

MOVING FULL TRAIN



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A LEARNED author once observed that private property is a relationship among human beings. "The so-called owner can exclude others from certain activities or permit others to engage in those activities and in either case secure the assistance of the law in carrying out this decision," says F Cohen in his seminal 'Dialogue on Private Property'.

To fully implement the above principle, it

is of great importance that, among other things, the assistance of the law is clearly present through clearly written regulations and procedures that are fully transparent.

The Land Registration Law of 2006 (Dubai Law Number 7 of 2006) allowed ownership by expatriates of certain lands in Dubai on freehold or 99-year leasehold basis. The Land Areas Designation Regulation of 2006 (Regulation Number 3 of 2006) specifies the areas in which land could be owned by expatriates on freehold or 99-year leasehold basis.

Both have greatly assisted in bringing further transparency in the form of written laws for many developers, owners and lenders. As many are aware, the government is contemplating issuing further related laws such as the Escrow Accounts Law.



■ A busy day at the Dubai Land Department office

Such transparency should also be present in the procedures related to property transactions. No doubt, with that or a similar purpose in mind, the Land Department recently issued pocket size booklets containing the fee schedule with respect to property transaction registrations. The booklets in summary state:

- Freehold Sale and Purchase: 1 per cent of the market value of the property's transaction is payable by a seller, and 1 per cent of the market value of the transaction is payable by a buyer in the sale and purchase registration.
- Mortgage: 0.25 per cent of the mortgage amount is payable with respect to registration of a mortgage (subject to a maximum of Dh1.5 million).
- Long-term Lease: 1 per cent of the total pay-

TOWARDS SPARENCY

ment under the lease agreement is payable for registration that is not less than three years and not more than 99 years in duration.

■ **Land Development Lease (Musataha):** 1 per cent of the total payments are payable for registration so long as such agreement is not longer than 50 years in duration.

■ **Land Development Lease (Musataha) Transfer:** 0.25 per cent of the total payments are payable for transfer of a registered Musataha agreement to another.

■ **Rent-to-Own Agreement (Ijarah):** Under the Islamic financing method, 1.75 per cent of the value of the lease is payable for registration.

Other Related Fees

■ **Issuance of a Title Deed:** Dh250.

■ **Issuance of a replacement title deed (along with newspaper announcement):** Dh1,000

plus Dh100 for a site map.

Registering a Will: 0.125 per cent of the value of the property that is mentioned in the will, subject to a minimum of Dh2,000 plus Dh250 for a title deed. There is also Dh100 for a site map.

Land Valuation Fees

■ **Valuation of Vacant Plot:** Dh2,000 if no visit by the Land Department is required.

■ **Valuation of a constructed plot as a villa:** Dh4,000.

■ **Valuation of a constructed as a commercial building:** Dh6,000.

■ **Valuation of a constructed plot as hotel:** Up to Dh15,000.

The fee schedule will provide greater clarity and transparency with respect to registration costs for all concerned. It is important to note the Land Department has

further attempted to bring transparency and clarity to property transactions in the booklets.

"Any contract or transaction registered with any of the development companies in the freehold areas but not with the Land Department after application of the Land Registration Law of 2006 should be registered again with the Department for it to become legally accepted in the country and its fees should be (paid) accordingly."

This statement is a confirmation of Article 9 of the Land Registration Law of 2006 which requires: "All transactions that create, transfer, change or cancel rights over land shall be recorded in the Land Register. No transaction shall have any effect unless registered in the Land Register."

It may be observed that it is the intent of

the Land Department that all transactions, including sale and purchase agreements, be registered at the Dubai Land Department even before completion of a building or unit. Although such registration will provide greater protection to purchasers, it may raise concerns for developers and investors that have issued conditional sale and purchase agreements.

This is conditional in that all purchase price payments are to be made on a timely basis before any substantial rights accrue to the purchaser at completion. It also remains to be seen how quickly and in which manner such registrations are implemented by the Land Department.

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