


MERALI'S
CHARTERED ACCOUNTANTS & REGISTERED AUDITORS

LAW NO. 3 OF 2015 ON THE REGULATION
OF REAL ESTATE SECTOR
ESCROW /GUARANTEE ACCOUNTS



Property development is one of the major pillars in the UAE economy. The Abu Dhabi government has recently issued a law to make this sector more regulated and transparent. The purpose of this article is to highlight some of the key points covered in this law which are of key importance to investors and developers.

NEW PROJECTS

The sale of real estate off plan units of a real estate development project need to apply at the Municipal Affairs Department (MAD) with the supporting documents specified by the MAD for opening the project guarantee account.

A guarantee account shall be opened for each real estate development project separately, provided that amounts deposited therein shall be exclusively allocated for the purpose of the establishment of the project and settlement of the payments of the financing thereof. If the real estate development project is composed of several projects that end in several phases, the developer shall open a guarantee account for each project separately.

The conditions and provisions of the Project Guarantee Account Agreement shall be adhered upon the disposal of any amounts thereof. At all events, it shall not be permissible to dispose of any amount unless the developer has accomplished no less than 20% of the construction works of the concerned real estate development project.

For **CURRENT PROJECT** established prior to the enforcement of the provisions of this Law shall be exempt from the conditions of this Article, provided that all approvals necessary for the commencement of projects have been issued and that the ratio of building completion is *no less than 70% of the entire project*.

INVOLVED PARTIES' REQUIREMENTS

No real estate unit may be *sold off the plan* unless the following conditions are satisfied: Approval of the real estate development project, depositing of the principal development project at the Real Estate Register at the MAD, developer shall provide proof of ownership or contractual rights to the land, developer shall have opened a guarantee account for the project and obtaining approval from the MAD on the disclosure statement related to the real estate unit.

The **ACCOUNT TRUSTEE** (banker) will provide the developer with: Quarterly receipt/payment statements and any other information related to the project, annual audited accounts and any person that deposited funds in the project guarantee account is entitled to review his own data maintained by the account trustee and obtain copies .

The **MUNICIPAL AFFAIRS DEPARTMENT'S** responsibilities are to: Issuance of licenses, supervision of the management and auditing, revision of plans/related documents and registration and accreditation of account trustees approved by the Department.

MORTGAGE OF REAL ESTATE RELATED TO THE REAL ESTATE DEVELOPMENT PROJECT

It shall not be permissible for the developer to mortgage the land of the real estate development project or any related real estate right unless such mortgage is exclusively carried out for obtaining finance for the purpose of building such project, provide that the developer and the financier thereof comply with certain conditions.

FAILURE TO ACCOMPLISH PROJECT

The developer shall take measures to reserve the rights of the depositors to guarantee the completion of the real estate development project such as to allow the financier or another developer to complete the project.

If it is impossible to find any solution within six months then the account trustee shall distribute the remaining amounts deposited in the following order: Account trustees' unpaid expenses, financiers of the real estate development project, contractors and suppliers and lastly the developer. That being said, the creditors will still have the right to seek recourse against the developer for any deficiency.

SUMMARY

Our understanding of Law No. 3 of 2015 on the Regulation of Real Estate Sector, is that all new and current development projects that were less than 70% complete on the date of this law must open an escrow account. Each project must have its own escrow account and be audited annually by a qualified independent auditor. The audit firm will be supervised by and audit reports made available to the Municipal Affairs Department.

We at Meralis can assist in meeting the requirements & making the application for the developer to Abu Dhabi Municipal for the license. Our unparalleled experience allows us to perform the annual audit as required by the statute. We work closely with the Abu Dhabi Municipal and Real Estate Regulatory Authority (RERA) to provide quality services to our well-esteemed clients, such as ALDAR, KHIDMAH, DEYAAR, ABU DHABU UNITED HOSPITALITY GROUP (ST. REGIS COMMUNITY, SAADIYAT ISLAND), TAMOUH, EMAAR, NAKHEEL, DUBAI PROPERTIES, DAMAC, JUMEIRAH GOLF ESTATES, UNION PROPERTIES, TECOM INVESTMENT (A member of Dubai Holdings).

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