

Law organizing construction in the towers area of modern Doha (The ‘Dafna Law’)

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However, what remains a thorny issue in the construction industry is delay, which is caused by various factors, including lack of funding, local regulations, lack of management and or otherwise.

So what does Law No. 6 of 2004 Organising Construction in the Towers Area of Modern Doha (the ‘Dafna Law’) state with regard to the following classic scenario: land in the Dafna Area has been purchased, the required building permits have been obtained, construction work has commenced, and delay in completing construction within the time frame specified under said law occurred. What action is the relevant authority entitled to take under such law? And what are the land owners’ options/remedies, if any?

General Overview on Property Ownership

Law No. 6 of 1963 restricted freehold estate in Qatar to Qatari nationals (individuals or juristic bodies); however, in 2002 the State of Qatar introduced a new piece of legislation allowing the Gulf Cooperation Council member countries (GCC) to own up to three properties in residential areas subject to certain restrictions. Furthermore, Ministerial Resolution No. 5 of 2006 permitted nationals of the GCC member states to own properties in the following three areas the Lusail, Al Kharayj and Jabal Thuaileb. The 2002 legislation was followed by Law No. 17 of 2004 granting non-Qataris the right to own properties in the Pearl, West Bay Lagoon and Al Khor. The said law also granted non-Qataris the right to hold usufruct rights – restricted to 99 years – renewable in 18 additional areas defined as ‘Investment Areas’.

Al Dafna Area is one of the 18 Investment Areas listed under Ministerial Resolution No. 6 of 2006 issued in relation with Law No. 17 of 2004. As such, freehold in Al Dafna is restricted to Qatari nationals unless an exemption is granted by virtue of an Emiri Decree.

The Dafna Law

Article 2 of Dafna Law requires land owners to complete construction within five years from the Law’s effective date or from the date of contracting or acquiring the land, with an obligation to obtain the necessary permits and commence construction within three years of the aforementioned period. A breach of Article 2 entitles the Ministry of Municipality and Agriculture – now being the Municipality and Urban Planning (the ‘MMUP’) with the right to acquire the relevant land upon compensating the land owner for such acquisition. Compensation under the said law is estimated in accordance with the price list effective at the time of contracting or ownership and within a maximum price of QAR40/sq ft for residential lands and QAR60/sq ft for commercial lands.

The said law also prevents land owners from disposing of title to land prior to completing any construction work. A transfer is only permitted subsequent to (a) the land owner’s payment for the land price in full or after submission of a financial guarantee that is acceptable by the MMUP; and (b) obtaining a construction certificate issued by the competent authority at the MMUP. The financial guarantee is only acceptable in

lieu of cash if the full price of the project cannot be paid in cash for the construction certificate to be issued. In other words, the financial guarantee cannot be lodged to transfer property before construction is complete.

The Current Practice

Property developers often wish to know whether the local authority (herein the MMUP), has been adhering to the time frame requirement of the Dafna Law and whether such authority does actually resort to acquiring land in the event land owners fail to abide by such requirements.

Experience demonstrates that the MMUP is in fact active in its attempts to adhere to the Dafna Law requirements and has recently approached the Real Estate Registration Department with at least ten acquisition requests resulting from the land owners' failure to meet the Dafna Law time frame for completing construction. The Dafna Law remains applicable to all types of lands in the Dafna Area regardless of whether such lands were granted by a special Emiri Decree or otherwise.

Summary of the MMUP procedures

In co-operation with the Real Estate Registration Department, and in the event the MMUP's records indicate that construction for a certain project has not been completed within a five year period, the Acquisition Department at the MMUP notifies the land owner(s) of the failure to complete construction and of the MMUP's decision to acquire the land against compensation in compliance with Article 3 of the DAFNA Law. The said law does not provide for a specific notice period to be observed, therefore, the MMUP has the right to notify the land owner of the same and to immediately proceed with the acquisition procedures thereafter. The said law also does not provide for a course of action to be taken by affected land owners; however, in practice land owners have been able to complain against the offered compensation.

Conclusion

As noted above, in addition to the restriction on ownership transfer before obtaining the relevant construction certificate, land owners in the Towers of Al Dafna Area are subject to the risk of land acquisition in the event of failure to complete construction within the time frame provided for under the Dafna Law. The said law does not entitle land owners to a grace period in order to complete construction if construction is delayed beyond the five years time frame; nor does the MMUP seem to refrain from enforcing its rights under the said law.

However, it is advisable for land owners to always communicate with the MMUP to keep the latter informed of construction progress and any expected delays before the five years deadline. Although there is no guarantee that the MMUP will take into account the reasons put before it, it may nevertheless delay its right in executing acquisition if it believes that construction is nearing completion or there are reasonable grounds for any delay.