

TANMIA: A new Initiative by Dubai Land Department

Mohammed Kawasmi - Partner - Real Estate / Family Business
m.kawasmi@tamimi.com - Dubai International Financial Centre

The Centre has recently launched a new initiative called “Tanmia”, which in Arabic means “Development”. Tanmia is a program that looks after incomplete projects in difficulty and not progressing. The DLD, represented by the Centre, plays a mediator role between developers of such projects and investors who might be interested in buying and/or investing in same.

Objectives

DLD summarises the objectives of Tanmia as follows:

- 1- Contribute to driving the real estate investment wheel in Dubai.
- 2- Reduce the number of incomplete projects in Dubai.
- 3- Settle all pending issues and revitalize real estate projects.
- 4- Revitalize the real estate sector.
- 5- Raise the attractiveness of investing.
- 6- Reactivate a developer’s investment portfolio.
- 7- Offering multiple options through the presence of projects in more than one geographical location.

Developers and investors can each approach the Centre – developers to request enrollment of their projects, and investors to register an intention to invest in a specific project.

The idea is that an investor may buy a whole project to develop itself, or alternatively, become a joint venture partner with the existing developer to complete the project. Each alternative would be subject to the parties’ mutual agreement.

The Centre supports investors to obtain information about the project, through the support of DLD and RERA, which have collected and hold information on the various real estate projects in Dubai as a result of the requirements imposed through the Dubai property laws (which require developers to register their projects, obtain DLD approval to open escrow accounts, file audited financial reports in respect of a project, register details of units sold off-plan in the Interim Register etc).

It is intended that the DLD, possessing the necessary information in respect of a project, will give confidence to an investor that he will be able to undertake comprehensive due diligence, and use such information to assist with preparation of a feasibility study, with full knowledge of all rights and obligations affecting the project.

Legal issues - due diligence

The main legal issue which an investor needs to consider as part of its due diligence exercise, is the existence of third party rights in respect of a project (such as unit purchasers, contractors and suppliers).

An investor will need to honor obligations entered into by the developer with respect to third parties, particularly its unit purchaser. In this respect, the developer should provide the investor with full disclosure and copy documentation, in order for the investor to be aware of any purchaser defaults and the developer’s liability toward third parties which will be assigned.

Master Developer

Generally speaking, a master developer's consent to assignment of the project to a new investor/sub-developer will be required, (as per the provisions of the agreement between the master and sub-developer).

From our experience in dealing in these matters, master developers do not usually mind consenting to assignment of a project to as long as the new investor/sub-developer can demonstrate that they have the financial capability to honour the development obligations and complete the project.

Moving forwards

We are aware that the Centre has supported the [assignment of] two uncompleted projects to new investors, as at the date of this article. Al Tamimi and Company provided legal assistance with respect to one of the projects and from our experience, we are of the view that many other incomplete projects in Dubai could take advantage of this important initiative.

The Centre has a special team for the Tanmia initiative to support developers and investors and, from our first-hand experience in dealing with them, they are providing a valuable service by assisting all parties, providing them with information, arranging meetings and assisting in negotiations between the parties.

Al Tamimi and Company is able to assist developers and investors alike through conducting comprehensive legal due diligence and drafting the appropriate legal documentation as may be required between the developer, investor and master developer.

We envisage Tanmia having a positive impact on the real estate market of Dubai. It is a new initiative and as such, will require time to grow and increase its influence. If you would like any further information on the initiative, please contact Mohammed Kawasmi - Property (m.kawasmi@tamimi.com).