

Property Market Report 2014

PART 1

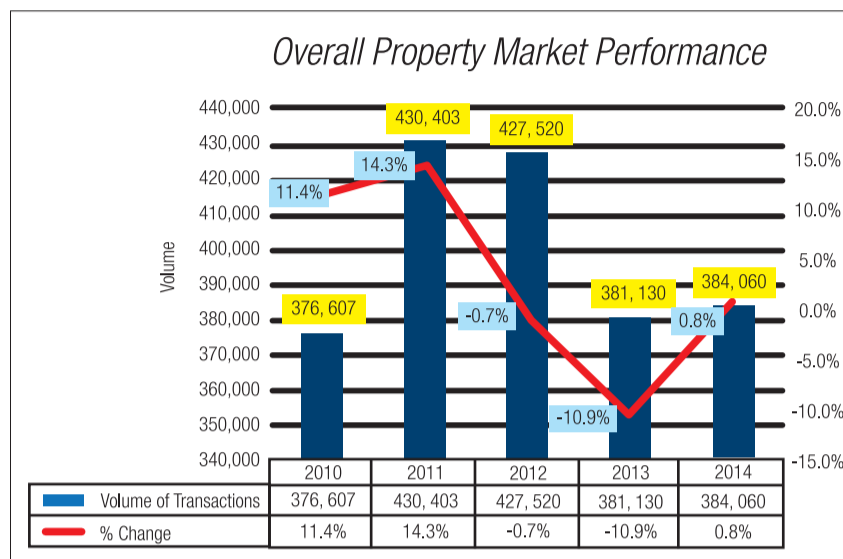
> Market outlook as released by the Valuation and Property Services Department

THERE is a belief that one should look back and learn from the past in order to move forward. With this, we look at last year's property market report (just released), to be armed and ready for the challenges to be expected. In our property column this week, we share a general summary, followed by a more detailed outlook on how the residential sector will fair, new launches, up-coming areas and the forecast for 2015.

2014 OVERVIEW

On the whole, the 36th Property Market Report by the said government department declared in its report that the property market in 2014 was slightly better than the previous year, and was in tandem with the country's economic growth. Real estate transaction rose by 0.8% in volume while total transaction in value improved by 7%.

The residential continued to dominate the sector, taking up 64.4% of the overall market share. Performance of the sub-sector market was maintained, due to the increase in transaction volume, additional new launches in the primary market, declining overhang and more construction activities. The government's involvement



supplying affordable homes and incentives for first-time home buyers also helped to ensure the sustainability of the sub-sector, apart from its efforts to curb speculating activities and price increase (by moderating the Malaysian House Price Index). Cooling measures enforced in the last two years also helped moderate the market by giving it a lift in 2014.

In the commercial sub-sector, market activity was reported to be moderate, on the account of less

favourable Business Conditions Index (BCI) and Consumer Sentiment Index (CSI). However, the retail and office sub-sector delivered a slightly better performance, a slight increase from 79.5% to 81.4% and 82.9% to 84%, respectively.

According to the Finance Minister II Datuk Seri Ahmad Husni Hanadzlah, the market in 2015 is expected to be moderate. Various reactions are expected among developers, home

purchasers and industry players, due to post-GST implementations. However, the market is expected to self-adjust in due course and domestic demand is predicted to remain the key driver of the country's economic growth. These are backed by the continuous expansion of activity in the private sector.

Other than the 0.7% rise in construction activity and the uptrend period it has enjoyed across the sub-sectors, marginal growth in the residential sector is also derived from the loans approved and disbursed.

CSI stood at 83% at Q4 of 2014, the lowest recorded throughout the year due to precautionary sentiments recorded within households on finances, growing concern regarding employment and an indefinite financial outlook.

MIER's BCI recorded a 86.4% for the same period, but this was due to the depreciation of the ringgit and falling oil prices which influenced the level of confidence in the commercial property sub-sector where volume grew marginally, but value dropped.

PROPERTY MARKET ACTIVITY

A total of 384,060 property transactions were recorded for 2014, amounting to RM162.97 billion. On the whole, the residential, commercial and agricultural sub-sectors recorded growth while the industrial and development land sub-sectors recorded a slight downturn. However, value of transactions moved independently, with residential, industrial and development land sub-sectors recording double-digit growths.

The prime sub-sector showed a sustained market - a slight turnaround in market activity, moderate performance for new launches, improved overhang situations and a positive trend in the construction sector.

According to the report, prices and rentals remained firm although signs of price moderating were seen in the All House Price Index.

There were 247,251 transactions worth RM82.06 billion recorded in the review period. Residential continued to drive the Malaysian property market.

Follow our column next week for more insights into the property market report for 2014.

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NEW LAUNCH

Phase 6.1A(1) artist impression

Double Storey Semi-Detached

Standard Lot Size: 40'x90'

Build-up Area: from 3,375 sq.ft

Price: from RM798,000

NEW LAUNCH

Phase 2.7A(1) artist impression

Double Storey Semi-Detached

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PART 2

Property market report 2014

> Analysis on the residential sector

CONTINUING from where we left off last week on the overall property market outlook as per information released by the Valuation and Property Services Department, we learn that residential real estate continues to drive the Malaysian property market. To recap, there were 247,251 transactions worth RM82.06 billion recorded during the review period. Looking at the transactions on the distribution of volume, here are some interesting facts noted:

- the market share of residential units priced RM200,000 and below and those between RM200,000 and RM500,000 was quite similar, each with 43.1% and 41.3% respectively;
- over the three-year period, the declining volume trend in the former price bracket was matched by the increasing volume trend in the latter price bracket;
- the two top-notch price brackets, which were the RM500,000 to RM1 million and the above RM1 million, had increased by 23.2% and 16.2% respectively;
- Selangor, Johor and Perak were the three leading states in the residential segment taking up 24.6%, 15.8% and 11% of the market share respectively;
- Seven states recorded upward movements (including Johor and Penang) while nine spiralled down (Perak and Selangor included);
- Value wise, all states recorded increases except for Labuan, Pahang and Kelantan; and
- By house type, terraces accounted for 41.1% (102,313 units), followed by condos/apartments at 12.6% (31,072 units) of the national total.

If you look at the chart which depicts residential volume trends of various residential property, you will notice that the decline in property between the price range of RM200,001 and RM500,000 saw an increase in the other two categories - below RM200,000 and above RM500,000. This goes to show that a large number of mid-income earners have opted for lower-priced houses while some have gone for the more expensive addresses.

According to statistics recorded, the three leading states in the residential segment were Selangor, followed by Johor and Perak, with 24.6%, 15.8% and 11% market share respectively. However, on the whole, a mixed performance was enjoyed across all states - seven recording upward trends, nine otherwise. Briefly, Selangor and Perak dropped, Johor and Penang remained

positive. In terms of value, all states recorded positive upward movements except for Labuan, Pahang and Kelantan.

NEW LAUNCHES

The primary market recorded a higher number of new launches - 68,351 new units compared with 62,376 units recorded the year before. According to the department, the rise was largely due to the number of condos and serviced apartments, which amounted to nearly 44.9% of total new launches. Sales performance showed a moderate 44.7%, relatively good looking at the five-year performance ratio.

States recording the highest number of new launches were Selangor (18%), Kuala Lumpur (17.4%) and Johor (16.8%). Sales performance across the board was moderate, with Kuala Lumpur in the lead, followed by Negri Sembilan, Kelantan and Sabah.

According to category, there was a fair balance between landed (49.7%) and high-rise (49.6%) units launched. In terms of performance, landed units achieved higher overall take-up at 34.4% compared with its high-rise counterpart which amounted to just 11.1%. Looking into more details, the type of landed property which formed the majority of new launches were terraced houses, accounting for 37.7% of the total, securing 36.9% in sales performance. Serviced apartments were the next highest, achieving a 27.8% share but its sales performance was low at only 5.5%.

MARKET STATUS

The number of residential overhang units receded, 11,816 units worth RM4.04 billion - down by 12.8% in volume and 15.9% in value. Still, looking at the charts on residential unsold status, the unsold under construction increased by 6% while the unsold not constructed recorded an 8.5% rise.

By state, Johor recorded the highest number of overhang units - 30.2% of the total. The state also held the highest number of unsold under construction (30.5%) and unsold not constructed (40.8%) units in the country. Of the overhang units, terraced houses formed the bulk, mostly concentrated in Johor, in particular Johor Baru (823 two to three-storey terraced houses); and Klang (466 single-storey terraced houses). These units remained unsold for more than 24 months.

Of the country's total overhang residential units, condos/apartments and serviced apartments make up 20.7%. Kuala Lumpur held the bulk, under the condos/apartments category. Half of which are in the RM500,000 and above price bracket. The unsold units under construction and not constructed categories saw condos/apartments and

serviced apartments outnumbering the terraced units, accounting for 49.4% and 63.6% in each unsold category respectively.

PRICE MOVEMENTS AND RENTALS

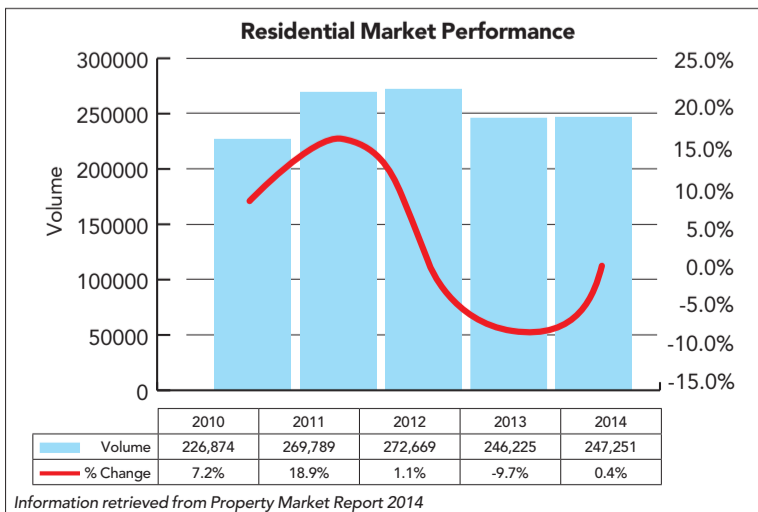
The Malaysian House Price Index showed a moderate trend, at the fourth quarter of 2014 standing at 213.1 points - an increase of 7% on annual basis (compared with the base year 2000), though lower than the same quarter of the previous year. The index softened slightly, by 0.2% on a quarterly basis. By type, the Malaysian Terrace House Price Index also depicted a similar trend, up by a lower rate of 7.8% on annual basis to 208.9 points but softened by 0.1% on quarterly basis. The Malaysian High-Rise Unit Price Index increased by a lower 8% on annual basis but eased slightly by 0.3% on quarterly basis. Refer the All House Price Index chart for comparison.

Rentals showed a more stable trend across the states, recording better figures in areas with good road and rail connectivity and those with higher learning institutions. In Kuala Lumpur, double-storey terrace rentals rose to between

RM1,000 and RM2,000 per month, with premium rentals recorded above RM3,000 per month in prominent residential areas like Taman Tun Dr Ismail, Bangsar and Hartamas. In Selangor, the more significant areas like Damansara, Petaling Jaya and Subang fetched between RM1,400 and RM3,000 per month (double-storey terraces) while other areas secured between RM800 and RM1,000. The Nusajaya area in Johor recorded high rentals in places like Horizon Hills which fetched between RM2,500 and RM3,000 per month in rentals. Other areas in Johor could rake in between RM500 and RM1,000 per month.

On the whole, construction activities rose - completions increased by 18.7%, start-ups by 6.8%, and new planned supply by 22.3%. Most of these construction activities were largely being carried out in major states that included Selangor, Johor, Penang and Federal Territory.

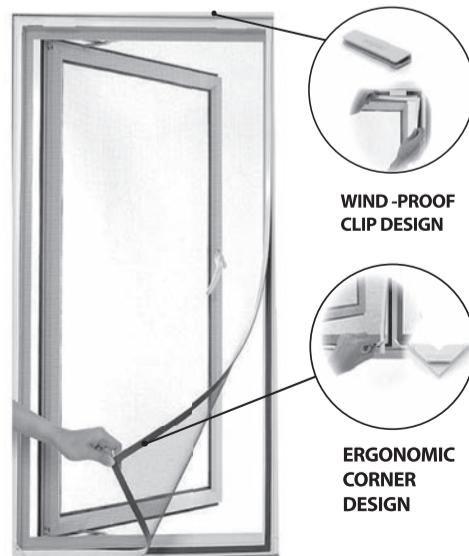
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Power of the Controller

> Rights of the Controller of Housing in granting extension of time to developers

REFER to the comments in the Star newspaper dated April 25 by the honorary secretary-general of the National House Buyers Association (HBA) Chang Kim Loong, wherein he mentioned that when a Controller of Housing decides to grant an extension of time to developers to hand over vacant possession, he has defeated or reduced the purchaser's rights.

Has the controller blatantly and unilaterally taken away rights which are expressly given to them by Parliament? Rights which are expressly for the purchaser's protection and created to serve and protect public interest?

RIGHTS AND RESPONSIBILITIES

The rights of the controller is provided in Regulation 11(3) of the Housing Development Regulation 1989 and provides as follows.

... Where the controller is satisfied that owing to special circumstances or hardship or necessity compliance with any of the provisions in the contract of sale is impracticable or unnecessary, he may, by a certificate in writing, waive or modify such provisions: *Provided that no such waiver or modification shall be approved if such application is made after the expiry of the time stipulated for the handing over of vacant possession under the contract of sale or after the validity of any extension of time, if any, granted by the controller.*

It is stated in the said regulation, that if the controller is satisfied that due to special circumstances, hardship or necessity, the compliance with the terms of the SPA is impracticable or unnecessary, he may modify or waive such provision.

However, the proviso to the said regulation stipulates that no such waiver or modification shall only be approved if the said application is made after the expiry of the period stipulated for the handing over of vacant possession under the SPA or after the validity of any extension is granted.



authority in question has acted in good faith. A converse proposition is also applicable, if the authority concerned does not take into account, or ignores considerations which are relevant to the purpose of the statute in question, of which its act will be invalid.

De Smith's Judicial Review, 6th Edition on p. 479 concisely sums up the law:

"A decision-making body exercising public functions which is entrusted with discretion must not, by the adoption of a fixed rule or policy, disable itself from exercising its discretion in individual cases. It

may not "fetter" its discretion. A public authority that does fetter its discretion in that way may offend against either or both of two grounds of judicial

review: the ground of legality and the ground of procedural propriety. The public authority offends against legality by failing to use its powers in the way they were intended, namely, to employ and to utilise the discretion conferred upon it. It offends against procedural propriety by failing to permit affected persons to influence the use of that discretion. By failing to "keep its mind ajar", by "shutting its ears" to an application, the body in question effectively forecloses participation in the decision-making process."

Raja Azlan CJ AG (MALAYA) (as the late Sultan) who was then in Pengarah Tanah dan Galian, Wilayah Persekutuan [v Sri Lempah Enterprise [1979] 1 MLJ 135 FC had an opportunity to comment on departmental powers.

"It is a stringent requirement that discretion should be exercised for a proper purpose, and that it should not be exercised unreasonably. In other words, all discretion cannot be free from legal restraint; where it is wrongly exercised."

From the above it is apparent that the controller has a right to grant extension of time by the very Parliament that has granted the right to purchasers to claim Liquidated Ascertained Damages or LAD. Certainly this exercise of power may be stated to be proper exercise of administrative discretion and not otherwise.

EXCERPTS AND CITATIONS

M. P. Jain, in *Administrative Law of Malaysia & Singapore (1980)* wrote on p. 289: *Many a time the statutes confer power but do not mention the considerations for its exercise. Even in such a case, the authority can take into account only such considerations as may be relevant to the purpose for which the power has been conferred. If the authority takes into account certain circumstances or considerations which are irrelevant or extraneous to the purpose or the tenor of the statute in question, then its act will be invalid even if the*

CONCLUSION

It must be remembered that the standard housing SPA (Schedule G and H) does not have a force majeure clause or an extension of time clause, like all other construction contracts in this country. A study of the legislative history of these regulations (which I had the opportunity to peruse), will reveal that Parliament in its wisdom, has parked these clauses with the controller, as an independent entity to exercise.

A host of cases have gone to court since these powers were conferred in 1989 and in all these cases, the courts have always held that for delay in handing over of vacant houses, the proper party to evaluate whether any extension should have been granted is the Controller of Housing.

Just weeks ago in Oxbridge Height Sdn Bhd v. Abdul Razak Mohd Yusof & Anor [2015] 2 CLJ 252, the Court of Appeal had an opportunity to address settlement agreement for the extension of time between the developer and the purchaser, which was entered into the tacit approval of JPN although no extension of time was formally granted by the controller.

The court said: "With regards to the second issue on the invalidity of the settlement agreement, the learned High Court Judge concluded that it was an attempt to evade the provisions of the Housing Development (Control and Licensing) Act 1966 and the Rules hereunder. The effect of the settlement was contracting out of the law which provided the right to house buyers to claim for LAD for late delivery, even though a consideration of RM1 was paid. The court dismissed the argument that the settlement agreement was a collateral contract which could exist, alongside the SPA. The court drew on the decisions in *MK Retnam Holdings Sdn Bhd v. Bhagat Singh Surian Singh* [1985] 1 CLJ 520; [1985] CLJ (Rep) 199 [1985] 2 MLJ 212, and *Sentul Raya Sdn Bhd v. Hariram Jayaram & Ors and Other Appeals* [2008] 4 CLJ 618."

The Court of Appeal went further and held that: "We therefore

found that on the peculiar facts of this appeal, there was no full contracting out and no situation where the purpose of the housing legislation being 'to protect the weak against the strong' was ousted. In terms of policy, there should be nothing illegal in law for a Settlement Agreement to be negotiated with the full participation and direction from JPN, with a view to save a failing housing project from being an abandoned project. It will be in the public interest, and in the interest of house buyers, if the law allowed a regulated settlement and waiver of LAD on terms as specified in the settlement agreement, which was the subject matter of this appeal. The purchaser has a right to appeal against the decision of the controller, if he or she is dissatisfied with decision to extend the time."

From this landmark decision it is established that:

1. the Controller of Housing has power to grant extension of time;
2. even where no extension is granted, any settlement agreement entered into with the purchasers, negotiated with the full participation and direction from JPN is valid and binding;
3. it is in the public interest and interest of house buyers to allow for waiver of LAD to save a failing housing project from being an abandoned project; and
4. such waiver is not contracting out from the SPA.

Any purchaser who has been served with an extension order by the controller, may within fourteen (14) days after having been notified of the decision of the controller, appeal against such decision and take it up with the minister. The decision of the minister, once made thereon, shall be final and shall not be questioned in any court. This power is a check and balance on the powers of the controller as the minister is ultimately answerable in Parliament and by courts in judicial review applications.

It is therefore apparent that there is nothing in law which is illegal for the Controller of Housing to grant any extension of time, provided that the controller can take into account only such considerations as may be relevant to the purpose for which the power has been conferred. If the controller takes into account certain circumstances or considerations which are irrelevant or extraneous to the purpose or the tenor of the statute in question, then its act will be invalid, even if the controller has acted in good faith.

The controller, like a trustee, holds power on trust and acts validly only when acting reasonably. We hope that the controller will continue to exercise these powers reasonably, to better protect the interest of house buyers, as failure to do so would be an abdication of the duty imposed by parliament.

New property portal in town

PROPERTY INDUSTRY players and those sourcing real estate to rent or buy will appreciate brickz.my, the latest go-to online property portal recently launched. Aimed at providing "crucial and transparent" information, the portal is established on due diligence, providing all that is needed to make property hunting a breeze.

Brickz.my provides real time information. It is interactive and is easy to use, even for first timers who can easily discover transaction prices and details of a particular project or a property. Users can search for projects or townships, or specify a preferred location in sourcing for residential, industrial, commercial or land. Information is aplenty with work still in progress at brickz.my

"What makes brickz.my unique is that we offer the most up-to-date,

relevant information on sub-sale property transaction prices the moment a prospective buyer checks out a particular property. This helps them make the right decision in a fast, timely and easy manner, without having to refer to any other sources until they obtain an official valuation as confirmation," said its founder and managing director Premendran Pathmanathan (pix).

Content on its database is received from the Valuation and Property Services Department (Jabatan Penilaian dan Perkhidmatan Harta or JPPH) which officially records property transactions once stamp duty for the sales and purchase agreement (SPA) is paid. In addition, its "Pattern Recognition System" further strengthens the credibility of the data on the website, by omitting and fixing transactions that

are incomplete or inconsistent. The website also uses specific algorithms to automate repetitive work, where it reduces errors and increases accuracy of data.

A brief search on the website will show a listing of properties and prices in an area. There is also a side box with "quick facts" on the lowest, highest and average prices. To ease searches, maps are also provided for a rough indication as to where the location of an intended property is. Charts and graphs are also available, providing information on current market trends and such.

Those seeking in-depth information on a particular property, such as the address, will be required to pay RM30 per project. Another alternative is to pay RM300 as a yearly subscription fee which gives unlimited access to all enquiries, transactions and



addresses etc.

For now, the site features sub-sale transactions located only in Kuala Lumpur and Selangor. Plans to include those in other states are in the pipeline. A mobile-friendly version is also available for those on the go.

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WITH our hectic lifestyles and the daily grind most of us go through day-in, day-out at the office, home and on the road, finding the time to put one's feet up, relax and unwind can be a task, let alone a trip to the spa.

So we spoke to interior designers Alain Low and Justine Leong on how to create one's "very own spa" to help melt away the day's stress and put one in a great mood. Below are easy-to-follow tips to transform any bathroom into a spa.

DECK THE BASICS

Mention the words "spa" and "bath", and most people think of a luxurious bathroom with a claw-foot bath tub. "A free-standing tub or Jacuzzi tub instantly amps up a bathroom to give it spa-like status. However, not every bathroom has the space for it," says Low. "If you have a smaller bathroom, opt for a shower cubicle, with both a rain shower plus a separate hand-held shower fixture. You can even attach wall-mounted body jets/sprays/nebulisers within the cubicle. "This makes up for not having a Jacuzzi tub and adds to the spa-like luxurious ambience," he adds.

According to Leong, a deep, double-sink vanity unit with plenty of counter space and a framed mirror the width of the vanity unit is a must for a spa bathroom. "You hardly find spas with small vanity units and mirrors."

Leong also suggests separating the toilet area from the shower/bath section, either with a frosted glass or a carved room divider.

AMP THE FINISHINGS

"Finishings are crucial to spa bathrooms ... the more luxurious it is, the better," says Low. Granite, quartz or marble are ideal for floors, walls, vanity top and tub. If cost is an issue, try the less expensive laminates, which can be tailor-made to resemble these materials.

"If you can afford it, go ahead and splurge, if not, it is not necessary to use these materials everywhere," says Low. His suggestion: to use granite on just the vanity top or accentuate the feature wall next to the free-standing tub. "Small but well planned highlights work just as well, to make a room look classy," he adds.

LIGHT IT UP

Lighting is an important part of every spa environment and can either make or break the overall spa experience. "No harsh white lights! The lighting should be yellow, mellow ... slightly dim,

Spa oasis > Transform your bathroom into a relaxation zone



to radiate a soothing ambience," says Low. "Opt for ambient recessed lights, down lights and wall scones if you want a contemporary spa look ... and small chandeliers and pendant lights for a more glamorous and expensive touch. Whichever lighting you

choose, make sure it has a dimmer. Home spas need to be practical. With a dimmer, you can brighten up a room for tasks like applying make up or dim it when you want to relax."

Leong says that chromatherapy (the use of coloured lights to help

evoke a mood) is a must for a perfectly relaxing spa experience. Each colour evokes a mood (see side box). So, choose the mood you want to go for and match it with the appropriate coloured lights. There are shops in the market selling bathroom fittings and spa showers with attached chromatherapy features.

However, for a cheaper alternative, Leong recommends placing tea lights in small, heat-resistant, coloured glass jars, and surrounding your bathtub or shower area with them.

ADD ENTERTAINMENT

Whether you are enjoying a bubble bath or chilling in the shower, adding entertainment to the equation, as in listening to your favourite music while in the bath, makes relaxation so much better.

Consider fixing wall-mounted surround sound speakers or waterproof speakers next to your shower, or perhaps a plasma or LCD television set opposite your bathtub.

"Music and entertainment may be nice inclusions to your spa experience, but you don't want them to distract the overall decor of the room ... so I would suggest hiding these systems aesthetically. You could do this inexpensively by placing plants or vases in front of them. Or if you can afford it, there are many state-of-the-art features for this purpose, such as a mirror that doubles as a television cover," says Leong.

IT'S IN THE DETAILS

Presentation is very important when it comes to spas or spa-like bathrooms, so take note of the subtle "signs" that suggest an important thing or two. These include: "Keep the clutter away." Necessities like tooth brushes, combs and face washes, should preferably be stored neatly in an attached cabinet or drawer.

Replace any aluminum dustbin or plastic laundry basket for wick ones with lids. "And in keeping true



to the spa look, 'accessorise' the vanity counter with transparent glass jars of cotton pads, buds and tissue, on a wooden or glass tray, along with a fresh flower stalk in a small vase or pot," says Leong.

"You also want to incorporate the little things found in spas, like a chaise chair in the corner of the room, or perhaps decorate the interior with a fancy looking fan too.

"Another important tip is not to skip on items that double-up as 'accessories', like soft cotton bathroom slippers, three sizes of towels (hand, face and bath) folded neatly on a rack (try to keep these items white in colour) and an incense holder that emits your favourite scent," she adds.

CHROMATHERAPY - COLOURS AND ITS EFFECTS

- ▶ Red stimulates vitality
- ▶ Orange soothes the mind and stimulates circulation
- ▶ Yellow promotes comfort and relaxation
- ▶ Green reduces anxiety
- ▶ Blue promotes calm
- ▶ Purple lessens anxiety



SCENTS AND SENSE

Aromatherapy is an important aspect of the overall spa experience, so place incense sticks or reed diffusers on your vanity tops or the corners of the room. For a relaxing bath try these oils.

- ▶ Lavender to get you relaxed
- ▶ Rose for calming the mind
- ▶ Geranium for a comforting experience



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