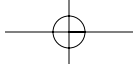


# **VOLUME 7**

## **SECTION 10**

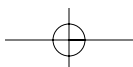
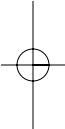
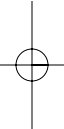
### **RESPONSIBILITIES OF REAL ESTATE DEVELOPERS**

**The Real Estate Board  
8 Dominica Drive  
Kingston 8**



## TABLE OF CONTENT

<b>CHAPTER 1</b> .....	1
BACKGROUND	
<b>CHAPTER 2</b> .....	2
REGISTRATION OF DEVELOPERS AND DEVELOPMENT SCHEMES	
<b>CHAPTER 3</b> .....	5
TRUST ACCOUNTS	
<b>CHAPTER 4</b> .....	13
MONITORING OF DEVELOPMENT SCHEMES	



# CHAPTER I

## BACKGROUND

### 1.0 THE REAL ESTATE ACT

In 1987, Parliament passed the Real Estate (Dealers & Developers) Act. This Law responded to the need to streamline the varied aspects of real estate business. It contains provisions for regulation of the activities of real estate agents, auctioneers, appraisers, property managers, rental agencies, real estate salesmen, dealers and, of course, developers.

The provisions of the Law which concern Developers are designed to enforce minimum standards of business conduct.

The Real Estate (Dealers and Developers) Act mandated the creation of the Real Estate Board. The Board's objective is to regulate the real estate profession and protect the public.

## CHAPTER 2

### REGISTRATION OF DEVELOPERS AND DEVELOPMENT SCHEMES

#### 2.0 WHO IS A DEVELOPER

A developer may be either an individual or a limited liability company. A developer engages in the business of developing real estate for sale by:

- i erecting buildings
- ii erecting apartments, dwellings, etc.
- iii sub-dividing land into lots.

#### 2.1 DEVELOPMENT SCHEME

A development scheme refers to the development of land, whether in the form of a sub-division in which lots are to be sold, or in the form of buildings, on the basis of approvals by the local planning authority. The local planning authority may be the:

- i KSAC
- ii Parish Councils
- iii Portmore Municipality

#### 2.2 APPROVAL AND REGISTRATION OF SCHEMES

Persons planning a development scheme must:

- i submit their proposals to the local planning authority, (KSAC, Portmore Municipality) including subdivision plans and building plans;
- ii obtain all the approvals needed for the development scheme;
- iii ensure that these approvals carry the required official stamps and the conditions which apply are stated.

#### 2.3 APPROVED SCHEME

Where a scheme has more than five lots or units, or a person has developed

another scheme of whatever size in the last six months, they must apply to the Real Estate Board for registration as a developer of the approved scheme.

## **2.4 STAMPED APPROVALS AND FEES**

The following is required when registering:

- i submit copies of stamped approvals along with plans and specifications to the Real Estate Board;
- ii pay the prescribed fees.

Legally, no developer should start a scheme and accept deposits from purchasers without being registered at the Real Estate Board.

## **2.5 INFORMATION REQUIRED FOR REGISTRATION BY THE REAL ESTATE BOARD**

Developers applying for registration - the Real Estate Board also requires developers applying for registration to complete a form giving the following information:

- i Name and address of the developer;
- ii A certified copy of the Certificate of Incorporation if the developer is a body corporate;
- iii Evidence that the developer is the owner of the land being developed (copy of registered title; Volume and Folio);
- iv The number and proposed use of the building units or lots, as the case may be, to be built in the scheme;
- v Estimated cost of the development;
- vi The prices, financing and payment plan proposed for the sale of building units/lots;
- vii The time for start and estimated time of completion of the scheme, or its stages;
- viii Evidence of approval of the development scheme, including copies of approved plans and letters of approval from the local planning authority;

- ix Evidence of scheme financing by an authorized financial institution;
- x Copy of every prepayment contract entered into with each purchaser.

## 2.6 INFORMATION IN ADVERTISEMENTS

When developers advertise units of lots for sale, the Real Estate (Dealers & Development) Act stipulates that the advertisement **MUST** state clearly:

- i from whom the approvals for the scheme were obtained;
- ii where and when the plans, drawing and specifications may be inspected;
- iii the location of the land and its physical features;
- iv the dimension and gross covered floor area of each type of building in the scheme;
- v the composition of the walls, floor and roof of each building;
- vi the sale price of each type of building unit;
- vii whether the contract includes an escalation clause.

## CHAPTER 3

### TRUST ACCOUNTS

#### 3.0 TRUST ACCOUNT FOR DEVELOPMENT SCHEMES

Every registered developer must lodge all deposits received from clients under prepayment contracts into a Trust Account. The Trust Account is to be maintained with a bank or other authorized financial institution. Each development scheme must have its own Trust Account.

The money must be held in this account and interest earned must be applied for the benefit of the person or persons who are entitled to such funds.

#### 3.1 REPORT TO REAL ESTATE BOARD ON TRUST ACCOUNT

Once the Trust Account has been established, the developer must report to the Real Estate Board giving full details of the following:

- i the development scheme to which the prepayment contract relates;
- ii the name of the vendor under the contract;
- iii the name of the financial institution and the branch with which the Trust Account is maintained and the number of the Account;
- iv the name and address of each purchaser under contract;
- v number of the building and, if separate, the lot or strata lot in the development scheme;
- vi the amount of money received from each purchaser;
- vii the purchase price of the building and, if separate, of the lot or strata lot;
- viii total payment to date into the Account in respect of the development scheme.

### 3.2 WITHDRAWAL FROM TRUST ACCOUNTS

Money can only be withdrawn from a Trust Account under the following conditions:

- i if it is being deposited into another such account;
- ii for payment of Stamp Duty and Transfer Tax;
- iii for partial reimbursement of 90% of material cost, and work done in the construction of the building or work stipulated in the contract;
- iv at the time of withdrawal the developer must register a charge on the title of the land (which is being developed) with the Registrar of Titles in favour of the Real Estate Board in relation to all deposits received under contracts. Copies of this charge must be presented to the Board and the bank holding the Trust Account prior to withdrawal of funds.



## CHAPTER 4

### MONITORING OF DEVELOPMENT SCHEMES

#### 4.0 INSPECTIONS AND MONITORING OF DEVELOPMENT SCHEMES

Real Estate Board Inspectors will monitor development schemes, throughout construction. If they identify transgressions of the Act, Inspectors may recommend removal of a developer from the Register.

#### 4.1 MAKING THINGS EASIER

The Real Estate Board is committed to making things easier for all developers who want to give the best service and product to the public. Compliance with the requirements outlined in this section will benefit both the developer and clients, ensuring the confidence of the public.

#### 4.3 PROCESSING OF APPLICATION

Once an application for registration has been made, the Real Estate Board will process the application quickly. This normally is completed within 3-8 weeks, providing that all the required information has been made available to the Board.

Developers are encouraged to comply with the provisions of the Act, and to cooperate with the Real Estate Board.

#### CONTACT INFORMATION

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