

Update: Abu Dhabi Real Estate Law Implementation

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This article provides a snap shot of the latest updates insofar as the Abu Dhabi Real Estate Law is concerned:

Merger of the Department of Municipal Affairs and Transport (DMAT) and the Abu Dhabi Urban Planning Council (UPC) into a new authority named the Department of Urban Planning and Municipalities (DPM)

The Chairman of Abu Dhabi Executive Council issued Resolution No. 5 of 2018 merging the DMAT and UPC into a new authority named the Department of Urban Planning and Municipalities (DPM).

DPM's authority includes the regulation of the real estate market and urban planning in the Emirate of Abu Dhabi. All references in the real estate laws, in particular Law No. 3 of 2015 on the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi ("Law No. 3"), which defined the regulatory powers of DMAT, should now be considered as references to DPM.

Compliance with the requirements of Law No. 3 of 2015 and its Implementing Regulations

The Chairman of DPM has issued Circular No. 2 of 2018 Regulating the Real Estate Sector in Abu Dhabi with Implementation Guidelines and Circular No. 9 of 2018 On the Suspension of Services and Transactions at the Municipalities ("Circulars"). The Circulars are intended to enforce full implementation of Law No. 3 and its Implementing Regulations by setting a final deadline, together with strict penalties against non-compliant parties. The deadline was initially set in the Circulars for 14 March 2018. This deadline was extended to 14 April 2018 pursuant to the Circular No. 3 of 2018 on the Extension of the Effective Date of Circular No. 2 of 2018 and further extended in Circular No. 5 of 2018, issued by the Chairman of DPM, to 1 ("Final Deadline"). Unless a further extension of the Final Deadline is granted by the Chairman of DPM, we are now expecting the Municipalities to start taking action to suspend services.

The Circulars direct developers to complete the following before the Final Deadline:

- registration and receipt (or renewal) of a developer licence from either Abu Dhabi City Municipality, Al Ain City Municipality and Al Dhafra Region Municipality ("Municipalities");
- registration of all their real estate development projects; and
- registration of all real estate units in the names of their purchasers, whether relating to off-plan or completed projects.

Following the Final Deadline the Municipalities plan to suspend all services and transactions for any developer that has any outstanding obligation towards any Municipality ("Restrictions").

Accordingly, a non-compliant developer will not be able to process any application or transaction, nor receive any service from any of the Municipalities, whether or not such application, transaction or service relates to a real estate development project.

The Restrictions placed against non-compliant developers in the electronic systems of the Municipalities will be lifted if all of the outstanding obligations are fulfilled.

The same Restrictions also apply to brokers, valuers or surveyors who fail by the Final Deadline to register and obtain a licence from the relevant Municipality (or renew their licences as applicable) as required by Law No. 3.

Caps on Developer Administrative Fees

A cap of AED 5,000 has been imposed on administrative fees which developers may charge on disposals. This cap was introduced by Resolution No. 183 of 2017 of the Chairman of DMAT (now DPM), effective from 15 November 2017. Under Law No. 3, developers cannot collect any fees, whether registration fees or other fees, expenses or remuneration in relation to any disposal of real estate, except for administrative fees within the limit set by DPM (Article 16 of Law No. 3)

Caps on Broker Fees

Following on from Article 7(5) of Law No. 3, Decision No. 183 of 2017 also sets caps on real estate broker commission fees, as follows:

- for sales, a cap of two percent (2%) of the purchase price, subject to a maximum fee of AED 500,000; and
- for leases, in the absence of contrary agreement between the parties on brokerage fees, a cap of five percent (5%) of the total rent of the entire lease term.

Standard Form of Brokerage Agreements

DPM has issued standard forms of brokerage and sub-brokerage agreements attached to Decision No. 183 of 2017 of the Chairman of DMAT. These are effective from 15 November 2017. Use of these standard agreements is now compulsory, it is however possible to include additional provisions.

Furthermore, as required by Article 7(1) of Law No. 3, brokers must now register brokerage agreement (or sub-brokerage agreements) with the relevant Municipality. Registration must be completed within fifteen days of signing the brokerage agreement and before the broker receives any commission, fees or other amounts from his client.

Joint Initiative between Al Tamimi & Company and DPM to issue a Legal Guide on Real Estate Investment in Abu Dhabi and a Reference Book of all Abu Dhabi Real Estate Law and Regulations

Al Tamimi & Company in cooperation with DPM will be publishing a “Legal Guide on Real Estate Investment in Abu Dhabi” and an essential reference book that compiles all Abu Dhabi Real Estate Law and Regulations.

The Legal Guide will outline the legal framework on real estate investment in Abu Dhabi and will be published in a number of languages, including Arabic, English, Chinese and Russian.

The accompanying reference book will be published in Arabic and English and will contain all the real estate laws and regulations currently in effect in Abu Dhabi, including content of the directives and resolutions which are not currently published in the Official Gazette.

Al Tamimi & Company's real estate team regularly advises on matters concerning properties in Abu Dhabi. For further information, please contact [Maha Dahoui \(m.dahoui@tamimi.com\)](mailto:m.dahoui@tamimi.com) or [David Bowman \(d.bowman@tamimi.com\)](mailto:d.bowman@tamimi.com).