IOP Conference Series: Materials Science and Engineering

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IOP Conf. Series: Materials Science and Engineering **620** (2019) 012010 doi:10.1088/1757-899X/620/1/012010

Waqf private property trust fund as property unlock initiative

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Abstract. The abundant of Waqf land (WL) administrated by State Islamic Religion Council (SIRC) are growing over the years unsolved. The location of these WL are strategic and capable for commercial benefits through property development investment project. Yet, the development funds' constraint restraints SIRC to develop the WL's potential. This study examine the structure of management of indirect real estate investment (IREI) instrument and carried out a benchmarking comparison analysis to suggest a workable IREI to unlock WL potential. But, concept of Waqf prevents sub-sale of Waqf ownership exchange transaction. While, private property trust fund (PPTF) is a close fund and distribute dividend. This study suggest a conceptual idea Waqf private property trust fund (WPPTF) as mechanism for WL unlock initiative. The structure of management of WPPTF is different since Waqf unit holders whom cash donor would not receive any investment return, instead SIRC as a caretaker of Waqf properties benefit all investment return. The acceleration of Waqf property potential would be useful for investment project development of more frozen WL.

1. Introduction

There are as much as Waqf properties that have been abandoned for years and cannot be worked out. Consequently, the amount of Waqf property cannot benefited wisely. Few factor affecting the undeveloped Waqf land(WL) such as its provisions and intent Waqf donor, the lack of financial resources to develop WL, the problem of the location of WL that is unattractive and inappropriate to the needs and few other issues related to the concept of Waqf development of WL. In addition, factors such as the management and administration of Waqf in various state Islamic religious council was identified such as lack of knowledge in matters related to financial knowledge, administrative and land development, commercialization and business development of the property of the Waqf.

It has become a detriment to the community, to benefits the Waqf property. This frozen property had evidenced that Waqf management inefficiently managed. However, the phenomenon of abundant WL would be demoralizing the future potential of Waqf donor. Therefore, an initiative to unlock WL should be carried out to benefit the WL value and to promote Muslim Waqf according Islamic religion. Nevertheless, the nature of Waqf property in Malaysia is usually seen in the form of orphanage home, tahfiz school, cemetery, mosque and others kinds of non-commercial infrastructure that are both tangible and perpetuity, had resulted these Waqf property were limited in terms of uses and not independent financially sustainable in the long run.

The best example of Waqf system is Waqf by Uthman ibn Affan, in which the benefit is enjoyed until as up to date. The effectiveness of Uthman ibn Affan Waqf which had transform the original value of wealth prosperously into a commercial hotel and unstop to finance the orphanage home as according to the original intent of Uthman ibn Affan. Thus the business model of Waqf Uthman ibn 'Affan benefited from the commercially available for the purpose of sustaining the viability of a Waqf. On the other hand, the Waqf concept had been broaden into the definition such as cash Waqf, in which can be offered at a very low value compared to the Waqf property or land. Cash Waqf is extended the benefits of financing the development of education infrastructure, clinics, and toward the purpose of financing specific programs only. Benefits of cash Waqf is not obtained in the form of tangibility and perpetuity. This has led to the concept of cash Waqf received a lukewarm response from the public. Nevertheless, cash Waqf found to be more rational to practice since the cost to start to be Waqf donor is low compared to property and land Waqf. The cash Waqf is seem able to persuade larger number of Waqf donor participation.

As such, WL system should be planned to meet the sustainability, financial independent, also need to be viewed from the aspect of property investment perspective which be divided into direct real estate investment and indirect real estate investment (IREI). Nevertheless this study focused on the IREI since it more flexible, cheaper, and easier for Waqf unit holders. Therefore, this study aimed to develop a conceptual model of private property Waqf trust fund (WPPTF) for financing Waqf property development. The study also makes a benchmarking comparison between the model and model WPPTF and real estate investment trusts (REITs) for conformance the WPPTF as Waqf property unlock initiative.

2. Waqf land concept

Waqf concept has long exist before the emergence of Islam and was evidenced by the construction and the maintenance cost of mosques resulted from the donation from the society. However, it was not well defined as Waqf then by Ibrahim & Ibrahim (2013a) [1]. Historically, it was started with the Prophet pbuh has requested for someone to but the well of Bayruha' and designate it as free public drinking water and since then it has played a vital role in fulfilling the needs of Islamic civilization.

In brief, study by McChesney (1991), Waqf is a donated property used for the benefit specified by the donor, in which the purpose must be benevolent, normally serving community interests [2]. Waqf according to Islamic jurists' interpretation is the "detaining assets that are beneficial and physically lasting, to be given to charity" noted by Ramli & Sulaiman (2006) [3]. While according to the Islamic Law, Waqf is defined as holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of its outside its specific objectives [4]. In other definitions, Waqf is a privately owned property is endowed for a charitable purpose in perpetuity and the revenue generated is spent for the original purpose [5]. Waqf is a charitable foundation. The words charities have permanence and continuity that people can benefit from them for years, generations or even centuries. Waqf are important in Muslim socio-economic and are needed to empower the Muslim *ummah* [6].

Waqf traditionally used for religious purposes, such as for Imam's salary, religious education, build a mosque and or to fund mosque's running expenses and so on. This kind of Waqf categorized as Religious Waqf. It helps community to reach their religious satisfaction needs and to reduce the cost in providing religious facilities in the future. Second category of Waqf is Philanthropic Waqf, which its' aim is to help the poor-society segment and support all the public facilities needs such as, public utilities, health services, public library, public transportation, public land-structure, and so on. While the last category of Waqf is Family Waqf. This type of Waqf, actually, let the family have the fruits and the revenue. If only the Waqf has surplus, then it is allowed to distribute to the poor [7].

According to Baharuddin et al., 2006, there are two types of Waqf, which are specific Waqf and general Waqf [8]. Specific Waqf is where the donor declares beforehand the purpose of the Waqf, for example, build of a mosque or school or for any other specific purposes. The purpose will then be specified in a Waqf deed and the manager (mutawalli) who is entrusted to administer the Waqf as specified by the deed. On the other hand, general Waqf is an open ended Waqf where the manager of the Waqf may use the Waqf properties for whatever purpose as long as it benefits the public and the purpose is not against the shariah principles.

According to Osman (2012), the donation or endowment to be considered as Waqf need to hold three important characteristics; i) perpetuity, the donation properties must be perpetual in nature, hence fixed asset properties, ii) irrevocability, the donated property cannot be revoked and be reverted to private use and iii) inalienability, the donated property could not be subject to any sale, disposition, mortgage, gift, inheritance, attachment or any alienation whatsoever. The implementation and validity of Waqf consists of four elements which were attached with important condition to make sure that the Waqf is valid and accepted; *founder (waqif),* that must be mature and in a sound mind and the donation is on his will and his own property, *beneficiary (Muaquf A'laih)*, can be specified individual or group, or general philantrophy to the society, *donated property (Mauquf)*, something that its ownership rightful belongs to the founder and lastly *declaration (lafaz),* to validate the Waqf agreement [9].

There are two types of Waqf properties; immovable properties and movable properties. For many years, many Muslims believe that only fixed assets can be donated as Waqf as interpreted by the Islamic law where the property proclaimed as Waqf must be immovable as characterized by the need for Waqf to be perpetual. According to Kahf (as cited in [9]), this inherited definition of Waqf is due to the nature of the benefit of immovable property where it is utilized without having to use up the property itself. On the other hand, not all fiqh scholars agreed that movables properties such cash, shares books and other things can be proclaimed as Waqf. However, fiqh scholars such as Shafie, Maliki and Ibn Hanbal allow the movables properties as Waqf as long as it meets the requirement of perpetuity [1].

In Malaysia, Waqf are solely controlled and administered by the State Islamic Religion Council (SIRC) in accordance to The Federal Constitution's *Ninth Schedule*, *List II (State List).* The jurisdiction of SIRC as the sole trustee of WL has clearly been embedded in each respective state enactment. All WL, whether movable or immovable could only be administered and managed by the council. It has also been made clear that SIRC in every state of Malaysia is the sole trustee for all WL and properties whether they are in the form of general Waqf or specific Waqf, and all nazr am and all trusts [10].

The Waqf administered by SIRC is under several laws, such as the Federal Constitution 1957, the National Land Code 1965 (NLC), Administration of Islamic Law (Federal Territories) Act 1993 (Act 505), Selangor Wakaf Enactment (No. 7 of 1999), Trustee Act 1949 (Act 208), Malacca Wakaf Enactment 2005, Negeri Sembilan Wakaf Enactment 2005 and the respective Administration of Islamic Law Enactments of the various states as well as other laws having effect on the administration of Waqf like the Trustee Act 1949, Specific Relief Act 1950, Contracts Act 1950 and others [11]. The appointment of SIRC as the sole trustee of Waqf property is to ensure that Waqf is properly administered and efficiently managed so that it can generate substantial profits and revenue that could be used by the beneficiaries to fund any charitable work [12]. Nevertheless, according to Alhabshi (1991), among other responsibilities of SIRC are; 1) all

Waqf properties are solely trusted under the council of Islamic religion, 2) the council must keep all the documents related to Waqf properties, 3) ownership of Waqf properties must be transferred to the council, 4) the council must use all monies from specific Waqf properties for the intended purpose of the founder, 5) the council must keep all the monies from general Waqf properties in the general fund of the council or the baitul mal [13].

Nowadays, the innovation of contemporary Waqf concept has been in line and known as corporate Waqf. This contemporary Waqf concept has been practice in a few Islamic countries including Turkey, Malaysia, Bangladesh, India and Pakistan. Earlier study by In Malaysia, the first corporate Waqf has been pioneered by Johor Corporation's (JCorp) by pledging its company's shares as Waqf in 2006 and the term 'corporate Waqf' was emerged during the launching of JCorp corporate Waqf scheme in that year [3].

As a Muslim, the act of surrendering one's land in perpetuity for the benefit of others to be used for good purposes, is considered as a virtuous deed and is held in high regard by the religion. Waqf property could contribute to the socio-economic development for Muslim society by setting up commercial projects such as Waqf hotels, Waqf commercial centres, charity projects such as schools, orphanages and others while not conflicting with Syariah Law.

2.1. Issue of Waqf land

According to JAWHAR (2013), there are over 8,861.15 hectares of WL in Malaysia. A total of 4,543.27 hectares of the land have been categorized as special Waqf while 4317.88 hectares have been categorized as or general Waqf [14]. These Waqf properties may grow in trillions, if it is regulated properly and managed according to sound principles by Waqf institutions. Unfortunately, Waqf institutions in Malaysia seem to fail to play a dynamic role in uplifting the development and economy of the Muslims [10]. Commonly, the problem of Waqf administration that is faced by the States in Peninsular Malaysia is Waqf properties documentation transparency, lack of knowledge of Waqf among the public, absence of documentation and systematic database, inadequate skillful professionals in Waqf management, absence of good structural administration/Waqf management, and absence of a clear and consistent procedures about the registration, land management and Waqf properties [15].

In addition, Mohamad Tahir (2005) mentioned two issues regarding the potential enhancing value of Waqf property by Waqf institutions, which include reforming the management style of Waqf organization and the enactment of law that provides an environment conducive for the growth of Waqf activity [16]. There are lack of provision of SIRC enactment regarding WL and resulting in the misuse by some irresponsible parties, assuming WL is the public domain that can be dominated and abused any time by simple arbitrary [4].

In fact, in Malaysia, the Waqf management practices are different from one state to the others. For certain states, they practice share scheme and some states do not practice such. However, there are also some similarities for example, most of the Waqf properties are developed for common purposes for instance mosques, educational development and social welfare. Other than that, several issues arise in regard to implementation, ranging from the responsibility of the manager as a trustee, who is a manager or the appropriate sole trustee as well as the need to ensure that the objectives of the Waqf is undertaken consistently [11]. This seem to be parallel with prior finding that has highlighted six issues and challenges in the development of WL [11]and the issues as follows:

2.1.1. Ownership and registration of Waqf land problems

Even though SIRC has been appointed as the sole trustee of the WL in respective state, there are still a lot of WL been registered under individuals, mosque committee or qariah or even the endower's name. This situation makes it difficult for SIRC to trace the WL and identify the Waqf categories as they are under various title holders and are exclusively administered by the appointed manager.

2.1.2. Financial problem

Even though the Federal Government had allocated some budget through the 9th and 10th Malaysian Plan for reforming Waqf system in Malaysia, the amount is not sufficient to develop enormous amount of WL in Malaysia [17]. Many of the Waqf properties are barren or unproductive and undeveloped due to lack of funds and the Waqf institutions struggle to find suitable financial mechanism for its development (Othman *et al.,* 2015). The inadequate of capital and limited financial resources have hindered the development of the WL. This is due to the revenue gained will be fully used to cover a broad range of expenses including maintenance, managing, taxes and administration of the property which sometime exceed the revenue. Other than that, SIRC's failure to lease out the land at a competitive rate and systematic rate collection are also contributing [18].

2.1.3. Physical barriers: size, type and geographical location

Most of the WL are located in isolation and less strategic location, scattered and lack of potential to be developed. Though some of the WL are in the strategic location, the development could be undertaken due to certain constraints and restrictions such as declaration, which SRIC has to considered the endower's intentions and their beneficiaries and small in size that limiting the construction and development of the land.

2.1.4. Shortage of competent manpower

Shortage of professional staff become one of the shortcoming in administering the WL in SRIC resulting the inefficient administration. Lack of efficient will lead to inept and very slow process of WL as well as disorganised records of the matters regarding the development of the WL make it difficult in attaining the performance and objectives of the Waqf system. Other than that, lack of efficient experts, dynamic professionals and proactive strategic planners inhibit the research and planning, financing and implementation of competitive and profitable development projects. In addition, the shortage of staff caused the SIRC to not properly supervise the rental collection as well as to update records of the tenants of the WL and properties which adversely affects the revenue. State Islamic Religious Councils (SIRCs) in all states have basically faced similar problem that is inefficient Waqf administration which eventually leads to the failure for generating optimum income from the WL (Kamarudin, 1992)[19].

2.1.5. Incomplete database

The improper record keepings of the ownership registration and inadequate comprehensive database of size, geographical location, type and other information of WL have hindered the aggressive development of potential WL. For example, there are a total of 2,477 lots of land were endowed and entrusted to Majlis Agama Islam Negeri Johor (MAIJ) or Johor State Religious Council but only 70% of WL were registered and recorded. The other 30% were left unrecorded and the actual size, location and ownership remained unknown [12]. Even though the effort of collecting data recordings of WL in all states has been taken by the Department of Awqaf, Zakat and Hajj (JAWHAR), the lack of cooperation by the SRIC has delayed the success of the initiative.

2.1.6. Illegal occupation and encroachment of Waqf land

There has been reported many cases of the encroachment, occupation and lease of WL to the non-Muslim. This has become the barrier to the successful of development of the land and is also against the intention of the endowers. There even some prohibited by Islam activities on the land. SIRC has to bear some high legal costs to use legal methods and procedure to vacate the land even though it has clearly stated in the law regarding the unlawful occupation on any State land.

2.2. Waqf property unlock initiative

Waqf property may grow in trillions if regulated and administered properly and managed according to the sound principles of Waqf. Therefore in order to unlock the value of Waqf property, there is need of Waqf property to be accepted in Malaysia property market [18]. Unlocking the Waqf property maximising the income generated by the property.

Traditional practice of Waqf property is that the WL to be mosques or other charitable institutions such as orphanage and not very well developed. Majority of Muslim in Malaysia still considered WL as charity and solely to be religious purpose and not many are aware that WL are essential in Muslim socio-economic. There is lack of Waqf knowledge in the community. The awareness of the importance of Waqf for the whole community needs to be upgraded [4]. Furthermore, almost all of Waqf properties are fixed and naturally the Waqf institutions are cash-strapped [16]. In addition to that there are some other issues of management and administration of Waqf property by the respective institution contribute to the problems.

Many Waqf properties are undeveloped due to inadequate fund for its developments. Thus, in order to unlock the value of these Waqf properties, the Waqf institutions should play their role in uplifting the pride, dignity and supremacy of Islam [18]. The Waqf institution should upgrade their administration and management of Waqf property to be more professional and efficient. There are various models or approach of investments of WL could be adopted by the Waqf authority either they are depending on funding from the federal or state government or statutory bodies or financial institutions.

The first model as been discussed by Hasan & Abdullah (2008) is the debt-based instrument. This model can be in two forms of (i) build, occupy and sale and (ii) build, lease and transfer [20]. The build, occupy and sale form is referring to a contract based on the long-term lease of WL. The developer cum leaseholder will construct a building on the land with an understanding that the Waqf authority will buy the building and the cost of construction at the end of the lease period. The Waqf institution then may lease the building for a longer period based on annual rate of rental to pay the total cost of the building. Practically, the rental payment will be payable directly to the developer's account. However, this model is preferable if the construction costs is not high. While the build, lease and transfer form is referring to a financial lease which is similar with hire-purchase. The Waqf institution issues a permit to a financier to construct a building on WL. The financier authorizes certain developer to erect such building. When the building is completed, the Waqf institution leases the building for certain period which is owned by the financier. The building after the expiry of the lease would be transferred to the Waqf institution through sale.

The second model suggested is based on the equity-based model. This kind of model can be in the form of joint-venture. The call for this scheme is due to the Waqf institution lack of expertise and financial resources. The Waqf institution plays a role as landowner and enters into venture with a financier with or without capital contribution. Usually, joint venture scheme between the Waqf institution and the financier or developer is based on the principles of *mudharabah* (partnership made to enable the parties to carry out business projects, based on a profit sharing basis of a pre-agreed ratio) or *musharakah* (partnership whereby the distribution of profits will be apportioned according to an agrees ratio)[20].

The third model suggested is based on the self-finance instrument or in-house financing by (Mohamad Tahir, 2009) [16] by the meaning of the cash or land contributed to the cost of investment by the Waqf institution. There are several ways the institution to generate its own income such as *al-ijarah* (lease), cash

Waqf and Waqf shares as well as *istibdal* (substitution of Waqf property with another property or cash value)[20].

And the final model suggested is the Islamic securities instrument. Securitisation is a process transforming an illiquid asset into a tradable security that renders the illiquid asset the liquidity features by deployment or creation of some market mechanism. The Waqf institution may liqudate its assets and is permissible when the Waqf institution is ready to be in charge of the project management or jointly in charge with a third party. This model has also been mentioned by Mohamad Tahir (2009)[16].

Among other approach that can be considered in unlocking Waqf properties is using *hibah mudharabah* as been suggested by Othman *et al.* (2015)[18]. *Hibah Mudarabah* is a form of partnership where one of the contracting parties, the *rabb-al-mal* (the financier), provides a specified amount of capital and acts like a sleeping partner, while the other party called the *mudarib*, provides the entrepreneurship and management for carrying on any venture, with the objectives of earning profits. The principles are applicable for profit and loss sharing, which are widely used in Islamic finance. The implementation of such approach has been made in Kedah with strategies adopted. The first strategy was optimization of WL by leasing and renting existing land and buildings, improving internal external expertise, selecting and upgrading potential lots, effective cost management and better tenancy management. While the other strategy applied was maximizing value through maximizing development potential of some of the WL by upgrading and joint venture development through partnership with developers. The development strategies applied has increase the net income from the WL in Kedah.

Other approach that can be considered in the development of Waqf properties is via commerciality in financial institution [4]. For instance, JCorp has come up with their innovation on corporate waqaf [3]. Former Prime Minister of Malaysia Tun Abdullah Ahmad Badawi has also suggested the establishment of World Waqf Fund (Tabung Waqf Sedunia) and also the establishment of Waqf Bond offered under Waqf Enactment (Negeri Sembilan) 2005. All these are among new innovations towards modern and contemporary platform for Waqf development in Malaysia [21]. The Awqf Properties Investment Fund (APIF) which consist of several members around the globe, united for same goals and purposes, to develop new products on Waqf sector, and invest in viable Waqf real estate projects in accordance with shariah. APIF run a financing program to support the development of WL through several modes of financing, istina'a, murabahah, leasing and other appropriate Islamic financing mode [22].

Therefore reviewing the financial model suggested by the prior scholar, this study wish to develop a conceptual model of Waqf property unlock initiative through the perspective of real estate investment analysis. This study discussed the indirect real estate investment instrument as a financial mechanism to illiquid real estate owned by the companies. At the same time offered more freedom and flexibility to the investors.

3. Result and discussion

3.1. Real estate investment trust (REIT)

The Malaysian SC has drawn a Guidelines of Real Estate Investment Trust in 2005 which later been improved in December 2012. The real estate investment trusts (REITs) is introduced in Malaysia as to provide opportunity for companies to unlock their real estate potential. Real estate related companies may able to make their property illiquid and benefit the cash flow through REITs. The companies sold their properties to REITs and lease back the properties for their business operation. Consequently, Chan et al., (2003) and Zietz et al., (2003) stressed on the accounting implication of transaction will provide large liquidity from the sale of the properties and an increase in rental expenses over the year. REITs is seen as mechanism for illiquid the property and flexibility in business strategy [23, 24].

REITs business operation is based on the rental income from the tenant of REITs property owned in the property portfolio. The profit earning of the REITs will be distributed in the form of dividend distribution to the REITs unit holders, whom owned the REITs companies indirectly. Therefore the quality of the REITs properties contribute higher dividend distribution, which motivates the investors upon REITs [25, 23, 26]. This evidenced through a stable and less volatility REITs price traded in BM compared to average common share [27].

The historical of REITs revolution learnt from the United States(US) REITs and Australia REITs industries evidenced that government tax regime should support the REITs introduction through giving tax exemption for REITs. Implication of this tax exemption caused REITs provide higher distribution and attract investor participation. The structure of management of REITs is similar to structure PTF except REITs provide more tax advantage to investors. Malaysian Inland Revenue Board give tax waive to REITs if they distribute at least 95 percent of its earnings to the investors. This resulted REITs able to provide superior dividend distribution compare to the common stock. The following Figure 2, shown a structure of management of REITs for comparison.

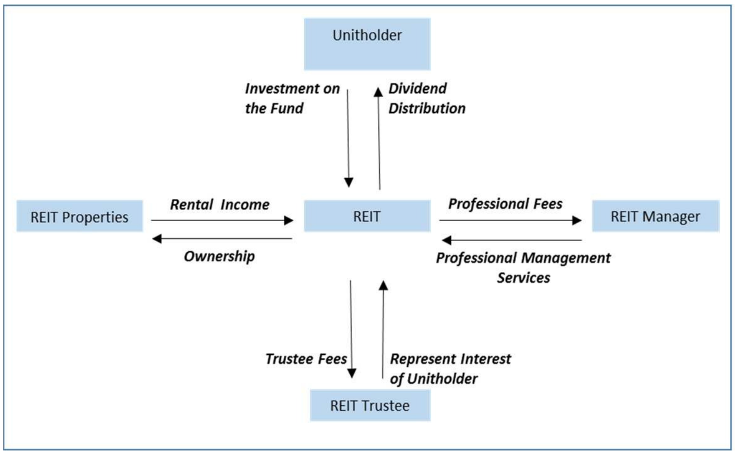

Figure 1. The structure of management of real estate investment trust

On the other hand, it is argued on the of REITs development in Europe, adopted unmodified the US REITs' model, as all structural options have implications which needed to be considered carefully. Problems such as international taxation may occur.It is suggested to European countries to develop its own kind of REITs based on its unique pan-European REITs structure. Although US REITs showed that the REITs are able to improve liquidity in real estate market, promoted efficient allocation of capital and reduced cost of capital, yet the tax rule has the restricted corporate structure and created some limitations on REITs potential. The pan-European REITs structure should be developed to cater local need and suitability as well as to consider the advantages and disadvantages upon REITs.

Other than that, according to Goetzmann and Kumar (2008) and Lee *et al.,* (2008), the participation of the institutional investor in REITs is important as REITs are traded in the stock market [28 and 29]. This argument seem to parellel with prior statement by [23 and 24]. The US investors perception of the diversified portfolio in REITs showed that sixteen percent of investors have very small portfolio (less than $5,830 million) and ten percent of investors with moderate size portfolio [28]. The institutional investors have three functions in the financial market. First, their role as price setters of REITs share price due to their ability to gather pricing information about the REITs. Second, they had a huge voting power and knowledge, this influence the investment decision of the REITs. Third, the institutional investors helped boost the REITs companies credibility and confidenceforthe young REITs, which the general public evaluated on the reputation of the institutional investors [29 and 23].

The Malaysian institutional investors' perception is influenced by a few factors such as the interest rates, reputation of the management company, quality of tenant as well as tenancy term and the government legislation which took place [27]. The differences on investor buying patterns and perceptions are influenced by the participation of major institutional investors, the capital structure or dividend policy in Malaysia [30].

However, the Waqf property concept refrained Waqf propety to be transfer and exchange in term of ownership and in open financial market. Therefore to protect Waqf proeprty right, another indirect real estate investment that is private property trust fund(PPTF) had been discussed to examine its compability to Waqf property.

3.2. Private property trust fund (PPTF)

The Malaysian Securities Commission (SC) has issued up a Guidelines of Property Trust Funds in November 2002, which supersede and improved the earlier guidelines. Nevertheless the property trust funds (PTF) designed as a listed indirect real estate investment instrument. The PTF will be traded in Bursa Malaysia similar to other investment securities available, which subject to tradable and oriented for price appreciation and dividend distribution.

In the PTF structure of management there are four important parties involved in order to ensure that the PTF run accordingly, namely (i) unit holders whom invest in the fund and as a return will get a dividend distribution; (ii) trustee whom represent the interest of PTF unit holders and they will be getting their trustee fees; (iii) PTF Manager whom delivered their professional management services and as return will be paid a management fees from the fund; and (iv) the properties of PTF is owned by the fund and fruited a lease income to the fund. A local study on the Malaysian Listed Property Trust (LPT) suggested that firm size is essential to give more choices for investors to consider LPT in their portfolio [27]. The LPTs' size effect towards the performance shows that a big capitalization on real estate share had a superior performance with a higher return and lower risk in the allocation with mixed asset. There is a negative relationship found between size and unsystematic risk. Meanwhile, the study on the institutional investors' participation in LPTs found that poor participation is due to a small trading volume of LPTs, small market size of LPT market and slow capital appreciation.

However in the context of Waqf, the particular Waqf property cannot be tradable or prohibited to change ownership to the third parties. The transaction of peWaqf is only involved between peWaqf and the state Islamic religious council (SIRC) only. The Waqf properties are benefited to the community and the ownership cannot be speculated in the open financial market. Therefore this study further conduct a content analysis on the private property trust fund (PPTF) such as Amanah Hartanah Bumiputra (AHB), in which our investigation found, a similar structure of management as PTF outlined by SC. AHB is a PPTF and restricted to be sold for Bumiputera race, tradable but the exchange ownership for secondary sub-sale on restriction sales value. Figure 1 of the following depicts the structure of management for PPTF.

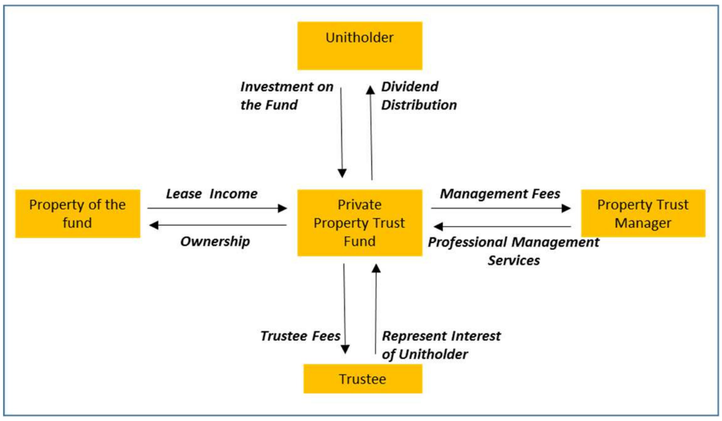

Figure 2. The structure of management of private property trust funds

The nature of business of PPTF is mainly derived from the lease income of property owned which will be distributed by to unit holders in term of dividend distribution. Unlike REITs, PPTF as a private fund is not trade openly in financial market and the exit of this fund is allow but the resale value of PPTF unit unchanged. In other word, the PPTF not allow speculation in order to protect the interest of the particular parties. The unit holders only benefit dividend distribution on the PPTF. The structure of management of PPTF is seem to be unfavourable to investors whom seek both dividend distribution and price appreciation. Therefore the REITs investment structure had been introduced in Malaysia in 2005 and received good response from the investors due to the flexibility of exchange transaction, tax waived, higher distribution as well as promising price appreciation.

3.3. Comparison between REIT and PPTF

Analysing the structure of management of both PPTF and REITs as well as content analysis on the strength and weaknesses, this study come out with comparison between PPTF and REITs, refer to Table 1.

Through the benchmarking comparison analysis carried out, the study found that the PPTF structure of management and characteristic able to match Waqf property characteristics. Therefore the following conceptual model of Waqf Private Property Trust Funds (WPPTF) is developed and proposed as discussed in the following paragraph.

3.4. Modelling of Waqf private trust fund

Originally the WPPTF developed is adopting the PPTF structure of management with modification to meet Syariah and Halal compliances. Figure 3 of the following show the structure of management of WPPTF proposed. In the WPPTF structure of management there are seven important parties involved in order to ensure that the WPPTF can be realised. First, the Waqf unit holders whom donor of WPPTF in term of cash Waqf (allotted into a form of unit) yet, they receive no benefit in kind of the Waqf made. All the possible return from the WPPTF will be distributed for SIRC. Second, the state Islamic religious council (SIRC) which is caretaker of the Waqf will provide the undeveloped WL for property investment development. SIRC will receive all the generated income. Third, the Waqf land which received cash fund from Waqf unit holders mentioned above will be developed and turn into a property investment development. This WL will be added to the Waqf properties portfolio of WPPTF. Fourth, the trustee whom represent the interest of

WPPTF unit holders and they will be getting their trustee fees. Fifth, WPPTF Manager whom delivered their professional management services and as return will be paid a management fees from the fund. Lastly, the properties of WPPTF is owned by the fund and fruited a lease income to the fund.

Table 1. Comparison between Private Property Trust Fund and Real Estate Investment Trust

No.	Charateristic Cs	Private Properly Trust Fund	Real Estate Investmen Trust	Waqf Property
i.	Tradable in Financial Market	***No***	Tradable in Financial Market	***No***
ii.	Ownership of the Fund	Unit holders	Unit holders	State Islamic Religious Council
iii.	Investment Goal	***Long term investment only***	More toward long term investment since REITs price have a low correlation to the general market price	***Long term goal*** and Perpetuity element
iv.	Return	Dividend Distribution only	Dividend Distribution and Price Appreciation	Yielding continuously
v.	Tax exemption	***No***	Tax exemption given if REITs distribute 95 percent distribution	***No applied***
vi.	Dividend Distribution	Similar to Common stock	Higher dividend distribution (higher dividend yield)	Based on actual income generated from the properties minus expenses
vii.	Retained Earnings left for business	***No restriction*** (have more internal resources of financing)	5 percent (limited internal resources)	***No applied***
viii.	Nature of Business	Income from Rental Business Activities	Income from Rental Business Activities	No specific restriction. Must meet Syariah & Halal Compliance
ix.	Manager	Fund Manager	REITs Manager	No specific restriction. Must meet Syariah & Halal Compliance
x.	Value of unit when Investors exit the fund	Restriction to the original sale price(no risk)	According to the current market price (risk& return element)	No exit value for Waqf donor

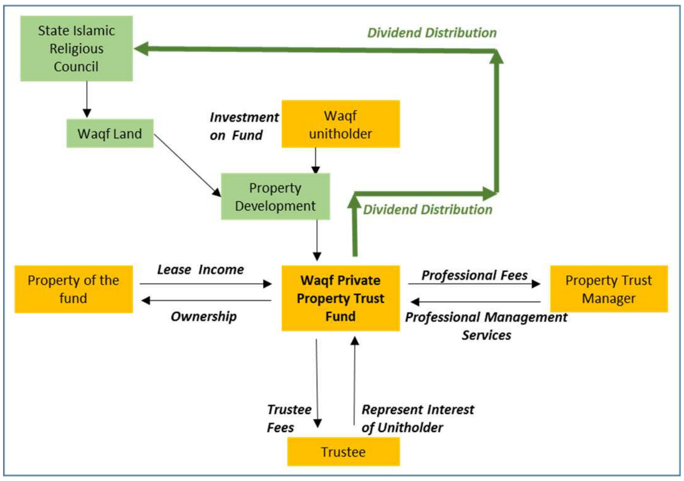

Figure 3. The structure of management of Waqf private property trust funds

The nature of income generation in the WPPTF is based on the return from the property lease. These distribution in term of dividend declared will be distribute to SIRC as a solely benefiter of the WPPTF. In other word of saying, WPPTF unit holders would be the cash Waqf donor of the fund in order to assist the development of the WL which priory used to be abundant land. The yearly performance of WPPTF will be made disclosure and disseminated to WPPTF unit holders.

The structure of WPPTF proposed is difference from PPTF and REITs, in which the unit holders whom contributors of the fund would not benefit the dividend distribute from WPPTF. The dividend per unit would be distributable to SIRC. In other word of saying the fund contribute by the unit holders is use to enhance the property development for Waqf property. WPPTF company need to oblige the unit holders by informing the on the financial performance of the WPPTF company.

Nevertheless, this study anticipate that, the type of property development that would took place on the WL need to be determine. Besides feasibility study on rental business of the WPPTF property should be done in order to ensure the WPPTF investment able to benefit the SIRC in general.

4. Conclusions

All in all, this study suggest a conceptual idea Waqf private property trust fund (WPPTF) as mechanism for WL property unlock initiative. The structure of management of WPPTF is different since Waqf unit holders whom cash donor would not receive any investment return, instead SIRC as a caretaker of Waqf properties benefit all investment return. WPPTF should be benefit as an acceleration tool of the frozen WL. Nevertheless, before WPPTF implementation, a proper feasibility study should be carried out in order to ensure what kind of property development would be suitable for that particular WL.

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