



**6th UNDERGRADUATE  
SEMINAR ON BUILT  
ENVIRONMENT  
AND TECHNOLOGY  
(USBET) 2023**

**SUSTAINABLE BUILT  
ENVIRONMENT**

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# e-Proceeding

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# BARRIER IN UNDERSTANDING DEFECT LIABILITY PERIOD FROM HOMEOWNER'S PERSPECTIVES

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## ABSTRACT

*This paper examines the defect liability period in homeownership, where homeowners rely on builders and contractors to address post-construction flaws. It focuses on homeowner perspectives, including their concerns, rights, and obligations during this period. Common challenges faced by homeowners include a lack of knowledge about the defect liability period and consistent reports of defects in newly built houses. The research aims to identify barriers to understanding the defect liability period from homeowners' perspectives and propose effective solutions. A questionnaire was used to gather opinions on nine factors related to homeowner understanding of this period. Recommendations based on most respondents' opinions include developing guidelines, improving communication, providing clear explanations in agreements, and ensuring transparency. Implementing these recommendations can enhance homeowner understanding, resulting in smoother defect resolutions and improved homeowner experiences.*

**Keywords:** *Defect, defect liability period, homeowner, barrier*

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## **INTRODUCTION**

Defect Liability Period refers to the timeframe during which the developer is responsible for fixing any defects in a newly purchased house. In Malaysia, houses are typically built by contractors based on the developer's request and then sold to buyers. The Defect Liability Period is an important concept governed by the Housing Development Act 1966. According to this law, homeowners have 24 months to identify and report any damages, defects, or poor workmanship in their property. It is crucial for homeowners to thoroughly inspect the house upon receiving possession and keys, file written complaints for any issues discovered, and ensure that the developer addresses these problems within the specified period (Kariya,2016).

During the Defect Liability Period, homeowners are advised to check if the property matches the developer's promises in terms of condition, measurements, and surroundings. They should also verify that all fixtures in the house are functioning properly. If any workmanship issues arise, the homeowner must file a written complaint as evidence to claim repairs from the developer. It is recommended to mark defect locations with labels or tape and take photographs for reference. These actions make it easier for the contractor to identify and rectify the defects accurately (National House Buyers Association,2007).

If the developer or contractor fails to address the complaints within the Defect Liability Period, homeowners have the option to fix the defects themselves and subsequently file a claim against the developer for their negligence. In cases where the developer continues to disregard the homeowner's concerns, they can face legal charges for their irresponsibility. The Defect Liability Period serves as a crucial protection for homeowners, ensuring that they have recourse for addressing any issues that arise in their newly purchased homes.

## **LITERATURE REVIEW**

Defect liability period could be defined the period of time from the date that the owner of the property receives keys or the vacant possession until 24 months later where the developer is responsible to fix any defects in the property. The defect liability period is very important period. However, there still many homeowners did not aware to this period. The defect liability period became an important period because it will help the homeowner in get their right by having a satisfying house after paying huge amount of money (Kariya, 2016).

In defect liability period, the homeowner will have 24 months to check and report all the defects that they found after get the house key. During this period of time, all the report from the homeowner can be claim to the developer or contractor for free. As stated in the Housing Development Act 1966, 'the Defect Liability Period is 24 months, starting from the date you receive your keys. Within this period, the

homeowner will need to check for any damage, defects, as well as poor or faulty workmanship.' (Che-Ani, 2017).

Under the Housing Developers 1966 act in Malaysia, the defect liability period spans 24 months starting from the receipt of the keys.' (Che-Ani,2017). During this time, the developer is obliged to repair faulty workmanship discovered at no cost to the buyer. Which means the developer will fully be responsible to fix all the defects at the house for free as long as the house still under defect liability period.

The aims of defect liability period are to give benefits to both parties that are developer and the client which is the homeowner'. This to ensure the developers and their client which is the homeowner can have a good return as what they paid and work for. From the developer perspective, the defect liability period seems will help them to improve their works. This is because, all the defects that found can be fixed instantly without having to many issues (Edyta, 2020).

## **DEFECT LIABILITY PERIOD**

The defect liability period is an important phase for homeowners, as it allows them to rely on builders and contractors to address any flaws or issues that arise after the construction of their homes. However, homeowners often face various problems during this period. These problems include a lack of knowledge about the defect liability period, the frequent occurrence of reported defects in new houses, and more. The research question focuses on identifying the best possible barrier to understanding the defect liability period from the perspective of homeowners and exploring the factors contributing to this barrier (Farahayu,2016).

The objective of the research is to investigate the barrier in understanding the defect liability period from the homeowners' perspective and provide recommendations for overcoming this barrier. The study includes a questionnaire that covers nine factors related to the understanding of the defect liability period. These factors range from the lack of guidelines about the period leading to homeowner losses to the agreement on the duration of the defect liability period, the role of developers in communication, and the presence of the period in the sales and purchase agreement. The aim is to gather insights from homeowners and assess the impact of the defect liability period on them (Zainab, 2012).

The findings of the study reveal that the majority of respondents have opinions on how the defect liability period affects homeowners. Based on these findings, the research proposes recommendations to address the barriers in understanding the defect liability period from the perspective of homeowners. These recommendations aim to improve communication, provide detailed explanations from developers,

ensure clarity in guidelines, and promote awareness of the defect liability period among homeowners.

## **CHALLENGING FACTORS IN UNDERSTANDING THE DEFECT LIABILITY PERIOD FROM HOMEOWNER'S PERSPECTIVES**

### **Lack Of Guideline About Defect Liability Period**

Several factors have influenced homeowners' lack of awareness about the defect liability period, resulting in various issues. New homeowners have the right to address building quality problems during the DLP (Defect Liability Period) (Halim, 2016). In the modern era, developers' primary focus on profitability has led to widespread concerns, ultimately promoting the defect liability period (Kariya, 2016). The situation has worsened to the point of negligence, as little thought is given to the end product's quality, and new homeowners are less informed about housing defects (Kharizam, 2011). Furthermore, the lack of research and knowledge transmission exacerbates the problem, making it virtually nonexistent (Farahayu, 2016). This indicates that new homeowners lack guidelines and legal documents to discuss the defects liability period (Che-Ani, 2017). If new homeowners had adequate knowledge about the defect liability period, they would avoid issues that could result in financial loss (Zolkafli, 2016).

### **Lack Of Promotion About Defect Liability Period**

The government is lack in promoting the defect liability period. This can be shown by seeing the government website. (Kharizam,2011). There was no detail about the defect liability period explained on the website. (Kariya,2016) The government only focus more on other things such as sales and more. If the government continuously doing this, the citizens especially new homeowner will lack of exposure about the defect liability period and its benefits. Government should take Steps that will create awareness among house buyers regarding their rights and expose them to the benefits of the recommended approaches. (Zolkafli,2016). Government also should take advantages on the social media platform to spread the awareness about defect liability period that happen after the home buyer get the house key. (Halim,2016).

### **Lack Of Detail Explanation from Developer About Defect Liability Period**

It is observed that many new homeowners lack a detailed explanation of the defect liability period from the developers (Kariya, 2016). This occurs because some



developers prioritize selling houses without adequately informing buyers about the importance of the defect liability period, resulting in homeowners being unaware of the relevant claim duration and laws (Halim, 2016). However, having a relatively long defect liability period can provide purchasers with a sense of comfort and protection (Zolkafli, 2016). To address this issue, Malaysia should practice and implement a comprehensive defect liability period explanation for new homeowners (Che-Ani, 2017). By ensuring that developers provide clear briefings about the defect liability period, new homeowners can better understand their rights and responsibilities after purchasing a house (Zainab, 2012). Armed with this knowledge, homeowners can confidently make complaints and file claims when necessary (M., 2021).

### **Lack Of Awareness About Sales & Purchase Agreement**

Many homeowners neglect to review the Sales & Purchase Agreement (SPA), leading to their lack of knowledge about the defect liability period. The SPA for a new house contains crucial information about the property (Kharizam, 2011). It specifies that homeowners have the right to claim repairs from the developer for defects found within the first 24 months of vacant possession (Kariya, 2016). If homeowners fail to read this agreement, they may remain unaware of the defect liability period (Edyta, 2020). Additionally, construction contracts commonly include a clause, such as clause 48.1 (a) in the PWD 203 Sales & Purchase Agreement (SPA), which holds the constructor responsible for any defects, imperfections, or damages occurring during the defect liability period (Farahayu, 2016). Unfortunately, many new homeowners still overlook the SPA due to their lack of awareness about its importance (Che-Ani, 2017).

### **Lack Of Knowledge About Housing Development Act**

Any newly finished homes in Malaysia are protected by the Defect Liability Period (DLP) clause as stipulated in Schedule H of Housing Development, Clause 29 [8]. Any flaws, defects, or other issues with the said parcel, the building, or the common property that surface within 24 months of the date the said parcel was given up for vacant possession. The majority of first-time homebuyers are unaware of their rights and that any property defect may be reported to the vendors. (Kariya,2016). Most of new homeowner did not understand the law related to the defect liability period which is Housing Development Act 1966. (Halim, 2016). The Housing Development Act 1966 will ensure the homeowner protected under the law and ease them to complain and claim for any issues. (Raj, 2018).

## Summary Of Findings

**Table 1: Summary of Findings**

No	Author	a	b	c	d	e
1.	Kharizam (2011)	/	/		/	
2.	Zainab (2012)			/		
3.	Kariya (2016)	/	/	/	/	/
4.	Farah Ayu (2016)	/			/	/
5.	Halim (2016)	/	/	/		
6.	Zolkafli (2016)	/	/	/		
7.	Che Ani (2017)	/		/	/	
8.	Raj (2018)					/
9.	Edyta (2020)				/	
10.	M (2021)			/		
TOTAL		6	4	6	5	3

A – Lack of guideline about the Defect Liability Period (DLP)

B – Lack of promotion about Defect Liability Period (DLP)

C – Lack of detail explanation from developer about Defect Liability Period (DLP) D

D – Lack of awareness about Sales & Purchase Agreement

E – Lack of knowledge about Housing Development Act

## METHODOLOGY

This study used quantitative methods. It became a quantitative because this research used to give few questions about the experience and awareness to all the case study owner. This to collect all the important information about the defect liability period and to answer all the research questions. Other than that, this research also used to make a questionnaire and distribute it to the public and fill it. This method aims to collect the public responses about their experiences about the defect at the new house and the awareness about the defect liability period. All the data collected will be the

evidence to know more about the defect liability period. Moreover, this research will need homeowner from different types of residential. This is because to get the different data about defect liability period from different types of residential. Each of the responds will help in know more about Defect Liability Period by knowing the homeowner's experiences and knowledge. This research methodology will have 2 phases. The first phase is when the questionnaire or the google form are made with the guidance of the expertise such as the supervise lecturer. Meanwhile, another phase is during the distribution of the questionnaire. This paper will explain about the data from the first phase of this research.

### The Ethics and Practices

Two respondents in structured interview, all the subfactors listed down agreed by the respondents. The chosen respondents can clarify as the expert in defect liability period. So, the outcomes of the structured interview with the respondents need to be taken seriously.

### Respondent Background

**Table 2: Respondent's Background**

RESPONDENT 1 (R1)	
Name	Muhammad Izwan Bin Mansor
Gender	Male
Experience in DLP	Handle a defect liability period company named Dr Defect with 7 years experiences
Academic Level	Bachelor in building surveying

RESPONDENT 2 (R2)	
Name	Profesor Dr Sr Md Yusof Hamid
Gender	Male
Experience in DLP	10 years experiences in handling defect liability period
Academic Level	Professor of Facilities Management, Universiti Teknologi MARA

## RESULT AND DISCUSSION

**Table 3: Result and Discussion**

RESPONDENT	F1			F2			F3		
	F1 (a)	F2 (b)	F3 (c)	F1 (a)	F2 (b)	F3 (c)	F1 (a)	F2 (b)	F3 (c)
Respondent 1	√	√	√	√	√	√	√	√	√
Respondent 2	√	√	√	√	X	√	√	√	√

Agree (√) Disagree (X)

- Factor 1: Lack of Guideline About the Defect Liability Period (DLP) F1 (a): Do you agree that lack of guideline about Defect Liability Period will make the homeowner loss?

The factor that asks about lack of guideline about Defect Liability Period will make the homeowner loss is agreed by both respondents. R1 and R2 stated that this subfactor commonly happens and it needs to be taken seriously because some homeowner did not even acknowledge about the Defect Liability Period. R2 even added that there was a case where developer just keep quiet without telling the not knowing homeowner about the Defect Liability Period.

- F1 (b): Do you agree that every homeowner has an exposure about the Defect Liability Period (DLP)?

This critical subfactor was agreed by both of respondents. This subfactor can show that not all people know about the Defect Liability Period. According to R2, in some cases the homeowner only starts to know about the Defect Liability Period after the developer gives them form to fill in with any defects that they found. This means that the public did not perfectly aware with the Defect Liability Period yet.

- F1 (c): Do you agree that the Defect Liability Period (DLP) start after the homeowner getting the house key?

This subfactor was agreed by R1 and R2. This subfactor clearly shows when exactly the Defect Liability Period started. The homeowner shall notice about this subfactor as for the acknowledgment to prevent cheated by irresponsible

developer. Also, this subfactor is good for the homeowner to know about the Defect Liability Period to easily claim their right from the developer.

- Factor 2: Lack of Detail Explanation about the terms and condition of Defect Liability Period (DLP) from Developer
- F2 (a): Did you agree that lack of detail explanation from developer about Defect Liability Period (DLP) is the factor toward barrier in understanding about Defect Liability Period (DLP) from homeowner perspective?

The subfactor was agreed by both of the respondents which are R1 and R2. However, R1 said that the detailed explanation about Defect Liability Period was not the responsibility of the developer. The homeowner needs to seek the information about the Defect Liability Period from somebody else. But, in some condition, the developer shall give a little exposure about the Defect Liability Period to the homeowner.

- F2 (b): Do you agree that the duration of Defect Liability Period for house are 12 to 24 months?

R1 agreed on this subfactor, R2 shows his disagreement about this subfactor. This is because the duration of the Defect Liability Period has been stated in the law and R2 added that the exact duration of Defect Liability Period needs to be referred to Sale and Purchase Agreement because, the developer has stated the duration of Defect Liability Period that must be agreed by the homeowner. R2 clarify that this questionnaire can be improvise before it distributed to the public.

- F2 (c): Do you agree that the developer rarely communicates with homeowner?

This subfactor was agreed by both respondents. This is because the developer commonly did not communicate with the homeowner frequently. This is because the developer has many other jobs to do and sometimes, developer were hiding something behind to let the unknowledgeable homeowner settle any problem by themselves.

- Factor 3: Lack of Awareness About Sales and Purchase Agreement F3 (a): Do you agree that the defect liability period is stated in Sales & Purchase Agreement?

Both of the respondents agreed with the subfactor. This is because it clearly stated in Sales & Purchase Agreement about the detail of Defect Liability Period. The homeowner needs to understand the agreement first before signing it to prevent any unwanted cases happened.

- F3 (b): Do you agree that the homeowner can claim for the defects repair after getting the house key for free from the house developer in the duration that has been stated?

The respondents agree with the subfactor. This is because the homeowner shall know that they can easily claim the defect repair for free from the developer during the Defect Liability Period. All the detail of what can be claimed have been stated in the Sales & Purchase Agreement.

- F3 (c): Did you agree that defect liability period has been stated under the law?

With nothing to comment, both of respondents agreed with the subfactor. This is because there are some homeowners still did not know about the Defect Liability Period. This type of homeowner is commonly cheated by the irresponsible developer. Homeowner shall have a little bit knowledge about Defect Liability Period in law. This to prevent the developer takes any advantages on the developer.

- Others Critical Factors

Referring to all of the critical factors that have been mentioned earlier, both of respondents agreed with all the critical factors. However, R2 clarify that it can be distributed as a questionnaire to public even there is something can be improved. This is because all important factors have been mentioned and clearly it is enough and good to ask to the public. More importantly, the information about Defect Liability Period needs to be spread out especially to the homeowner. This to prevent any unwanted things happened.

## **CONCLUSION**

In conclusion, this study clearly described the critical factor of barrier in understanding the defect liability period from homeowner perspectives, and the conclusions gave clear insight into the study's purpose. This will result in descriptions and summaries of each stage involved as well as the results found in this investigation. To achieve the primary goal of this research, which is to propose the best factor in barrier in understanding the defect liability period from homeowner perspectives, the study on the critical factor of barrier in understanding the defect liability period from homeowner perspectives must be completed. The completion of a number of goals connected to the result showed that the study was successful. The achievement of first objective in this study by identify the five critical factors of barrier in understanding the defect liability period from homeowner perspectives in the literature review and three factors with high issue were chosen with nine number of variables which are lack of guideline about the Defect Liability Period (DLP), lack of detail explanation about the terms and condition of Defect Liability Period (DLP) from developer and lack of awareness about sales and purchase agreement.

## **RECOMMENDATION**

Raising awareness among homeowners regarding the defect liability period is crucial to ensure they are well-informed and prepared. To increase awareness, there are several recommendations that homeowners should take seriously. Firstly, it is essential for every homeowner to be aware of the defect liability period by carefully reviewing their sale and purchase agreement. Paying close attention to the specified date and all the provided specifications from the developer will enable homeowners to be more alert about their rights.

Secondly, homeowners should promptly claim for defects repair once they receive the house keys, as dictated by the law and the sale and purchase agreement. This proactive approach ensures that homeowners can avail themselves of the necessary repairs free of charge as stated in the agreement.

Thirdly, developers have a responsibility to provide homeowners with adequate exposure to the defect liability period. By educating homeowners about their rights and responsibilities during this period, both parties can collaborate effectively and prevent any potential issues related to defect liability in the future. Fourthly, it is imperative for every homeowner to thoroughly read the sale and purchase agreement before purchasing a house. If any aspect, particularly concerning the defect liability period, is unclear, homeowners should seek clarification from the developer. This measure is essential to prevent any instances of homeowners being misled or taken advantage of by developers.

Lastly, maintaining open communication between homeowners and developers is crucial in ensuring a clear understanding of the terms and conditions of the defect liability period. By staying in touch and regularly discussing any concerns or questions, both parties can ensure a smooth and mutually beneficial resolution to any issues that may arise. Overall, implementing these recommendations will contribute to increasing awareness among homeowners regarding the defect liability period, empowering them to protect their rights and make informed decisions when dealing with such matters.

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Tarikh : 20 Januari 2023

Prof. Madya Dr. Nur Hisham Ibrahim  
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