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Dominican Real Estate Property Due Diligence

The purchase, sale, transfer and disposition of Dominican Republic real estate property is governed by Real Estate Property Law 108-05 of 2005 and its regulations as well as the Dominican Civil Code and other special laws which may apply depending on each particular case.

Persons, be either Dominican nationals or foreigners desiring to buy, resell or in any way dispose of real estate in the Dominican Republic should note that Dominican Republic real estate laws and regulations particularities make it preferable to conduct a due diligence and review process through independent counsel in order to verify legal and tax status of the property before any formal decisions or payments are made.

At the outset, the due diligence process consists, but is not necessarily limited, to the following:

Legal Status of the Property

The verification of the legal status of Dominican Real Estate Property, generally through a request of Legal Status certification through the Title Registrar and its obtainment thereof, does not conclude, but rather begins the process of procuring and obtaining full amount of verifiable legal information regarding the purchase, selling, or disposition of Dominican Real Estate property.

As a matter of fact, the legal status certifications of real estate properties do not serve as guarantees that the status of the properties will remain as such until the closing of a purchase, sell or disposition transaction and do not reveal the terms and conditions which may be attached in the proposed agreements and project regulations, which may limit, delay or prevent a full transfer or disposition of Dominican real estate property rights in favor of a new purchaser or beneficiary.

On the other hand, it is also important to request to the Land Court of the competent jurisdiction where the Dominican real estate property is located for a “no pending litigation” certification, certifying that the prospective Dominican real estate property is not currently the subject of any legal claims or suits.

Finally, a title search before the Central Title Registrar Office E- File System in Santo Domingo, showing all publicly recorded actions, amendments or transfers related to a particular Dominican real estate property, should be made to ensure that other possible risk factors not reflected in other deed or real estate property documents can be identified.

Tax Status of the Property

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The verification of Tax Status (“Good Standing”) of the Dominican real estate property itself and of the seller or owner is paramount for conducting a proper closing on Dominican Real Estate.

This process begins by obtaining from the seller or owner of Dominican real estate its Dominican Identification Tax Contributors Card (RNC). In addition, a copy of the deed of the property and evidence of tax registration and payment of property taxes (if applicable) is essential to allow for a proper verification of this information. At times, even official certifications delivered by seller in this regard should be verified by a qualified and independent attorney at law not related to the seller or the intervening broker.

Existence of most recent original tax certifications should accompany the closing of any Dominican real estate transaction, as most remain valid as to their attested information for only a few days.

Factual Status of the Property

The verification of the factual status of the property is essential to ensure that there are no squatters or other factual matters affecting the right to fully enjoy and use the real estate property.

In the case of real estate properties consisting of empty lots or green fields, it is advisable to acquire the services of a qualified and independent land surveyor to ensure that the location, metrics and the boundaries or walls enclosing the property are correct and do not show inconsistencies.

In condominium and closed gate projects under construction, it is important to verify existing or future works and pending rights of way within condominium or project location, which may not be in final blueprints, to ensure it does not affect privacy expectations or the right to fully use and enjoy the property.

In sum, a visit to the property to identify and address factual matters, conducting necessary field works and reviewing proposed agreements and project documents in light of existing condominium and construction laws and regulations, is not only advisable but often indispensable.

Conclusion

In conclusion, the making of a due diligence process motivated by the potential purchase, sale, reselling or disposition of real estate in the Dominican Republic should be strongly considered by purchasers, sellers or beneficiaries, to ensure that most, if not all, risk factors which could affect the right to transfer, own, use and fully enjoy of the property can be timely and properly identified before any formal decisions and payments are made in consideration of the property.

Questions about this information can be directed to Our Team at 809.472.2222 (info@aclaw.com) or to our lead contact Felipe Castillo (fcastillo@aclaw.com).

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