Real Estate Investment Laws of Dubai, United Arab Emirates

Shahram Safai
Afridi & Angell, Dubai

The Opportunity: United Arab Emirate's Economy

- UAE is among the most competitive countries in the world and a haven for businesses according to the Global Competitive Report issued by the World Economic Forum.
- UAE is constantly growing & developing with the expansion of Free Zones.
- Pro-liberalisation approach & excellent economic health.

The Real Estate Sector: A Property Explosion

RUNNING OUT OF BEACH? JUST BUILD MORE COASTLINE.

Real Estate Sector: Key Drivers

- World-Class Master Planning
- Fast Growing Population
- Has a youth-heavy age profile
- Inflow of expatriates boosts housing demand.

Real Estate Sector: Onwards & Upwards

- UAE was the GCC's largest construction market in 2007.
- Combining all public & private sector projects now underway, the UAE has invested $ 177bn, Dubai is responsible for over $ 100bn.
- Construction underpinned by cash not debt, although more debt creeping in as more projects are announced.

Dubai Property Registration Law

- Allows freehold and 99 year leasehold ownership of land for foreigners in designated areas
- The designated areas include some of the most desirable areas in Dubai such as Dubai Waterfront Project
- All ownership of property will be registered in a property register at the Dubai Lands Department and a title certificate issued
- Mortgages can be obtained by a property owner and registered against title at the Dubai Lands Department

Dubai Real Estate Brokers' Law

- Establishes mandatory registration of Real Estate Brokers in Dubai
- Establishes a code of ethical conduct for brokers
- Requires brokers to keep customers updated and to deal fairly with customers
- Requires brokerage contract to be in writing
- Disputes concerning brokers to be handled by Dubai Lands Department/Real Estate Regulatory Agency

Dubai Escrow Account Law

- Proceeds from the sale of Real Estate Projects must be deposited into Escrow
- Withdrawn upon Auditor Confirmation and Land Department Approval to pay for Design and Construction costs, Land costs and some Marketing costs.
- Developers must register with Land Department.
- Developers must obtain permission from the Land Department to Market and Sell units.
- New Law creates further investor confidence; attracts Institutional and Corporate Investors.

DUBAI STRATA LAW: THE MEANING AND BENEFITS OF 'STRATA PROPERTY'

- Strata property ownership is a form of ownership of apartments in towers (or similar developments). 'Strata' refers to the different levels in a tower
- Condominium ownership (as strata is referred to in certain jurisdictions) means 'co-ownership' in Latin
- Strata property ownership is generally used for ownership of apartment towers, master planned villa communities, vacation properties and retirement estates
- The primary attraction of Strata property ownership is the ability to own affordable housing in a highly desirable area: facilitates investment in such projects

GENERAL STRATA PROPERTY CONCEPTS

- Strata property generally involves individual ownership of apartments but common ownership of common areas (such as hallways, lobbies, stairways)
- Strata property ownership involves restrictions on property usage (such as restrictions as to changes to unit; restrictions on usage of swimming pool to regular hours etc.)
- Strata property ownership also involves the payment of mandatory maintenance and repair fees.
- These restrictions are generally framed to 'run with the land'; meaning they are registered against title as restrictions (in the form of Rules of Association etc.)

DUBAI STRATA LAW: GENERAL

- The Strata Law was issued on December 10, 2007, and it applies to jointly owned property (i.e. Strata)
- The deed of title for a strata property will consist of the Site Plan, the Master Community Rules & Regulations and the Rules of the Association (Article 6). So, contents will serve as restrictions against title and run with the land
- Common areas include car parking bays, swimming pools, gardens, lifts etc. unless otherwise specified in the Site Plan (Article 7)
- Developer responsible for: 1 year for repairing or replacing any defective mechanical, electrical and/or civil works; 10 years for repairing any structural defects (Article 26)

DUBAI STRATA LAW: ASSOCIATION

- Association of owners is formed upon registration of first sale of a unit in the project (Article 17)
- A unit owner can attend and vote at Association meetings, such vote being proportional to his or her ownership percentage of the project (Article 19)
- Association responsible for administering, managing, maintaining and repairing the Common Areas, and may delegate same in return for fixed fees (Article 21)
- Association shall have a claim against unit owner for unpaid association fees, enforceable through the Courts (Article 25)
- Association obliged to obtain and maintain project insurance for damage/repair and other liabilities (Article 28 & 29)

DUBAI INTERNATIONAL FINANCIAL CENTRE

Law No.4 of 2007: Real Property Law

- Common law based
- Governs real property in the DIFC area
- Maintenance of real property register by Registrar (Article 14)
- Registration of off-plan sales by Registrar (Article 36-39)

DUBAI INTERNATIONAL FINANCIAL CENTRE

- Leases: must register if term greater than 1 year (Article 53)
- Mortgages: may register a mortgage against property (Article 64) and mortgage can sell property on default (Article 71)
- Subdivision of building into multiple lots permitted (i.e. strata) (Article 147)