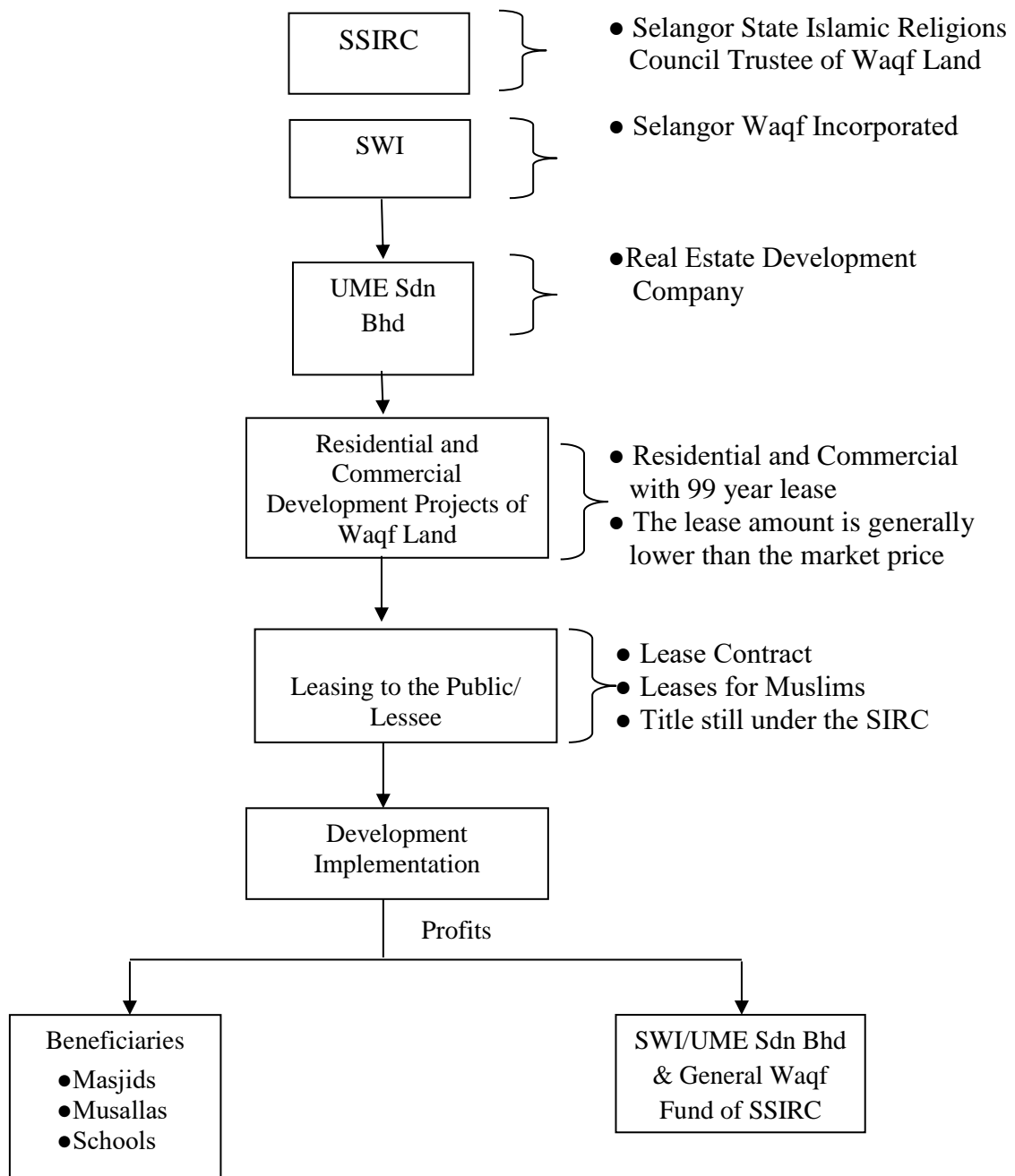


Figure 2 : Summary of Property Development Concept of Waqf Land

Source: UME Sdn Bhd (2016)

PROFITABILITY AND GROSS DISTRIBUTION

The profits of the Waqf Land development will be distributed to Waqf beneficiaries and General Waqf Reserve of SIRC and the Developer and Waqf Incorporated as per Table 2.1 - Profitability, Table 2.2 - Waqf Benefits and Table 2.3 – Percentage Distribution. This distribution is obviously after the deductions of any regulatory obligations and all necessary outgoings.

Proposed Development of Waqf Land					
No.	Project	District	Acre	Proposed Development	Project Status
1.	Project A	XXX	3.0	<ul style="list-style-type: none"> • 2 Storey Shop Office • Bazaar 	Received approval requirements and payment of premium charges RM 1Million on 20/07/2016

Table 2.1: Profitability

Summary of Profitability and Profits Distribution (Example)					
Description		Gross Development Value (GDV)	Gross Development Cost (GDC)	Profit	Percentage of Gross Profit
1	Project A	22,000,000.00	17,000,000.00	5,000,000.00	22.73%

Description		Waqf Benefits – 30%		
		F = Beneficiaries	G = Land Valuation	H = F+G, Total of Return
1	Project A	1,500,000.00	2,400,000.00	3,900,000.00

Table 2.2: Waqf Benefits

Description		Developer's Profit Returns – 70%				
		A = Profit	B = 10% (General Waqf Fund)	C= A-B, Net Profit	D = XYZ Pty Ltd's Profit (C x 70%)	E = WI's Profit (C x 30%)
1	Project A	3,500,000.00	350,000.00	3,150,000.00	2,205,000.00	945,000.00

Table 2.3: Percentage Distribution

CONCLUSION

It is without doubt that the Value of Waqf Land can be enhanced through a systematic, efficient and effective real estate developments. This will yield a better return and able to provide greater benefits to Muslims. The Waqf development model can be emulated by other nations and entities and improved overtime.

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