

Abu Dhabi Administrative Decision No. 246/2015
On the Issuance of the Implementing Regulation on the Interim Real Estate Register in Accordance with Abu Dhabi Law No 3/2015 on the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi

The Chairman of the Department of Municipal Affairs,

After perusal of Abu Dhabi Law No. 1/1974 on the Reorganisation of the Government Apparatus in the Emirate of Abu Dhabi, as amended; and

Abu Dhabi Law No. 3/2005 on the Regulation of the Real Estate Registration in the Emirate of Abu Dhabi; and

Abu Dhabi Law No. 19/2005 on Real Estate Property, as amended; and

Abu Dhabi Law No. 9/2007 on the Establishment of the Department of Municipal Affairs; and

Abu Dhabi Law No. 3/2015 on the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi; and

Abu Dhabi Executive Council Decision No. 64/2010 on Provisions of Real Estate Ownership; and

Based on the documents submitted to the Executive Council and its approval thereof;

Has issued the following decision:

Article 1 - Definitions

In application of the provisions of these Regulations, the following terms and expressions shall have the meanings assigned hereto, unless the context otherwise requires.

Department: Department of Municipal Affairs.

Municipality: Abu Dhabi Municipality or Al Ain City Municipality or Western Region Municipality and any municipality that may be established in the future in the Emirate.

Law: Abu Dhabi Law No. 3/2015 on the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi.

Disposition: Any deal that affects the existing rights on a real estate or results in new rights, including but not limited to the real estate sale, purchase; and mortgage, usufruct and long-term rent transactions; and deeds of assignment relating to any real estate disposition.

Off Plan Sale: Contract whereby the Purchaser is granted realty rights over a Real Estate Unit proposed on the strata or complex scheme.

Survey Requirements: Instructions issued by the Department under the Implementing Regulation on real estate common properties and owners associations in accordance with the Law.

Real Estate Register: Real Estate Register established according to the provisions of Abu Dhabi Law No. 3/2005 referred to.

Real Estate Development Register: Written or electronic register prepared to save all data and documents pertaining to real estate development projects.

Interim Real Estate Register: Written or electronic register prepared for the registration of all dispositions and provisions related to real estate units sold off plan.

Property: Various types of real estate, including land, buildings, facilities and real estate by destination including the Real Estate Unit.

Real Estate Development Project: Project of construction of multi-storey buildings or complexes for residential or commercial or mixed-use purposes, in addition to their facilities, or construction of infrastructure and services facilities in the event of sale of vacant lands.

Developer: Master developer or sub-developer.

Master Developer: A person licensed to practice real estate development, sales, management and rental activities in a part of the main complex by virtue of an agreement signed between him and the master developer or another sub-developer.

Real Estate Unit: Apartments, storeys and shops or any part of the house (Villa) connected to another house or independent therefrom or a vacant land within a common property, whether existing or proposed on the strata plan or the complex scheme and allocated for a commercial or residential or mixed-use purpose.

Owners Association: Owners association formed under the provisions of the Law for the management and operation of common properties including repair, maintenance and good use thereof.

Article 2 - Obligation of Registration in the Interim Real Estate Register

1- Subject to Article 28 of the Law, the Alienator shall, immediately after conclusion of any real estate Disposition, submit to the Department an application for registration thereof in the Interim Real Estate Register according to the electronic or paper form approved by the Department, in which the following data shall be stated:

a- Date of the contract.

b- Data related to the Alienator and the Alienee.

c- Price or value specified in the Disposition Contract (in AED)

d- Name and registration number of the Real Estate Development Project and any relevant major development.

e- The date expected for the completion of the Real Estate Development Project.

f- Details of the property subject of (Disposition), including details of the suggested parcel of land or storey in the building when necessary, and a scheme determining its location and surface area (m²) according to the current registered title deed.

g- Any other data or details determined by the Department at any time.

2- Subject to Article 28 of the Law, if the Alienator of the contract, subject of the off plan disposition, does not submit the application mentioned in clause (1) of this Article, the Department shall inform him to provide it with a copy of the Disposition Contract and relevant information, and the Alienator of the Real Estate Unit shall implement the content of such notice and pay the fees prescribed for the registration of the contract in the Interim Real Estate Register in addition to the Disposition registration delay fines.

3- Subject to Article 28 of the Law, if the Alienator of the Real Estate Unit refuses or fails to register the Disposition in the Interim Real Estate Register within 21 days as of the date of its conclusion, the Alienee may submit the application for registration to the Department and shall have the right to recover the costs he incurred from the Alienator, and in the case of non-payment of such costs by the Alienator, the Alienee may deduct their amount from the purchase price specified in the contract.

4- In the event the Alienator of the Real Estate Unit submits an application for registration of the Real Estate Disposition after expiry of the period specified in clause (3) of this Article, the Department shall register such Disposition and impose a delay fine of (AED 10,000) ten thousand Emirati Dirham to be collected from the Real Estate Unit Alienator.

Article 3 - The Application for Registration Documents

1- The application for registration of the Off Plan Disposition Contract shall include the following:

- a- The receipt of payment of the prescribed fees.
- b- A signed copy of the Contract.
- c- The details of the Real Estate Unit Alienee and Alienator.

2- If the Alienee is a physical person, the following documents shall be attached to the application for registration of the Off Plan Disposition Contract:

- a- A copy of a valid passport.
- b- A residence visa for the Alienee resident in the state.
- c- A copy of the identity card of the Alienee resident in the state.
- d- An identification document accepted by the Department for the Alienee resident outside the state.
- e- The address of the current residence and phone numbers.
- f- The e-mail, which can be used by the Department for the purposes of notification.

3- If the Alienee is a juristic person, the following documents shall be attached to the application for registration of the Off Plan Disposition Contract:

- b- A copy of a valid commercial licence at the date of application.
- b- The Statute and the Articles of Association.
- c- The names and nationalities of the directors and shareholders of the Company.
- d- The e-mail, which can be used by the Department for the purposes of notification.
- e- A copy of the Board of Directors' decision, which includes the delegation of one of its members or the Director to represent the company, and a copy of the passport of the person authorized to sign for the company.

4- After completion of the Disposition registration, the Department shall notify the Alienee and Alienator of the registration and number of the registered contract and shall hand them a notice thereof in accordance with the form adopted by the Department.

Article 4 - Registration of Completed Real Estate Development Projects

1- In the event the Real Estate Development Project is completed and has been granted a certificate of completion from the concerned municipality, the Developer shall observe the following:

- a- Register the completion of the real estate development project in the Real Estate Register at the Department.
- b- Register and transfer the ownership of the real estate unit subject of disposition to the Real Estate Register on behalf of the Purchaser, who paid the purchase price.

2- The Developer shall submit the application for registration of the completed Real Estate Development Project to the Department in accordance with the approved form, accompanied by the receipt of the payment of the prescribed fees in addition to the following:

- a- Copies of the current certificates and title deeds of all land parcels comprising the Real Estate Development Project.
- b- Copies of approvals of authorities concerned with the Real Estate Development Project.
- c- Completion certificate from the concerned municipality and the approved project consultant confirming the completion of the Real Estate Development Project.
- d- A letter of no objection from the Master Developer if the project Developer is a sub-developer.

- e- A table showing the details related to each real estate unit or parcel of land in the project and stating the entry references in the Interim Real Estate Register, which include the following:
 - f- The number of the Real Estate Unit or parcel of land.
 - g- The surface of the Real Estate Unit or parcel of land measured in the manner required by the Survey Requirements.
 - h- The number and surface of the parking or storage space or additional Real Estate Unit spaces that are part of or related to the real estate unit or parcel of land, when necessary.
- 3- The Department shall register the completion of the Real Estate Development Project and details of the Real Estate Units or parcels of land in the Real Estate Register.

Article 5 - Transfer to the Real Estate Register

- 1- If the Purchaser has fulfilled his contractual obligations and paid the full purchase price under the Agreement registered in the Interim Real Estate Register, the Developer shall within 21 days as of the payment of the purchase price, submit an application to the Department for the transfer of the ownership of the Real Estate Unit or parcel of land, subject of the agreement, to the Purchaser, as well as all real estate rights associated with the ownership right, if any.
- 2- The Developer shall submit, to the Department, the application for the transfer of the ownership of the Real Estate Unit to the Real Estate Register in accordance with the form adopted by the Department and accompanied by the following documents:
- a- The receipt of payment of the prescribed fees.
 - b- A certificate confirming redemption of the mortgage on the property subject of disposition to which the transfer relates.
 - c- Any new or alternative mortgage registered immediately after registration of the transfer.
 - d- Any other documents or requirements established by the Department.
- 3- The Department shall register the transactions according to the following order:
- a- Redemption of the mortgage on the property subject of Disposition.
 - b- The transfer of ownership; the ownership right may be transferred along with the mortgage in the absence of redemption thereof, subject to the consent of the mortgagee creditor.
 - c- The new or alternative mortgage of the Off Plan Disposition.

The transfer of the ownership right and the new or alternative mortgage, if any, shall be registered and all Dispositions associated with the Real Estate Unit shall be transferred from the Interim Real Estate Register to the Real Estate Register as need may be.

Article 6 - Transfer of the Ownership Right by the Purchaser

- 1- If the Developer does not transfer the ownership of the real estate unit or the parcel of land in accordance with Article (5) of these Regulations, the Purchaser, under the Disposition, or the mortgagee creditor, may submit to the Department a request to enforce the transfer, and provide it with copies of the documents and information to prove his right in the transfer of the Disposition from the Interim Real Estate Register to the Real Estate Register.
- 2- The Department shall notify the Developer of the request referred to in clause (1) of this Article, and grant him (21) days as of the date of his notification to state the reasons that prevented him from transferring the Disposition of the Real Estate Unit or parcel of land to the Alienee.
- 3- The Department may, after considering any reports provided by the Developer, transfer the Disposition of the Real Estate Unit or parcel of land from the Interim Real Estate Register to the Real Estate Register on behalf of the Alienee, and the Developer shall bear the Disposition transfer costs unless otherwise agreed with the Purchaser.
- 4- If the Developer fails to respond to the notification within the period prescribed in clause (2) of this Article, the Department may proceed with the transfer of the Real Estate Unit or parcel of land disposition from the Interim Real Estate Register to the Real Estate Register on behalf of the Alienee without further notice to the Developer, at the expenses of the Developer.
- 5- The Department shall notify the Developer of its decision on the registration issued pursuant to clauses (3) and (4) of this Article.
- 6- The Developer may file a grievance before the Chairman of the Department against the decision referred to in clause (5) of this Article within two weeks as of the date of his notification thereof.
- 7- The Chairman of the Department shall decide on the grievance within thirty days from the date of its registration before the Department.
- 8- The concerned party shall have the right to appeal the decision mentioned in clause (7) of this Article before the competent court within sixty days as the date of his notification thereof.

Article 7 - Transfer of Ownership by the Department

- 1- If the Department finds out that the Developer did not comply with the provisions of Article (5) of these Regulations, it may, at its sole discretion and after conducting a research and investigation, transfer the Real Estate Unit or parcel of land

Disposition from the Interim Real Estate Register to the Real Estate Register on behalf of the Alienee under the Disposition Contract, and may recover any costs and expenses it incurred in the implementation of the Disposition transfer, including the prescribed fees from the Developer.

2. The Department shall exercise its powers by virtue of clause (1) of this Article after satisfaction of the following:

- a- Completion of Real Estate Development Project registration after its achievement.
- b- Registration of the relevant partition schemes (strata scheme and complex scheme).
- c- Registration of any Owners Association.
- d- The Alienee's fulfilment of all his contractual obligations established under the Disposition Agreement.

Article 8 - Disposition of the Registered Real Estate Units

1- Subject to the registration requirement provided for in Article 27 of the Law and the provisions of these Regulations, the Real Estate Units registered in the Interim Real Estate Register may be disposed of as well through sale or mortgage or any other dispositions.

2- The Department shall register all security mortgages imposed on real estate units registered in the Interim Real Estate Register in accordance with the procedures governing the security mortgages in general pursuant to the provisions of the Law and the Implementing Regulations on security mortgages.

3- Any security mortgage imposed on Real Estate Units registered in the Interim Real Estate Register shall not be deemed valid unless registered in the Interim Real Estate Register and such mortgage shall be binding on any of its parties or on third parties.

4- The Department shall issue the instructions and controls when necessary to regulate the registration of security mortgages related to Real Estate Units registered in the in Interim Real Estate Register.

Article 9 - Executive provisions

The Department shall issue its decisions, instructions, directives and models necessary to implement the provisions of these Regulations.

Article 10

This Decision shall be published in the Official Gazette and shall take effect as of the date of entry in force of the provisions of the Law.

Issued by us in Abu Dhabi

On 26/10/2015 AD

Corresponding to: 13/01/1437 AH

Saeed Eid Al Ghafli

Chairman of the Municipal Affairs Department

The present Decision was published in the Official Gazette, issue no. 10, dated 31/10/2015 AD, p. 106.