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Dubai Strata Law Guidelines

Long awaited guidelines for regulation and administration of jointly owned properties (*i.e.* strata projects) in Dubai have recently been published by the Government of Dubai Land Department and the Dubai Real Estate Regulatory Agency. These guidelines, effective as of 13 April 2010, are comprised of the following:

- General Regulations dealing with, among other things, required disclosures by strata developers to unit purchasers and requirements for building management statements specifying components and common elements in strata buildings subject to volumetric subdivision;
- Direction for Jointly Owned Property Declarations containing requirements for the content and registration of property declarations;
- Direction for Association Constitution providing for powers and administration of owners associations; and
- Direction Concerning Preparation of Survey Plans relating to registration of surveyors and requirements for preparation of strata plans.

The Guidelines provide needed transparency and clarification for strata development schemes. The following are some of the most notable provisions of the Guidelines.

Consumer Protection Provisions

According to the Guidelines, each developer of a strata project must, prior to signing a sales contract with the initial purchaser of a unit, provide the purchaser with a detailed disclosure statement containing information regarding the project and the unit as specified in the Guidelines. The information in this statement is to include, among other thing, descriptions of common areas, copies of proposed property declarations, schedules of finishes for both the unit and the common areas, proposed budgets for the owners association for its first two years, and the estimated hand over date of the unit. In addition, if a purchaser from the developer or from another purchaser resells either an unfinished unit or an untitled unit

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in a finished project, that purchaser must also give its purchaser a completed copy of the disclosure statement the seller received when the seller acquired the unit. Failure of the developer or a required non-developer seller to furnish this disclosure statement will render the purchase contract void. The developer is also deemed to have warranted the information in the disclosure statement, and if within two years after the date of transfer of the unit from the developer any of the information is found to be materially inaccurate or incomplete, the developer will be liable to the ultimate purchaser for damages.

Clarification of Financial Obligations of Developers

Under the Guidelines (but subject to contract provisions in place as of the effective date of the Guidelines) the developer of a project is responsible for all costs associated with a project prior to its registration as a strata project. After the effective date of the Guidelines, the developer may no longer seek to shift responsibility for these costs to an owners association or to purchasers. Any contract provision to the contrary is void. The Guidelines also specify that the developer must pay the fees for connecting utilities to the project and may not claim reimbursement of those amounts from purchasers or the owners association. In addition, the developer must bear all costs associated with the rectification of defects in the project and must ensure that those costs are not passed to the owners association. If a developer has collected service charges from purchasers of a project, then within three months of forming an owners association for the project, the developer must cause an audit to be performed of all monies received and expended to verify that the monies have been properly expended and must pay any remaining funds over to the owners association.

Required Property Declarations

The Guidelines require that the application to the Land Department for registration of the first sale of a unit in a strata project be accompanied by a property declaration and application for registration of an owners association. The declaration must contain specific information enumerated in the Guidelines, including a common areas site plan. With respect to strata projects that have been constructed and occupied as of the effective date of the Guidelines (and other projects deemed existing projects by the Land Department), the developer must file a declaration within six months after the effective date of the Guidelines. During or after that six month period, any three unit owners of a project may jointly serve notice on the developer requiring filing of a declaration. If the developer fails to take substantive steps to submit a declaration within thirty days of the notice, the representative owners may submit a declaration in respect of the project and recover the costs of doing so from the owners association, which in turn may recover the costs from the developer. The Land Department may refuse to register a declaration if in its opinion the developer has withheld areas, services or facilities from the common areas site plan, or included them within a unit, to the extent the common areas are inadequate to serve the reasonable needs of owners and occupiers of the project.



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Financial Requirements for Owners Associations

Detailed requirements regarding the functions and administration of owners associations are included in the Guidelines, including the requirement for annual budgets and establishment of reserve funds for expenditures of a capital or non-recurrent nature. In addition, any supply agreement for the provision of goods and services (including utility services) entered into by an owners association may not have a term exceeding three years and must be entered into with an entity licensed in the Emirate of Dubai.

With the issuance of these Guidelines, the Government of Dubai has taken further steps to bring the Dubai real estate market in line with sophisticated and well evolved markets elsewhere in the world. There may be growing pains in the actual implementation of these requirements but the long term effect should be beneficial for all concerned.

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