

Marketing Foreign Property in the Kingdom of Saudi Arabia?

by Daniel Goodwin - d.goodwin@tamimi.com -

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As the largest economy in the region and with year on year stable growth in GDP, the Kingdom of Saudi Arabia (“KSA”) is increasingly being seen as a fertile source of potential buyers of real estate located outside KSA.

With such activities on the increase, the Ministry of Commerce and Industry (“the Ministry”) has recently issued a new Foreign Property Marketing Licence and has set out the requirements to market foreign property off-the-plan in KSA.

The purpose of introducing the Foreign Property Marketing Licence is to put in place requirements that protect Saudi nationals concerning foreign real estate marketed to them within KSA. It is also consistent with the consumer protection policies behind the requirement for the Licence for the Sale of Units On-the-Map, which applies to the sale of property off-the-plan *within* KSA.

The Ministry has recently issued a circular confirming that, without obtaining an approval for a Foreign Property Marketing Licence, it is prohibited within KSA to offer any foreign real estate units for sales off-the-plan or to publish advertisements or to market foreign real estate units through the media or by any exhibitions.

REQUIREMENTS & CONDITIONS OF A FOREIGN PROPERTY MARKETING LICENCE

Some of the requirements to obtain a Foreign Property Marketing Licence include:

- there must be a contract between the foreign developer and a licensed Saudi real estate broker;
- the Saudi broker must hold a valid commercial registration permitting “property marketing” and must have existing business premises in KSA;
- no sum of money may be received in KSA from the buyer;
- no contracts for the sale of foreign property units off-the-plan shall be concluded in KSA;
- the foreign developer must hold a valid licence in the jurisdiction where the property is located; and
- an official document from the relevant authorities in the foreign jurisdiction where the property is located must be provided to the Ministry allowing Saudi ownership of property units and must be attested by the relevant authorities in both jurisdictions.

To achieve a certain level of disclosure and transparency and to ‘level the playing field’ between buyers and marketers of foreign property, some of the conditions imposed on licence holders include:

- no verbal promises or assurances can be given to the buyer by the marketer;
- all conditions for the resale of the property and any other conditions or restrictions must be explained to the buyer;
- the process of property registration and the extent of available utilities and services to the property must be clarified; and
- the applicable laws, fees and taxes must be explained to the buyer before the contract is made.

CARRYING OUT MARKETING AND ADVERTISING OF FOREIGN REAL ESTATE

Unsurprisingly then, it is a requirement to first have a Foreign Property Marketing Licence before commencing marketing activities, advertisements, seminars or exhibitions to promote any foreign real estate.

Some of the Ministry's stipulations include that any advertisement:

- cannot be published unless it has first been approved by the Ministry's Off-Plan Property Sale Committee;
- must not be misleading or contrary to public morals and must be in Arabic;
- must include certain detailed information and specifics on the property that is to be marketed;
- must state: *"Payments are to be made and contracts signed in the jurisdiction where the property is located"*;
- can only be published through channels licensed by the relevant authorities;
- must include full details of the broker and his contact details; and
- must include the number under which the licence was issued by the Ministry's Off-Plan Property Sales Committee.

Conclusion

The stability, growth and opportunities in the Kingdom of Saudi Arabia attract many, including property marketers. The Foreign Property Marketing Licence applies directly to the sale off-the-plan of foreign property of any type to nationals within KSA. A failure to obtain a Licence will leave both the developer and any promoter in KSA open to a range of penalties.

The contents of the agreement between the foreign developer and the KSA marketing agent needs to be drafted carefully to protect each party's interests, to set out the necessary procedures for introducing Saudi buyers and to comply with the Foreign Property Marketing Licence requirements and other relevant laws that apply.

With increased interest in the Kingdom of Saudi Arabia, it is prudent for the KSA authorities to issue regulations which clarify the requirements for the sale of foreign property for buyers, Saudi real estate brokers and for foreign developers, especially at a time when such sales in KSA are so strong.