

The future of owners' rights

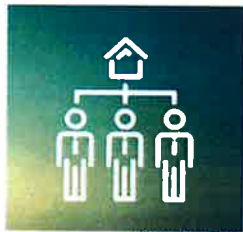
A JOP Declaration is one of the most important documents that protects an owner's rights

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Special to PW

Law No.27 of 2007, commonly known as the Jointly Owned Property Law, provides a framework for the formation of an owners' association so that common property within a development, such as the swimming pool, gym, corridors and gardens, can be managed and maintained. In 2010, the Dubai Land Department issued a direction implementing the Jointly Owned Property Law into regulations, in an effort to regulate unit owners' interests in the common property of a development. This regulatory structure is a necessary tool in providing owners with various rights and obligations relating to the development.

The Jointly Owned Property Law and its regulations require at least one jointly owned property declaration for a jointly owned property (such as



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an apartment building or an office building).

■ Why is the JOPD important?

After a unit is handed over to an owner by the developer, the Jointly Owned Property Declaration ("JOPD") is one of the most important documents that can create and protect a unit owner's rights, and assist in the resolution of disputes between owners or with a developer.

Once the property is legally transferred from the developer to the owner, the JOPD is a primary document that an owner can use to assert its rights relating to the property and because the submission of the JOPD is

a legal obligation, an owner can rely on the provisions of a registered JOPD as binding and can use it in court proceedings if required.

■ What is the JOPD?

The JOPD is a document made by the owners in a development, setting out how the common areas will be managed and operated. There are various mandatory provisions that the declaration must contain, including:

- a schedule of the units and their percentage ownership in the common areas of the project;
- arrangements for the delivery and use of utility services;
- easements or covenants that burden or benefit the common areas;
- details of environmental management conditions; and
- an explanation of the structure and how it will operate and be managed.

Owners can also agree to incorporate other optional provisions into the JOPD, such as use restrictions for particular units or specified parts of the common areas;

or exclusive use rights to specified units in respect of parts of the common areas or assets, including any related conditions.

■ Who drafts the JOPD?

It is the developer's responsibility to prepare and submit the JOPD. It is best to ensure that the JOPD has been drafted by and is dealt with by professional legal consultants so that the documentation is correctly and carefully drafted and submitted to the Land Department; and quickly and efficiently administered with the Land Department.

■ Where are JOPD's filed?

The JOPD must be submitted to the Dubai Land Department (more specifically to the Real Estate Regulatory Agency or Rera), together with certain documents including:

- common areas site plan;
- community rules;
- an application for the formation of the owners association;
- an audit or an undertaking to conduct an audit; and

• the fees that are payable.

It is the responsibility of Rera to review the JOPD. Rera will assess the JOPD's compliance with the relevant laws and regulations. It is vitally important that the JOPD is properly drafted to protect owners' rights. JOPDs are the future of unit owner's rights. ■



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