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REGULATORY GAPS AND GOVERNANCE CHALLENGES IN WAQF HOUSING: STRENGTHENING LEGAL AND INSTITUTIONAL PROTECTION UNDER MALAYSIA'S HOUSING DEVELOPMENT FRAMEWORK

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Abstract

Waqf housing developments offer an alternative mechanism for affordable housing delivery in Malaysia by utilising inalienable waqf land through long-term lease arrangements. However, these schemes do not align neatly with the purchaser-developer model under the Housing Development (Control and Licensing) Act 1966 (HDA), creating uncertainty over whether waqf lessees are entitled to statutory protection and access to the Tribunal for Homebuyer Claims. Using a doctrinal approach, this study analyses statutory provisions, case law, and administrative guidelines to assess the legal standing of waqf lessees, the scope of the Tribunal's jurisdiction, and the adequacy of available remedies. The findings reveal that although waqf lessees may fall within the definition of

purchasers under the HDA, the Act's buyer-centric procedures and remedies fail to address the fiduciary and religious dimensions of waqf governance. The paper proposes governance-oriented reforms, including clearer statutory recognition of waqf lease arrangements and stronger coordination between housing regulators and State Islamic Religious Councils to ensure equitable and coherent protection within Malaysia's housing system. © 2025 by MIP

Author keywords

Homebuyer protection; housing governance; Waqf housing

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