

CYPRUS PROPERTY ACTION GROUP

CYPRUS PROPERTY PITFALLS

- a time for ACTION!

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INTRODUCTION

For many years, Cyprus has enjoyed a growing income from tourism and receipts from property sales. Recent research suggests that nearly 60,000 foreigners, mainly Britons, have bought property in Cyprus and the foreign revenue flowing into Cyprus from retirees who have made their homes here together with foreign businesses operating in Cyprus make significant contributions to the island's economy.

However, we believe that the island's financial well-being is under threat as a result of a property industry that is running out of control. Although the system of laws, regulations and their enforcement may have been perfectly adequate forty, thirty or even twenty years ago, we believe that the system can no longer cope with the demand.

Unscrupulous property developers take advantage of the situation and prey on unsuspecting property buyers. They build without the required planning and building permits, they introduce buyers to their friends in the legal profession who draw up one-sided contracts, they demand payment for work that has not been done, and extort money from hapless buyers by whatever means possible.

Cyprus is not isolated from the rest of the world; it cannot hide these failings. Foreign media companies are showing a great interest in the property issues. The Cyprus Property Action Group is aware that research teams from BBC, ITV and Channel 4 have visited the island and have interviewed a number of dissatisfied property buyers.

The future of the Cyprus property industry has reached a crossroads. Unless the authorities act quickly to remedy the situation, the damage caused to Cyprus's good name and reputation could have far-reaching consequences. At the very least, the financial repercussions resulting from the drop in foreign revenues from property sales, and tourism, could be catastrophic for the island's economy.

Many victims have found that currently there are no real avenues open to them to gain redress or assistance. For most foreigners, the justice system in its current format provides no mechanism for prompt and fair litigation.

Out of this situation of despair and helplessness, the Cyprus Property Action Group (CPAG) was formed in May 2007 to lobby for the rights of such victims.

During this time we have also discovered that many of the problems we see are shared with Cypriot buyers.

CPAG's stated aim is to try to work with the Authorities to make Cyprus one of the safest places in which to buy property.

PURPOSE OF THIS REPORT

1. To document the nature and severity of the problems experienced by both foreigners and Cypriots when purchasing property in Cyprus: by identifying the wide range of potential pitfalls across the whole industry; and illustrating the impact on buyers in terms of financial and other considerations.
2. To suggest immediate actions required to overcome buyers' problems which are needed to safeguard this industry and therefore the Cyprus economy.
3. To propose measures to eradicate the current potential pitfalls in order to ensure a successful future market by making Cyprus a safer place to buy property.

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Section I: EXECUTIVE SUMMARY

This report is not a statistical analysis of problems that foreigners and Cypriots have experienced when buying property in Cyprus. It is a snapshot of the current state of the market as reflected by the growing number of reports received by the Cyprus Property Action Group (CPAG) from disenchanted, disappointed, and often angry property buyers - many of whom feel they have been cheated. Over 2,000 buyers have contacted CPAG so far, even without advertising, and this number grows daily.

There are many problems affecting Cyprus property buyers. If Government fails to address these problems with the utmost urgency, they will severely damage the attractiveness of Cyprus as a country in which to invest in property.

Many foreign buyers have been lulled into a false sense of security by developers. They have been led to believe that advertising standards and the legal systems in Cyprus are the same as those of the UK. Clearly this is not the case - as many buyers have found to their cost.

The Cyprus legal system and the business practices of the legal fraternity do not protect the interests of buyers adequately; a problem that is particularly acute in the area of litigation, as the justice system is widely recognised to be unfit for the purpose.

Buyers have paid in full for their property, and in good faith, only to discover that they are not the legal owners. This seems to be in total conflict with the spirit of Article 23 of the Constitution of the Republic of Cyprus.

While waiting for their Title Deeds, property buyers find themselves in a 'Title Deed Trap'. Whilst in this Trap, property developers illegally demand (in the good name of the Government!) huge amounts of 'Immovable Property Tax' from unwitting buyers; such demands are often accompanied by the threat of withholding Title Deeds to elicit payment.

Developers and other vendors defraud buyers, sometimes with disastrous consequences. This results from the lack of regulation, the laxity of enforcement of planning and other laws and the ineffectiveness of the legal system.

Buyers are unwittingly 'encouraged' to break the law by being allowed to occupy property that has not been inspected by the Planning authorities and issued with its Certificate of Final Approval. This is in direct contravention of Article 10 of the Streets and Buildings Regulations Law, Cap. 96.

It should be noted that the Cypriot buyers also suffer many of these problems, especially the denial of their property rights through grossly delayed legal ownership, whilst developers raise mortgages on, and take risks with, 'their' homes.

Our findings suggest that the whole property industry, including property law and the planning system, has been grossly slanted in favour of developers, their bankers and the legal fraternity, to the great disadvantage of the buyers (both Cypriot and foreign) and also to the Nation's own tax revenues.

Angry buyers are making derogatory comments about Cyprus and the many problems associated with buying property here. Both in the media and on the internet, the UK media are starting to take great interest in their problems. CPAG has been contacted direct by UK TV companies, but has refused their advances so far.

Since its inception, CPAG has been an outlet for much of this anger. This is because we have stated that our aim is to work with Government and industry to resolve their problems. However, if Government chooses not to engage us in constructive dialogue, we shall be forced to go elsewhere to seek redress.

We respectfully suggest that Government adopt the following recommendations to resolve the problems associated with buying property in Cyprus:

- The immediate establishment of an independent Property Complaints and Arbitration Agency to address the current problems faced by buyers.

The establishment of such an Authority will demonstrate to potential property buyers that Government recognises there are problems and that it is eager to support current and future buyers in resolving them. It will also help to protect the image of the property industry and of Cyprus as a whole.

- An urgent review of the fundamental property ownership issues that result in the ‘Title Deed Trap’. This review should establish an early exit strategy from this totally unsatisfactory and unethical situation, which without doubt, is morally indefensible, for the tens upon tens of thousands trapped in such an unjust way. This review should determine how the conveyance of freehold Title to buyers will be achieved concurrently with the final payment of the purchase price in future. This is the most important issue for most of the buyers contacting CPAG.
- Those property developers who have defrauded money from buyers in the ‘Title Deed Trap’ under the guise of ‘Immovable Property Tax’, must be forced to refund to buyers the additional amounts paid by them, together with interest at 9%. Government should also initiate the criminal prosecution of those guilty of this fraud.
- Article 10 of the Streets and Buildings Regulations Law, Cap. 96 to be strictly enforced by Government and that property developers who flout the law and allow unsuspecting property buyers to follow their example, be dealt with summarily and severely.

With regard to the future wellbeing and success of the Cyprus property industry, we urge Government to strengthen the legal, regulatory and administrative framework in order to guarantee improved levels of consumer protection for future property buyers.

CPAG will support any initiatives that Government undertakes to resolve the many issues faced by those buying property in Cyprus. We are willing and available for consultation and participation, if required.

Section II: PROPERTY MARKETING AND SALES

There are many companies, and also private individuals, involved in the marketing, promotion and sale of property in Cyprus. Some companies are based in Cyprus; others are based overseas and often act as marketing and sales agents for Cyprus-based property development companies and sales agencies.

The numbers and 'occupations' of these private individuals promoting, introducing and selling property and who expect to receive a payment for their efforts is almost endless. Examples are bank employees, hotel staff, tour representatives, taverna staff, taxi drivers, etc, who are not covered by any regulation of any kind in this respect. Small wonder that buyers are given incorrect and misleading information about buying property here.

CPAG also considers some of the information provided in the brochures and magazines produced by developers and estate agents to be very misleading, especially in certain key areas. One of these is that Cypriot law is based on, or similar to, British law, in the context of property purchase. With this simple statement most foreign buyers, especially British buyers who are used to buying in the UK, are put off-guard and are left wide open to manipulation, or at best lulled into a false sense of security.

In fact, modern Cyprus law has its origins in a variety of different legal systems including those of Greece, Turkey, France, Germany, England and even the USA. For example, Property law is based on Ottoman Land law.

Here are just some examples of these misleading statements :-
(Please note all the documents quoted below are **currently** being distributed to prospective clients by the organisations mentioned, unless otherwise stated.)

Aristo : 'Paphos Times' "***The legal system in Cyprus is largely based on the British equivalent and safeguards the purchaser's rights in many ways***".

It then goes on to cite the "Specific Performance" law as the main protection for buyers of which there is **no** British equivalent, as there is no need for this secondary protection in lieu of Title Deeds, as the situation of waiting for many years for legal ownership simply cannot happen in the UK as transfer of ownership and issue of Title Deeds is simultaneous with the purchase.

Leptos: 'Elegant Living' "***The legal system in Cyprus is very similar to the English system. Since our accession to the EU in 2004 we have harmonised our laws and regulation to that of the Union.***"

Antonis Loizou: 'Introduction to Cyprus' "***The legal system in Cyprus is mainly based upon the British Legal System. The Cyprus Land Registry is probably one of the most advanced and reliable systems in the world. Purchasers of property in Cyprus will therefore be far more secure with regard to their Title Deeds than they might be in another country.***"

N. B. - With regard to legal systems, one of the most important legislative protections for purchasers of new property in Cyprus is the issuance of a Final Completion Certificate under Article 10 of the Streets and Building law CAP 96. Unlike the UK

where multiple inspections are made by the Authorities throughout the build process, in Cyprus there is only one independent inspection. This law and the protection it affords is routinely and conveniently ignored by developers, estate agents and buyers' lawyers.

Leptos: "Elegant Living" ***"There is no requirement for you to appoint a solicitor as our own Legal Department will handle everything on your behalf."***!

Please note that on property advice websites, including that of the British High Commission, purchasers are advised to appoint independent lawyers. Indeed the Cyprus Bar's (lawyers' own Association) "Code of Conduct Regulations" mandate that':

"10. In the exercise of any duties assigned to them, advocates must always act in absolute independence, free of all forms of dependence or pressure, and in particular as may arise from their own interests or external influence."

So what is being suggested by Leptos is bad practice and clearly not in the clients' interest.

On the subject of Immovable Property Tax, Leptos in its "***Elegant Living***" gives the relevant tax bandings, completely failing to mention that the taxes are payable on '1980 values' - as other developers do. In the example shown it states that ***"Therefore the Annual Property Tax on a villa valued at CY£180,000 is CY£200"***. In its earlier "***Paphos Gazette***" dated Spring 2006 and since superseded by the latest versions (no mention of IPT in these), Leptos states ***"Therefore the Annual Property Tax on a Villa valued at CY£180,000 is CY£450"***.

In fact a villa purchased for CY£180,000 once Title Deeds are issued would attract no IPT as the '1980 value' would be less than the threshold of CY£100,000 and this is the case with the vast majority of properties purchased in Cyprus. However in common with other developers Leptos quite illegally, and without proper explanation, charges buyers excessive IPT (e.g. CY£ 360 or more, on a property purchased for CY£180,000) not much of which is passed on to the Inland Revenue, whilst they are in the Title Deed trap, often waiting years to have the Deeds transferred. CPAG believe this narrative in the Leptos brochure is in support of this illegal practice. (See section VIII of this document on Immovable Property Tax where this fraudulent practice is more fully explained).

Other examples of misleading statements:

Leptos 'Elegant Living': ***"Due to the amount of construction over the past years the issuing of title deeds for your property can take up to 2 years. This is not a problem for you to be concerned about as your purchase has been logged (sic) with the Council of Ministers and your investment is completely safe. In time the Land Registry will catch up with the backlog and deeds will be issued much quicker"***!

N.B. Average Title Deed issuance seems to be around 10 years whereas this misleading assurance states ***"up to 2 years"***.

Peter Stephenson Properties 'Property in Cyprus': ***"In a nutshell, it means reduced risk. Buying property in a foreign land is a big step and one which shouldn't be undertaken lightly. By dealing with an established licensed company such as ours you are taking the risk out of purchase"***.

Around 70 buyers were sold properties by Peter Stephenson Properties (PSP) on behalf of J&I Estates, a company owned by a Briton, Ian Beaumont. According to clients, CY£3.5M was paid into PSP's UK account for payment to Beaumont who has now left Cyprus, as has the Manager of PSP's Paphos branch Andrew Nolan (at the time banned for 15 years by the UK courts for serious financial wrongdoings). Stage payments were being demanded by PSP when in fact very little was happening on the building sites. Now left trying to pick up the pieces, victims say that they are horrified by the lack of protection afforded to buyers in Cyprus.

Many clients of Superior Homes have been contacting CPAG. Their brochure under "Unique Investment Opportunities" gives an example where investors "*only have to invest 30% of the selling price, then the property is put back on the market before the next 60% is due and the property is sold at retail price.*" It is thought that around 1,500 apartments have been sold to date. With this scheme investors are predicted by Superior to make 78.3% return in 9-12 months! Unfortunately, buyers find that the apartments cannot be resold and then have to take out mortgages to pay the full price.

Some who have had to risk their UK homes on the mortgage are being financially distressed, some are in default and being taken to court. Often these apartments are not completed – or even started!

Buying off-plan (favoured in other countries with stricter enforcement than Cyprus) can cause buyers to be disappointed and to feel cheated. Here is an example :

Aristo: Paphos Times "*There are many advantages to buying your property off plan as you watch your investment grow.*"

"By buying a property from a well-established company like Aristo Developers you avoid the risks associated with buying off plan from other companies."

For an example, see case study on the CPAG website where around 20 maisonettes were sold in Peyia by Aristo only for buyers to find when they took possession that a huge block of apartments had been started right in front of their properties and significantly devaluing them.

Most of these buyers have not moved in as they try to offload these bad investments in any way they can (so far unsuccessfully). In one recent Loizou property auction one of these Aristo apartments, bought in April 2004 for £76,900, was offered at a guide price of £69,000 and failed to be sold. After three and a half years, buyers will be very lucky indeed to even break even on these "**investments**" they were sold "**off-plan**"!

This is not to say that Aristo definitely knew about this offending apartment block when they built their complex. However the laxity of proper town planning in Cyprus means that the off-plan concept is fraught with these pitfalls, something buyers are obviously not warned about.

Developers often sell properties off-plan **before** they have a Planning or Building Permit (surely this is 'no plan' rather than 'off plan') and what buyers think they are buying often gets changed before completion.

In support of this statement, in a response to a suggestion in the press by CPAG that Title Deeds could be issued at Planning Permit time Antonis Loizou wrote that ***“The completed project must be checked against the original building permit, since in most cases there are deviations. If these deviations are illegal or not, these must be checked and approved”***, going on to state that ***“otherwise you will find that the title deeds will bear no relationship to the permit”***, thus confirming that even if there was a permit developers in ***“most cases deviated”*** from this !

In one common example reported to CPAG, a buyer found that his planned apartment had been significantly reduced so that his neighbour could have a larger space and the large balconies which were the main reason he bought the apartment had also been significantly reduced. The developer’s response was “take me to court” !

Inspection Trips: Antonis Loizou in the Cyprus Weekly, 26th October 2007, wrote an article (“Inspection Trips – A Con Job?”) on how “big” but quite illegal estate agents bring in prospective buyers using what appear to be less than ethical tactics, the developers willing to pay 15% commission plus VAT. Citing the various dubious tactics employed to get these people to buy, his last line in his article proclaims ***“who cares about the buyers?”***.

In Cyprus, Real Estate Agents are considered a profession and are regulated by the Board for the Registration of Real Estate Agents. Approved by parliament at the end of 2004, the new Estate Agents’ Law was designed to protect property buyers.

Unfortunately, the law has not deterred unregistered Real Estate Agents who continue to ply their trade openly and without sanction from the Cyprus Authorities. Registered Real Estate Agents are required to carry out the legal searches of the properties they are selling. They must ensure that properties have a clean Title with no hidden legal or physical defects or faults. Licensed Estate Agents are also required to find out whether there are any encumbrances, memos or any other Legal Charges or obstacles to selling the property and to advise buyers accordingly. Nevertheless, this duty to clients is not always carried out.

The law requires Registered Real Estate Agents to have professional liability insurance providing a minimum cover of CY£100,000 before they are issued with a licence to practice by the registration board.

Conclusions

Promotional material is designed purely to assist in the selling process and may contain statements that are untrue, misleading or give assurances that are worthless. In other EU countries, such advertising is closely regulated. There appears to be a law against this practice in Cyprus but clearly it is not enforced by any Authority.

Registered Estate Agents may even be less professional than some unregistered Estate Agents based on the information being received by CPAG, as will be borne out in some of the examples in this document. (It is noted that Superior Homes and Peter Stephenson Properties, mentioned previously, are Registered Real Estate Agents).

Although laws exist to protect property buyers from rogues and conmen, illegal estate agents continue to practise with impunity. These existing laws appear to be ineffective in

protecting buyers' interests due to lack of proper enforcement.

Recommendations

We advocate a strengthening of the laws and regulations governing the marketing and sale of property.

With regard to advertising literature and other forms of marketing materials, we urge Government to introduce a code of mandatory advertising standards and guidelines to protect property buyers from being misled. This code must guarantee that all promotional and marketing material is legal, honest and truthful and that any claims made in that material, whether direct or implied, are substantiated by hard documentary evidence.

With regard to the promotion and selling of property, CPAG believes that only through proper regulation, via an enforced Estate Agents' law, can this area of purchaser risk be drastically improved. We therefore urgently request the reinforcement of the regulation in this sector as follows:

All companies involved in selling or promoting properties must by law become registered Estate Agents, including the Sales Offices of developers. Note that the licensing authority and the regulatory body required for this are already in full operation.

In addition to the individual agent's Public Indemnity Insurance the Estate Agents' Association should have a central compensation funding arrangement as a body of 'last resort', and they should decide the methodology of such an arrangement. The Cyprus Estate Agents Association should regulate the profession and set up a user-friendly Complaints and Arbitration procedure with a system of sanctions/fines for offenders and compensation where warranted for the affected parties.

We also urge Government and those charged with enforcing the law to ***take a proactive role in seeking out and closing down*** illegal estate and property sales organisations.

All property transactions to be conducted using an independent lawyer. Estate Agents must not recommend or introduce particular lawyers.

No client monies to be passed via Estate Agents, but only direct to vendors under the supervision of the client's lawyer.

In the case where properties without a Planning Permit are being promoted, a reservation fee of only £1,000 may be requested. This fee must be placed into a lawyer's escrow account for a finite and disclosed period and returned immediately upon failure to obtain Planning Permission within this timeframe.

Section III: TOWN PLANNING

Article 23 of the Constitution states:

- 1. Every person, alone or jointly with others, has the right to acquire, own possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right.*
- 2. No deprivation or restriction or limitation of any such right shall be made except as provided in this Article.*
- 3. Restrictions or limitations which are absolutely necessary in the interest of public safety or the public health or the public morals or **the town and country planning** or the development and utilization of any property to the promotion of the public benefit or for the protection of the rights of others may be imposed by law on the exercise of such right.*

Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of such property: such compensation to be determined in case of disagreement by a civil court.

1. The Cyprus Town Planning System

N.B. The descriptions and quotations which follow are taken from the Ministry of the Interior's website and booklet (The Citizen's Charter and the Planning System) describing the Planning System and are published in Greek and English. Presumably, being also published in English, they are aimed at giving the foreign buyer a 'degree of comfort' when buying in Cyprus – in this respect they are most misleading!

“The Planning System is aimed at a rational planning of the types of development which Cyprus needs: new housing development, industries, offices, schools, tourist facilities of various types, roads, stock-breeding farms etc.”

*“The planning system does not replace the assessment of applications and the granting of building permits in accordance with the Streets and Buildings Regulation Law but is primarily **aimed at controlling the intensity and manner** in which land and buildings are used, in order to safeguard the **public interest**.”*

The Planning System of Cyprus contains two main elements:-

a) Development Plans

Although the system provides for four types of Development Plans, currently these consist of just Local Plans “and usually refer to wide geographical areas that function as unitary entities.” For example, a major town such as Paphos or a Municipality such as Peyia. “Normally, these plans define the planning zones and the uses permitted in each location of the area covered by the plan.”

For example, in Peyia there are 5 main zones around the town centre, where the vast majority of the new developments to serve foreign buyers are located. All these Zones

have a maximum building height allowed (8.30 metres), maximum number of 'accommodation' floors (2), maximum 'footprint' for the building versus the land available (from 15% to 50% depending on zone) and maximum amount of accommodation area allowed (building coefficient) as expressed as a percentage of the land available (from 15% to 90% depending on zone). This means that if in an apartment block the first floor covers the full 50% footprint allowed, then the second floor can only have accommodation space equivalent to 40% - i.e. up to the maximum 90% building coefficient allowed.

According to the MOI Planning System description, only the Council of Ministers can give permission to exceed these maximums, and then only after a very lengthy process.

“When applications for a planning permission through departure from the provisions of the Development Plan are under consideration, particular attention is given to ensuring that the public is informed in a timely and reliable manner. In such cases, the Planning Authority ensures that a notification is posted on the site of the proposed development and shall often dispatch letters addressed to the owners of neighbouring property inviting them to submit their views.”

“The Planning Authority shall ensure that the public, and in particular individuals and organised groups who may be affected by the grant of a planning permission through departure, are informed in the appropriate time and in a reliable and sufficient way about the submission of such application.”

The Planning System MOI description seems to suggest that there is scope for redress in this devaluation of properties - even if the appropriate legal procedures up to Council of Ministers had been properly carried out. And so there should be, if Article 23 of the Constitution is really being followed. However, the application of law in Cyprus and the safeguards under the Constitution appear to serve only the chosen few vested interests.

The passage from the description states :-

“In certain cases, when an applicant feels that the planning decision is not in accordance with the provisions of the applicable Development Plan, he/she may submit a planning appeal to the Minister of the Interior or file a complaint with the Commissioner for Administration (Ombudsman) or appeal before the Court. Parts V, VI and VII of this Charter define the service standards which an applicant should expect with respect to the consideration of planning appeals or complaints by the competent authorities and with respect to the submission of claims for compensation”.

b) Development Control

“Development control is aimed at:

- *Ensuring the rational location of various types of development so as to safeguard the country's socio-economic development, public health, living and working amenities for the population and the quality of the built and natural environment.*

- *Prohibiting the implementation of development projects which are deemed to be detrimental to the above qualities and standards.*
- *Securing the application of the rules and standards prescribed by the planning system, as well as the conditions laid in the permissions granted and the enforcement of their implementation in cases of non-compliance.”*

*“If any development commences or has been executed **without planning permission** or if any development has been executed without adherence to the conditions attached to the planning permission, the Planning Authority may serve an **Enforcement Notice** upon the owner and occupier of the immovable property.”*

In summary, it would appear on the face of it that Cyprus has a proper functioning Planning System. However what happens in practice is somewhat different!

2. Cyprus Town Planning in Practice

The planning system is extremely slow and bureaucratic; the total elapsed time from the application for a Town Planning permit to the issue of Title Deeds can be eight or ten years. When problems arise the system takes much, much longer. We have several different cases reported to us, where people who bought property as far back as 1982 are still waiting for their Title Deeds. Any such system of delays and bureaucracy is ripe for ‘favours’ and ‘accommodations’ as will be demonstrated in this document.

It is interesting to note that Cyprus ranks 39th in the Transparency International’s *Corruption Perceptions Index*, below countries like Botswana and Dominica, a drop of 12 places since 2003. So even Cypriot respondents, who are pre-conditioned to living with concepts such as *rusfeti*, perceive that the country is getting ever more corrupt.

Developers and others building property, by law, must have Planning and Building permits before they can start construction work (although this requirement is often ignored, without any apparent sanction in most cases).

Should the developer change the design or if the construction deviates from these Permits, ‘cover’ permits are required. It would appear that most developments need to apply for these cover permits, which means presumably that most developers have no intention of building exactly what they received permission for and have probably already promoted to clients. This need for cover permits just puts further pressure on an already failing planning system.

Once the development has been completed, the planning authority is invited to inspect that development to ensure that it has been constructed in accordance with the permits issued for its construction. If the planning authority is satisfied, it issues a ‘Certificate of Final Approval’.

Article 10 of the Streets and Buildings Regulations Law, Cap. 96, provides that “no person shall occupy, use or permit any other person to occupy or use any building”, unless and until a Certificate of Final Approval has been issued in respect thereof by the

appropriate authority. This law is flouted by property developers who do not advise buyers that it is illegal to occupy property that has not been issued with a Final Approval Certificate.

Unlike other EU countries, where properties are independently inspected while under construction, a self-regulatory system is employed in Cyprus. The independent inspection of completed properties, and subsequent issue of a Certificate of Final Approval, is therefore a vital safeguard to ensure that properties are built in accordance with the planning and building permits issued for their construction, and that they are safe and suitable for human habitation.

Please see the Case Studies Section VI of this report where buyers (Graham Cooper-Selley and others), were taken to court under Cap 96 after many years of battling for justice and property rights, only for the apparent interference of Government itself to thwart the legal process, presumably to prevent a precedent ruling, in order to cover up for the failing planning system.

This law is there to protect buyers' interests, yet the 'system' in Cyprus totally abuses their rights, whilst serving only to protect the developers' breaking of this important law.

If properties form part of a development, a Division Permit is required. This enables the authorities to sub-divide the properties so that a Title Deed may be issued for each property comprising the development.

Once a Division Permit has been issued, a Certificate of Approval of the Division Permit is required. This follows a similar procedure to that of the Certificate of Final Approval and culminates in the issue of a 'Certificate of Approval for Division'.

The 'Certificate of Final Approval' facilitates the legal occupation of the building(s); and together with the Building Permit, the 'Certificate of Approval for Division' (where required) and various other documents are required by the Land Registry so that Title Deeds may be issued for a property.

Although the planning rules appear quite rigid, those charged with issuing permits are allowed by lax regulation to confer 'discretion' in certain situations and to favour certain developers. This discretion results in developments that exceed height restrictions, building densities, usage restrictions, etc. In addition, permits are granted without any apparent thought to the amenities or value of adjacent properties. As a result, blocks of apartments and other properties are built which overwhelm nearby properties, substantially reducing their value. ***In cases reported to us, the value of properties has been reduced by as much as half, e.g., individual losses running into hundreds of thousands of pounds.***

As can be seen in the Case Studies Section VI of this report (ref Mr and Mrs O'Hare), the Government's Development Plan Zoning requirements are ignored by the Planning Office personnel in favour of certain developers, and for quite unsuitable developments which grossly break these regulations and also significantly devalue surrounding properties, thus making a mockery of any Government "Development Plans".

On January 12th 2007 an article appeared in the Cyprus Mail under the title ***“Ombudsman Blasts Land Registry”***. It stated, ***“Bigger problems, continued Nicolaou, have been discovered at the Town Planning Department, in which it has been revealed that permits are being granted without the legal requirements being fully satisfied”***. The Ombudsman also noted that when it came to local area plans the problems were ***“insurmountable”***.

It would therefore appear that the Government are well aware of these misdeeds by the very people charged with protecting the integrity of the system and the interests of the buying public.

Property developers sell properties ‘off-plan’, before planning and building permits have been issued for their construction. Buyers are presented with artistic impressions of developments that are based on the aspirations of developers rather than those based on the architectural drawings for which planning and building permits have been issued. The consequence is that buyers take delivery of a property with specifications that are substantially different from those shown and/or described to them at the time of sale.

Property developers and building contractors start, and sometimes complete, developments without having the necessary planning and building permits. This can result in deadlock between the developers, who have acted illegally, and the planning authorities, which refuse to grant permits. Further complications arise as the Cyprus Electricity Authority will not provide a supply to a property unless a building permit has been issued for its construction. We have situations reported where buyers have had to suffer generator noise and fumes for 24 hours a day for over 2 years. When the generators run out of fuel, meals are ruined and people left in the dark and cold in winter and sweltering heat in summer.

More seriously, some buildings are built illegally and then have a demolition order placed on them as a result of court action by the Authorities. This seems to be quite a ‘selective’ process and appears to affect only a few developers. Most of these buildings are not then demolished and the buyers are left in limbo regarding court action. Why go through court action to obtain a demolition order when no one seems responsible for the enforcement of the court order ? What kind of deterrent is this ?

We note with dismay that recently, ***under pressure from the developers*** and in recognition of an extremely slow and bureaucratic planning process, instead of fixing the system the Government has abdicated responsibility and allowed a ‘self-checking’ express procedure for certain types of permits. Clearly, based on the track record of developers’ honesty and adherence to the law of the land, this will result in yet another raft of new problems for buyers.

In recent times, the Cyprus Government has relocated villages damaged by landslides to safe locations. However, there appear to be no rules governing the building of properties in landslide areas. Properties are constructed on bentonite and m \acute{e} lange landslides and even on in-filled rainwater gullies and ravines, in apparent disregard of the potential consequences to those buying and living in those properties.

Conclusions

Abuse of the planning system is endemic, and laws designed to protect property buyers are ignored by most property developers. This abuse sometimes results in properties that are built and occupied illegally, often without utility services or with only ‘temporary’ services provided by the developer.

The apparent inability of the planning system and the people charged with its management, to control the suitability (height, size, etc) of buildings devalues properties nearby. There is no recourse to any compensation procedure for the owners whose properties are affected.

Properties are built in areas at high risk of landslides and flooding, with obvious, and possibly life-threatening, consequences for their buyers.

Bureaucratic delays in processing planning and building permit applications, delays in inspecting properties and issuing their Certificate of Final Approval merely serve to encourage property developers, and others, to break the law and, *more importantly, to delay the transfer of legal ownership to the buyers for many years.*

Recommendations

Immediately, develop a process and laws which give buyers full legal ownership, through Title Deeds at the time when they complete their contractual payments for that property, as is the case in other countries, for example Russia and the UK.

Improved planning control is needed to protect existing property owners from nearby developments and a compensation scheme for those affected. Further planning controls are needed to prevent construction in areas at high risk of landslides and flooding.

The planning process needs to be simplified and streamlined, while at the same time ensuring that greater emphasis is placed on law enforcement and adherence to building and planning regulations.

More specifically, and more urgently, we urge Government to:

- *Ensure Article 10 of the Streets and Buildings Regulations Law, Cap. 96 be strictly enforced.* Any property developers found to be flouting the law and who allow unsuspecting property buyers to follow their example should be dealt with summarily and severely.
- *Ensure that planning and building regulations and laws are properly enforced and that properties which have been built illegally are demolished and the buyers compensated, and that the developer concerned is dealt with in the criminal courts.*
- *Establish a compensation scheme for buyers whose properties have been significantly devalued by planning permits issued for later adjacent developments.* As appears to be called for under Article 23 of the Constitution (Property Rights).

Section IV: LAWYERS AND THE LEGAL SYSTEM

Foreword

The Legal System of any modern democracy provides a legal framework of protection to the citizens and also of the State of that democracy, embracing the requirements of a just and egalitarian social system.

The responsibility for its stewardship and its continuing ability to cope with a constantly evolving scenario rests solely and firmly with the Government of that State and its responsible officials.

This section looks at the lack of protection which property buyers in Cyprus are afforded with regard to the established laws and provision for justice, bearing in mind the stated protection of those rights as enshrined in the Constitution of the Republic, specifically Article 23.

The Cyprus Legal System

“Modern Cypriot law has its origins in a wide variety of different legal systems which have operated over the years in various civilisations, including those of France, Germany, Greece, Turkey (the Ottoman Codes and Turkish family law), the United States and England as well as dowry and the undisposible portion. All of them have influenced the development of the Common Law and the administrative law in Cyprus, leading to its present position as a significant international business centre.”
(ref: Introduction to Cyprus Law - Andreas Neocleous and Company
www.neocleous.com)

Note : Property law in Cyprus is based on Turkish Ottoman law.

Article 23 of the Cyprus Constitution states:

Every person, alone or jointly with others, has the right to acquire, own possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right.

Sub-section A: Property-related Laws

Note: The planning laws are covered in the Town Planning Section III.

1. Ownership via Title Deeds

In an article which can be viewed on the CPAG website, Dr Andonis Vassiliades, Professor of Law, Criminology and Penal Justice, under “*The Politics of Homeownership and Title Deeds*”, estimates that from 80% to 90% of all properties are without Title Deeds in the names of the occupants. “*Indeed the figure grows to 95% for all new properties*”.

The notion that buyers can pay the full price for a property then not legally own it for many years is hardly consistent with Article 23 - *“the right to acquire, own, possess, enjoy or dispose of”*.

As a buyer in this ‘Title Trap’ period which could be anything between 10 and 15 years, or even much longer, purchasers have many disadvantages :

- They do not own the property and are therefore unable to enjoy the full benefits of property ownership; including the right to sell or transfer it to anyone they wish without reference to its Title Deed holder.
- If they wish to sell the property, they need to cancel or transfer their contract of sale at the Land Registry with the agreement and cooperation of the Title Deed holder. This enables the Title Deed holder to enter into a new sale agreement with the new buyer - so far so good. But this ‘right to sell’ is not automatic; it requires a ‘special’ clause in the original contract of sale (which also needs to limit the cancellation/transfer fee charged by the Title Deed holder at a ‘reasonable’ amount). Without such a clause, those wishing to sell their property are at the mercy of the Title Deed holder. CPAG has been contacted by a number of buyers who have been charged amounts many times greater than the actual costs incurred by the developer, to cancel their contract of sale and thereby potentially cancelling out any profit resulting from the sale.
- In certain circumstances the Title Deed holder can still raise a mortgage using the land on which the buyer’s property is built as collateral, without his or her knowledge or consent. This effectively prevents buyers from selling their property – who is going to buy a property knowing there is a mortgage lodged against it?
- Without Title Deeds buyers are unable to raise money against the property and are unable to access any of the capital tied up in the property through equity release loans and other schemes.
- As there are also problems in obtaining mortgages on resale properties without Title Deeds, anyone wishing to buy needs to have the ready cash.
- Some unscrupulous developers also use the threat of withholding the Title to demand additional payments or to stifle valid complaints by clients.
- Buyers are unable to make any alterations or additions, including sheds or even satellite dishes.
- Buyers are unable to pass the property on to their heirs as a normal inheritance.
- The developers can financially exploit buyers legally and illegally (e.g. Immovable Property Tax) whilst they are trapped and at their mercy, under threat of withholding Title Deeds if the buyer does not pay.

Indeed at the end of a long wait for many years the vendor may not even be willing to pass the property to the buyers and legal action to force this may have to be undertaken.

Even more insidious, even if otherwise willing, is the fact that the developer may have taken loans on their properties which preclude this transfer. A record CY£2.36 billion of loans taken by developers in Cyprus is currently sitting on the back of other people's properties. In the event of a property crash or global credit crunch potentially many of these people who have already paid for their property could find themselves homeless.

Stating that it has not happened in the past has no bearing whatsoever on these real risks.

2. Specific Performance

The Specific Performance law is, on the face of it, merely a remedy to force transfer of ownership from the vendor to the buyer. In effect it is a recognition of the Title Deed trap problem and therefore would not (and should not) be needed if transfer of Title happened at the time of purchase as in other countries, e.g., UK and Russia.

However, unless the sales contract is lodged with the Land Registry within two months of the sale even this law cannot be invoked. Many purchasers for various reasons such as buying direct from developers without proper legal advice, or simple failure of duty of care by their lawyer, may not have this 'protection' due to failure to lodge within the required timeframe.

In any case this law in itself has loopholes. For example, if the vendor has a mortgage on the property, the lending institution has rights which supersede the buyer's. Other problems may also arise, for example, if the vendor is not the sole legal owner.

3. Certificate of Final Completion

Under CAP 96 (10/1) it states: *“No person shall occupy, or use, or cause, or permit, or suffer any person to occupy or use, any building unless and until a certificate of approval has been issued in respect thereof by the appropriate authority”, and “any property which is delivered (hence the act of passing on the keys to the buyer by the seller) and received (hence accepted and occupied by the purchaser) prior to the issuance of the certificate of approval is an illegal act in both civil and criminal law”.*

Under CAP 96 (10/2) on completion of a building a developer is required within 21 days to inform the authority which issued the building permit of the completion of the building and in return the authority has to furnish the certificate if the building is in compliance.

These laws are clearly there to protect the purchaser by ensuring that the property for which he or she is making the final payment meets the legal requirements and is according to the plans, i.e., it is what he or she paid for. It also ensures that the necessary permits – planning and building – were issued, without which the building is illegal and could eventually be the subject of a demolition order.

However, this vital law protecting the buyer's rights is routinely ignored by developers, the authorities and, worse still, even the buyer's own lawyer.

For the unsuspecting client, placed in this illegal position, the pitfalls can be considerable and even catastrophic (see section VI on case study examples).

Regarding contractual matters it would appear that without this certificate the property is, from a legal standpoint, incomplete and any late delivery penalties could be invoked until the certificate is issued. Without this inspection, which is the only independent check and is made after the building is complete, there may also be Health and Safety implications and also insurance validity issues. For example, if a lump of concrete fell off an illegal building onto an occupant, who should not even be living there, would any insurance claim be deemed invalid?

Once having made their final payment, generally on the recommendation of their own lawyer, these unsuspecting buyers can often be in the hands of unethical developers who will exploit this situation with inflated extra charges; such as charging all owners in a 50 apartment complex Cy£400 each for a water meter (which costs less than Cy£15) and Cy£700 each for admin and legal costs - with 8% interest until they pay !

Additionally, regarding the Sales Contract and legal action for any breach by a purchaser, it is not difficult to see a farcical situation whereby the developer may counter-sue under both civil and criminal law for illegal entry of an illegal building by the same purchaser.

CPAG are aware of situations in which the Completion Certificate is still not issued after many years. For example on the Coral Bay Harbour Shore Estate in Peyia, residents have been living in their properties for well over 30 years without any sign of a Certificate being issued (see Case Studies section VI)

The current developer, Leptos, in a letter to clients on another of their sites in response to a letter from clients on CAP 96, stated “The above law although in force, in practice is inoperative”, going on reassuringly to say, “We believe that the majority of Cypriot house owners do not have the said Completion Certificate, will the appropriate authorities prosecute all Cypriot house owners. We doubt it”!

Obviously, until the Completion Certificate is issued the Title Deeds cannot even be applied for.

4. Immovable Property Tax

Under these laws registered legal owners are required to pay tax based on the 1980 value of their property. In practice a property would have to be in the region of CY£2 million at today’s values to exceed the 1980 value tax threshold of CY£100,000.

However, the developers quite illegally exploit the vagaries and lack of client understanding of these laws to effectively defraud them of substantial sums of money, by implementing their own version of the laws, often collecting money under the threat of withholding Title Deeds (extortion?).

It would appear that thousands upon thousands of buyers have been exploited whilst in the Title Deed trap and the amounts defrauded (in the name of the Government !), by developers, could possibly run into tens of millions of pounds.

(See also CPAG Report section VIII on Immovable Property Tax.)

Interim summary

Even though the laws of a country are there to protect the State and the peoples of that country it would appear that this is not the case in Cyprus. It would also appear that property rights as enshrined in Article 23 of the Constitution are subservient to special interests. This is especially regrettable bearing in mind the importance of property rights to the vast majority of the house-buying public in Cyprus, and especially, for obvious reasons, Cypriots. Foreign purchasers who bolster the economy with their investments are even more sinned against by developers and their legal friends.

The current property laws do not protect the people but instead provide a useful framework of loopholes and pitfalls for vested interests to exploit. Developers, who are permitted to borrow money on the back of and at the risk of other people's properties, are the principal beneficiaries of the failing property laws. The banks who unethically earn interest on this initial exploitation and of course the legal fraternity who also profit from this national scandal, complete the Troika.

Even the State and its people are deprived of the huge property transfer taxes which would accrue should the true owners of these many thousands of properties be afforded legal ownership.

This potential revenue is currently accepted as being in excess of CY£600 Million !

Sub-section B: Lawyers and Legal Issues

Most foreign buyers will place their complete trust in a conveyance lawyer, based on the fact that in their own countries this activity is well regulated and is normally perceived as being ethical, trustworthy and without risk.

Lawyers owe a 'duty of care' to property buyers and must be particularly careful to investigate the Title and other matters thoroughly on behalf of their clients.

Lawyers advise buyers, draw up contracts, negotiate with vendors, deposit contracts of sale at the Land Registry, assist with the transfer of Title, submit applications to the Council of Ministers on behalf of foreign buyers, etc - and according to the Cyprus Bar Association's 'Code of Conduct Regulations'. For example:

- 10. In the exercise of any duties assigned to them, advocates must always act in absolute independence, free of all forms of dependence or pressure, and in particular as may arise from their own interests or external influence. Independence in the exercise of the legal profession is a necessary prerequisite for ensuring a relation of trust with their client and before justice. Advocates must act according to the code of conduct and professional ethics and should not give advice with the aim of pleasing their client or as a result of external pressure.***

Lawyers are introduced or recommended to clients by property developers, estate agents and other vendors. However, CPAG, based on much feedback, believes that this practice clearly does not represent the interests of buyers and is in conflict with the above rule. As a result many contracts signed by buyers under the 'guidance' of their 'own' lawyer are, as they may later find to their cost, heavily in favour of their developers.

For example, many contracts call for stage payments at certain 'dates' rather than the standard (mandated) system of other countries where payments are on 'progress', e.g. foundations, roof completed, etc.

Buyers have contacted CPAG saying that even if these stage payments are contractual on 'progress', lawyers do not check that the stage has been completed before asking their clients to pay; they merely 'assume' that the developer is telling the truth. As a consequence, buyers arrive in Cyprus to find that progress is not as advised by their lawyer. Indeed, some developers take the 'stage' payments and may not do any work at all and then, when found out, simply tell the buyers to "take them to court" knowing full well just how poor the legal process for redress in Cyprus actually is.

We have received reports from people who have acquired mortgaged property, paid for property that has already been sold, entered into agreements with vendors who do not own the property they are selling, bought property for which no Town Planning and Building permits have been issued, occupied buildings for which no Certificate of Final Approval has been issued and received summonses to appear in court to account for their wrong-doing, etc.

In fact, in the most catastrophic cases of losses for buyers reported to us, their own lawyer was at best grossly negligent for allowing these situations (mostly frauds) to occur - and possibly much worse!

We consider that lawyers are reluctant to confirm their fees and other matters to their clients in writing. This has resulted in various 'misunderstandings' between buyers and their lawyer regarding fees and the extent of work carried out.

We have also heard from buyers whose lawyers have 'forgotten' to deposit contracts of sale at the Land Registry for Specific Performance.

With regard to Immovable Property Tax and the illegal activities of developers in forcing clients to pay this, it is clear that most lawyers know about this practice yet they choose not to inform their clients or afford them duty of care. In fact, even though they represent the 'buyer', they are known to advise them to pay these illegal amounts.

Unlike many other EU countries, lawyers practising in Cyprus are not required to carry professional indemnity insurance. As a consequence, the only redress buyers have against lawyers who make 'mistakes' or fail in their duty of care is through the Court. This first requires finding a lawyer who will take on a case against a fellow lawyer and one who will remain independent and impartial, and secondly an efficient justice system which will support this litigation. Feedback from, especially foreign, buyers tell CPAG that they have no trust in either and the ones who attempt legal action confirm the unhelpfulness of the justice system.

Sunday Mail 25/11/07: 'Bad Lawyers are Making Hard Job Harder'. This article stated, ***“Property buyers fighting legal battles with developers are finding their lawyers are often part of the problem rather than the solution”***.

“Some of these expats, many of them pensioners, have found themselves in dire financial difficulties in court cases, and complaints to the Cyprus Bar Association take years to resolve, and as legal fees pile up due to the slowness of the Court system”.

Cyprus Bar Association

The Cyprus Bar has its own 'code of conduct' which lawyers should adhere to, which is publicised on its website. However, it seems these rules are there simply to be broken by the majority of lawyers dealing in property matters. The Association does have a Disciplinary Board yet this seems currently to be grossly ineffective and they admit that it takes up to 2 years to get round to addressing complaints and even to file the complaint costs CY£40.

According to the Board, as of November, 98 complaints had been made in 2007, 107 in 2006 and in 2005 there were 151, but few have been resolved because of lack of resources. It is hardly surprising therefore that the number of complaints is going down year on year – what is the point of complaining? is the question asked by many who contact CPAG. Additionally, the Cyprus Bar does not have a central compensation fund to cover for the incompetence, negligence and even sheer frauds perpetrated by their members as is the case in other countries.

In one such well-reported case lawyer Marios Shiales and his lawyer wife fled Cyprus with over £3 Million in client funds and are wanted by Interpol on an international arrest warrant. One of the victims is offering a personal reward of £10,000 for information leading to arrest – their website is www.cypruscrookedlawyers.com.

In any case most buyers, having gone through a bad or dishonest property transaction at the hands of an estate agent/developer/planning system/conveyancing lawyer/litigation system, are mostly unwilling to trust yet another component of this failing property legal system. Currently, in effect the Cyprus Bar with its inefficiencies and lack of compensation fund, is actually the final component in the covering-up of the failures of the legal fraternity.

Sub-section C - Litigation on Property Matters

Article 30 of the Constitution states: In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law.

We consider that the legal system fails to provide buyers with timely solutions to their legal actions. Court cases may take several years just to be heard and even though the judge may find in favour of the plaintiff, implementing the Court's decision may prove a lengthy process, or even impossible.

Under ‘Antiquated Procedural Rules Clog up the Courts’ (Cyprus Mail 9/11/07) Doros Ioannides, ***President of the Bar Association***, in a speech marking Civil Justice, said:

“One of the biggest problems in the field of justice is the delays experienced in civil cases”. Amongst other things he put this down to antiquated procedural rules.

The article then stated that “As a result of long delays in delivering justice the Cyprus Republic has had its hand slapped by the ***European Court of Human Rights*** and had been ordered to pay compensation”.

“In civil cases, the problem is the way court proceedings are conducted. We are working on changes to the Civil Procedure Rules to make hearings quicker and easier to read for the litigants”. Ioannides noted that the English legal system on which Cyprus based its own system had been modernised years ago to meet the demands of modern society. It was time for Cyprus to do the same, he said.

In an article (Sunday Mail 11/11/07) under ‘The Justice System is Failing the Citizen’ an opinion stated that “Anyone who has gone to court in Cyprus will have experienced the ridiculously long delay before a civil case is heard”. The ***President of the Supreme Court***, Christos Artemides, talked about new proposals as the system’s weaknesses are being fully exploited.

The ***Chairman of the House Legal Committee***, Ionas Nicolaou, had spoken the previous week about the need to modernise the justice system. The article finished by stating, “The fact that Artemides recognises the judiciary’s obligation to speed up the justice procedures is a step forward. After all, there is a provision in the Constitution as well as in the Convention of Human Rights for justice to be administered within a reasonable period of time. The delays being experienced at present are anything but reasonable and unless the whole system is radically reformed soon, we will still be talking about this problem in three years’ time”.

In the Cyprus Mail (11/12/07) the ***President of the Supreme Court***, Christos Artemides, said that with over 120,000 cases pending at the end of last year the island’s legal system was in urgent need of overhaul. He said that some countries had introduced a time limit within which litigants had to present their cases, but that such a remedy was not stipulated in the current judicial system. Artemides said that institutional changes were “imperative”.

As CPAG, need we say more than what these guardians of their own justice system in Cyprus are saying in just the last couple of months ?

Conclusions

In CPAG’s opinion, the property rights of the majority of property buyers (both Cypriot and foreigners) are not being adequately protected as is called for under the Republic’s own Constitution, Article 23.

The current property-related laws which are meant to protect the property buying public not only fail to do so but instead clearly favour the vested interests of the developers and their secondary co-beneficiaries, the legal fraternity and the banks. It goes without saying that these communities have the greatest lobbying power at Parliamentary and Government levels.

The legal fraternity in general are manifestly failing in their duty of care to buyers by failing to ensure that their interests are being properly protected.

The justice system is recognised, even by its very own guardians, to be failing to deliver justice in a reasonable timeframe and is “antiquated” and “is in urgent need of overhaul”.

The Cyprus Bar Association is failing to afford the clients of its members a suitable and adequate provision for complaints against these members. It is also failing to provide leadership to the profession to ensure that an adequate code of conduct is followed in dealings with clients.

Recommendations

We urge the Cyprus Bar Association and Government to take immediate and effective steps to remedy the situation and to plug loopholes in the law. We urge immediate steps on certain issues and the immediate development of action plans on other issues.

Immediate Steps:

- 1) A Government strategy and plan needs to be developed to ensure a rapid exit from this unholy situation whereby buyers are denied their property rights in the form of full legal ownership from the day they effectively pay for those rights. This feudal system currently employed in Cyprus is at total odds with the Constitution and places the legitimate rights of the majority of buyers (both Cypriot and foreign) secondary to the interest of the minority vested interests.
- 2) The law designed to protect purchasers’ interests i.e. CAP 96 Article 10, needs to be vigorously enforced immediately. This can be done by a system of escalating fines on developers, prohibition of further planning permits until in full compliance supported by adequate resourcing through selective and focussed activity at the appropriate Authorities. This could be a one-time clean up of this unlawful mess.
- 3) Given that it is accepted by the Authorities that the failing legal framework cannot cope with the volume of legal cases (of all natures) including property problems currently being experienced, we suggest that a Property Complaints and Arbitration Agency be set up to attempt to clear up some of the current malaise and to afford at least a temporary degree of protection to the image of the Cyprus property industry. (See Section VII for a proposal on how this could operate in principle.)

Supporting Actions:

Government: The Government and the appointed Guardians of the Justice system, as they have articulated in the media, well understand the shortcomings therein. It is assumed therefore that steps will be immediately undertaken in this direction. We suggest the Government consider the following to support this:

- 1) To set up 'Fast Track' courts for property-related litigation to support the Property Complaints and Arbitration Agency whereby the initial examination of the cases would be done by specialist Government legal investigators and would therefore effectively 'pre-process' the cases and support the 'fast tracking'.
- 2) To criminalise the failure of lawyers to do proper due diligence searches on any conveyancing work they have undertaken.

Cyprus Bar Association: The Bar is the profession's regulatory body and as such is the prime mover in trying to improve the standards of its members. CPAG suggests, based on the feedback of the many emails to our website, that an even greater degree of regulation is most urgently needed. We suggest the following as minimum requirements:

- 1) Each law firm should have its own Indemnity Insurance cover as decided by the Bar.
- 2) The Bar should have its own insurance or compensation fund to cover possible situations not covered by the above.
- 3) A series of 'minimum standard' contracts which are fair to both the parties should be developed and mandated across the conveyancing business. CPAG has suggestions for these if so desired by the Cyprus Bar.
- 4) Minimum requirements of lawyers' service and conduct, in addition to the sanctions which will be applied by the Bar, including public disclosure for certain situations, in the case of non-compliance, should be published. Additionally, a tariff of standard charges for certain activities should also be publicised. Lawyers should also be forced to disclose their hourly rate for other activities and give estimates of charges before work is undertaken on behalf of clients.
- 5) An efficient and effective, user friendly complaints system should be developed and managed by the Cyprus Bar, with timeframes and service standards published and adhered to.

Section V: PROPERTY DEVELOPERS

In Cyprus, as property development is considered a 'business' rather than a 'profession'. There is no qualification or competence-based licensing system, no necessity to carry indemnity insurance or to have any form of financial standing; the business is without any form of proper regulation. Anyone in Cyprus can become a 'property developer' !

Indeed, there are people whose main job could be that of say, a bank employee, who are 'part-time' property developers. Clearly, what these people know about building practices or quality of build could be very limited. For example, in one case reported to us the 'developer' was a Water Board employee, with unskilled workmen only working at weekends and CYTA engineers doing the electrical work in the evenings and weekends. Needless to say the quality of work, supported by structural, mechanical and electrical surveys, is the subject of a legal case. According to the buyers this developer even obtained a Certificate of Final Inspection from the Authorities – before the property was completed!

However, what is of prime concern to CPAG is the financial standing of some of these developers and the risk to buyers, the industry and by extension, the economy.

The industry has been developed on massive loans from the banks, currently standing at £2.36 Billion, with an industry turnover of around £1 Billion per annum, according to various media reports. Unfortunately for the previous buyers of property (both Cypriots and foreigners) these developer loans are largely underpinned by using the Title Deeds of properties which have already been sold on to these purchasers, yet the Titles and legal ownership have been withheld.

This means that in the event of a property crash or even significant slowdown, the homes of these 'purchasers' are at risk. In view of the current Worldwide banking 'credit crunch', which will take years fully to exit from, combined with the current emerging slowdown, the situation in Cyprus seems very precarious to say the least.

In most countries, this situation of 'payment without ownership' would be seen as totally unethical and quite unacceptable. Even in Cyprus, it seems grossly at odds with the protection of property rights as enshrined in Article 23 of the Constitution.

Estimates project that over 80% of the total properties in Cyprus are held to ransom in this unholy situation, which CPAG, and other concerned bodies, believe needs immediate and decisive action from Government to reverse.

There are countless property developers in Cyprus. Although many of these may be reputable and fairly reliable, many are not. CPAG has received complaints concerning 'well known' large companies as well as smaller property developers.

On the 23rd June this year, the Cyprus Mail published an article entitled "***We need to bring the property industry up to scratch***", which stated "*Cyprus is developing a reputation among overseas buyers as something of a cowboy market. Horror stories of shoddy builds and rogue developers can spread like wildfire in the expat community, while television property shows are spreading the reputation abroad.*"

Developers make all manner of claims and promises to buyers and CPAG considers that many brochures contain misleading statements (see Section II on Property Marketing and Sales).

Finished properties deviate from the plans shown to buyers at the time of purchase, and due to the propensity of developers to change their plans after they have obtained a planning permit, buying 'off- plan' in Cyprus can turn out to be a risky investment. Additionally, having been promised for example a 'view', off-plan buyers can see their investment ruined by an unsuitable development later allowed just metres from their balconies (see Case Studies Section VI: Peter and Sue Davis).

Developers start work on construction illegally before planning and building permits have been issued. Properties are therefore delivered without permanent mains electricity, roads and other infrastructure.

In some cases, developers have not even applied for permits. As a consequence, in cases reported to CPAG (See Case Studies Section VI: Mr and Mrs M and neighbours) the properties which the buyers had purchased and paid for in full, were later discovered to have a demolition order on them - not to mention a large mortgage just to add insult to injury. The buyers now stand to lose everything they paid for their properties.

Developers sell properties on land they do not own, build without permits and cause 'buyers' to suffer catastrophic losses after the fraud is discovered - and then go bankrupt! (See Case Studies Section VI: Clifford Sims and Muriel Beaumont).

Properties are delivered late; in worst cases buyers have paid for their property almost in full, only to find construction work has barely started (see Case Studies Section VI: Mr and Mrs Battersby) and work has been suspended for years.

Developers demand payment for work that has not been completed.

Sub-standard properties are delivered with numerous omissions and construction faults; rising and penetrating damp, leaking roofs, ill-fitting doors and windows, etc.

Buyers find it difficult or impossible to persuade developers to repair "routine defects" after they have paid and taken delivery. In other cases the defects are more serious such as the swimming pool collapsing or tilting dramatically.

In Cyprus the 'guarantee' given by developers is normally one year from 'delivery' (although at this stage it may not be legally complete due to the absence of a Final Certificate of Completion).

CPAG considers this 'guarantee' (which is an individual developer's promise and could be worthless) a poor vote of confidence in the quality of workmanship in this industry. In other countries, such as France, a 10-year bond to cover latent defects is mandated by law, and in the UK the National House Builders Registration Council, the industry's own regulators, gives a 10 year guarantee. This assures that a reasonably acceptable level of quality will be delivered by the builder/developer, and problems which occur later, are simply and effectively catered for.

Developers demand large payments from buyers who wish to make changes to their properties and prevent them from seeking competitive quotations and from using other companies to make those changes.

Developers get into debt resulting in creditors obtaining a Court judgement in their favour that results in a 'memorandum' being lodged against property for which a contract of sale has been lodged at the Land Registry.

Developers fail to advise buyers that it is illegal to occupy a building unless it has been inspected and issued with a Certificate of Final Approval.

Developers extort money from buyers using the threat of withholding Title Deeds to elicit payments. These demands can run into thousands of pounds.

Developers demand 'contract cancellation fees', ranging from a few hundred to tens of thousands of pounds, if buyers wish to sell their property before Title has been registered in their name. In some cases, this demand is accompanied by further demands for 'Immovable Property Tax (IPT)' (see below) and 'Capital Gains Tax', yet no proof of payment to the Authorities is ever given, despite requests to do so.

Regarding IPT and the fraudulent (See IPT Section VIII) and widespread practice of developers in abusing this law, this is an example from one client who has contacted CPAG after researching what he and other clients are being charged illegally each year by their developer.

“My investigations in 2004 revealed that the 1980 valuation of the total plot was £30,000 giving the Developer an annual liability to the Revenue of £120. It is difficult to estimate the amount he is charging as the properties vary in size, and some were purchased more recently at higher prices. A very rough guesstimate however is:

Townhouses (£90,000) 8 X £360 = £2,880

Bungalows (£110,000) 7 X £440 = £3,520

Bungalows (£125,000) 4 X £500 = £2,500

Bungalows (£150,000) 3 X £600 = £1,800

Bungalow (£200,000) 1 X £800 = £800

Total Income £11,500

Total Expenditure £120

Profit £11,300 => 9,400%!!!!!!!!!!”

In some cases, these IPT charges lie 'dormant' for many years and it is only when the Title Deeds become available that money is demanded - plus compound interest accrued between the time the property was bought and its individual Title Deed became available for transfer.

In one case reported to CPAG:

A property developer is currently demanding CY£14,647.45 from a buyer (a very elderly British widow) claiming it is for ‘immovable property tax’. The property was purchased in 1982 (25 years ago!) for CY£37,270 and is still registered in the name of the property developer; its individual Title Deed is still awaiting transfer until this ‘extortionate’ demand has been met. (Note: other buyers from the same developer have also now contacted CPAG and we will be helping them to become ‘organised’ and also doing further investigations.)

CPAG estimates that possibly tens of thousands of buyers have been defrauded in this IPT scam and that reimbursement could run into tens of millions of pounds.

Conclusions

Anyone can become a developer in Cyprus and their activities are conducted without any visible form of regulation.

Developers hold the vast majority of buyers in Cyprus (both Cypriot and foreign) in the Title Deed trap for years, whilst risking those peoples’ homes by borrowing money on the land Deeds upon which those purchased properties are built.

Property developers build illegally, extort money from buyers, mislead and mis-sell to gain a sale, build property to a poor standard, refuse to repair routine defects and some commit outright fraud.

Recommendations

We urge Government to:

- ***Immediately develop a strategy, process and laws which give all buyers, including existing ones, full legal ownership, through Title Deeds. And in future, at the time when they complete their contractual payments for that property, as is the case in other countries.***
- ***Require property developers to repay immediately any additional ‘immovable property tax’ extorted and defrauded from buyers in the past, plus interest at 9%. Criminal action should also be initiated against these fraudsters.***
- ***Establish the necessary controls to regulate property developers by strengthening the role of the Cyprus Land and Building Developers’ Association so that it becomes the regulatory authority responsible for property developers.***

Considering the amount of property being built in Cyprus, and the problems encountered by many when buying property, we consider that the property development industry requires much tighter control and regulation.

Accordingly, we recommend that only accredited members of the Association below be allowed to solicit for the development of properties to buyers in Cyprus.

We recommend that the Cyprus Land and Building Developers' Association:

- ***Assess those wishing to become property developers*** to assure their suitability to practise.
- ***Issue annual licences to property developers***, and that they be bound by the Association's codes of conduct, rules and regulations.
- ***Require property developers to have professional indemnity insurance*** commensurate with the level of their business and possible compensation claims.
- ***Develop an Association 10 year property guarantee scheme.***
- ***Introduce mandatory client care***, complaints and independent arbitration procedures, including a compensation scheme for clients who have lost money as a result of breaches in the rules and regulations by members of the association and their employees.
- ***Take appropriate action against property developers*** who breach the Association's code of conduct, rules and regulations.
- ***Require property developers to provide buyers with a performance bond*** from their bankers, to guard against bankruptcy and other events.
- ***Develop a 'stage payment' standard for the industry based on physical achievements*** during the construction process, at which further payments should be made.
- ***Require property developers to provide the following information*** to potential property buyers as part of the contract:
 - i) The name of the registered owner of the property being sold.
 - ii) Certified copies of the Title Deeds and land survey plans.
 - iii) Town planning and building permits, together with their terms and conditions.
 - iv) Architectural plans and schematics clearly indicating every section of the property, showing area sizes, room sizes and adjacent properties included in the planning and building permit.
 - v) Comprehensive specifications of fixtures, fittings, and finishes to be used in the property's construction.

Section VI: CASE STUDIES

The 13 case studies from this section have been removed. This is due to the fact that some of them have been subject to a change of situation in the 9 months since the Report was delivered to the Government, but mainly because these victims involved now deserve some privacy and in certain cases confidentiality due to ongoing court cases.

It is possible that some of these cases will appear on the CPAG website in due course in the existing 'Case Studies' section, albeit in a slightly different format from the cases as reported to the Government in the CPAG Report which were in effect, simplified summaries by CPAG.

The case studies on the website are the written stories of the individual victims, although due care and attention is taken by CPAG to ensure that the authors prove that the information being given is truthful and factual.

Section VII: PROPERTY COMPLAINTS AND ARBITRATION AGENCY

Why is this Agency required?

Buyers' interests can be significantly affected by:

- failures in the Town Planning procedures and their enforcement;
- failures of lack of regulation of Estate Agents and other sellers;
- failures of a duty of care by Lawyers;
- failures of lack of regulation of Developers;
- fraud allowed as a result of any, or all, of the above.

Court procedures are lengthy, often expensive and rely on the legal fraternity. Its professionalism and duty of care, judging from clients' experience and feedback, cannot be guaranteed. As most of these property problem situations are themselves a result of the failure of a duty of care by lawyers, the legal profession may not prosecute a case with full vigour.

Moreover, feedback both from buyers and from other more candid members of the legal fraternity indicate that it is very difficult to have one lawyer pursue another, whatever the merits of the case.

Also, unlike in other EU countries, there is no Cyprus Bar compensation fund in respect of failing lawyers. Nor are there any On-line Claim or fast and multi track procedures, as, for example, in the UK Court System which is misleadingly touted by developers and others as being the same system as Cyprus.

As a result many EU and foreign buyers find themselves in impossible situations caused by the general lack of regulation, enforcement and adherence to the laws by those involved in the property industry. However this situation is not confined to non-Cypriots.

CPAG believes that the Government are ultimately responsible for the many potential pitfalls awaiting property buyers in Cyprus. For the sake of the industry, it should take steps to correct these drawbacks. However, until the appropriate regulation and enforcement can be put in place and because the justice system itself can be flawed, it should be recognized that many problems are currently festering which, if left without solution, have the potential significantly to undermine both the property market and the broader economy.

Clearly the reputation of Cyprus will not go unscathed should these cases be constantly featured in the foreign press and other media.

The Cyprus Sunday Mail Opinion column (11 November 07) under the heading "*The justice system is failing the citizen*", cited "*ridiculously long delays*".

It went on to state “*The chairman of House Legal Affairs Committee, DISY deputy Ionas Nicolaou, last week spoke about the need to modernise the justice system and court procedures, a point also made by Artemides (President of the Supreme Court). He also supported the idea of out-of-court settlements, which would free the courts to deal with more important cases*”.

The article terminated with “*unless the whole system is radically reformed soon, we will still be talking about this problem in three years time.*”

Clearly, the need for alternatives to the failing justice system is well recognised by the very Governmental bodies charged with its operation and safekeeping.

How would such a Property Agency operate ?

The Agency would accept complaints from buyers of all nationalities, who are experiencing or have experienced significant property problems as a result of buying or attempting to buy property in Cyprus. Possible areas for complaints could include the activities of:

- Selling Agents (legal and illegal)
- Lawyers
- Developers
- Planning Authorities
- Local authorities

Initially, a standard form will be completed and a registration fee of, say, CY£50 will be payable to deter trivial problems or timewasters.

Each complaint should be assigned to a Government investigator who will prepare the details of the case, contacting/interviewing the complainants as required and producing a file which will be placed before a tribunal. The tribunal should include a representative from the Estate Agents Association, the Cyprus Bar, Developers, Town Planning and the Cyprus Property Owners Association, with other appropriate bodies as seen fit.

Strict timeframes for these activities should be set and adhered to. Consideration should be given to providing an on-line status reporting system with access by password to update complainants and to free up the investigators from this chore.

For many problems the erring party should be identified and pressed for a just solution/compromise under threat of court proceedings (by the tribunal if need be). If the compromise should not be acceptable to the complainant then they should be able to access fast track court procedures.

Should a reasonable tribunal solution not be forthcoming or possible for the problem situation, e.g. a fraud where the perpetrator is bankrupt or not traceable, Government compensation for losses should be paid.

This compensation of victims by the Government as compensator of last resort seems entirely consistent with Article 23 of the Constitution under Protection of Property Rights, given that the lack of regulation, enforcement and adherence to the law across the industry is ultimately the responsibility of the Government of Cyprus.

Summary

In establishing such a system of justice for property buyers the Government will more fairly, justly and promptly protect the property rights of individuals as enshrined in the spirit of the Republic's own Constitution. The overworked courts will also be freed up to concentrate on other areas of the law, such as criminal, family and human rights.

Additionally, the cost of any compensation awarded to support such a system would be insignificant when compared to the Government revenues created by this industry, which are significantly at risk in the current unsatisfactory situation.

The image of Cyprus and that of the property industry will be given a degree of protection by the Government demonstrating its commitment to protecting the rights of property owners who buy in Cyprus. The economy which is so reliant on tourism and property will also be afforded a degree of protection.

Should the Government be seen to reject the notion of such an innovation this will send a clear message to the public, the EU and other foreign buyers, plus the world at large, that, after being made fully aware through this CPAG report of the potential pitfalls in buying in Cyprus, they are unconcerned about property rights, especially those of non Cypriots.

Section VIII: IMMOVABLE PROPERTY TAX – LEGAL OPINION

Introduction

This document is written using information on the charging of Immovable Property Tax (IPT) by developers, as supplied to the Cyprus Property Action Group (CPAG) by purchasers of property in Cyprus

It is also compiled by using information from a legal opinion on IPT and the charging practices of developers by Advocate, Partner and Head of Real Estate and Property Department of one of the largest law firms in Cyprus. The opinion was commissioned by CPAG. During the course of the dialogue certain clarifications were requested which will be evident in the following discourse.

The Practice of Developers (source: CPAG clients)

According to the feedback from CPAG clients, most developers charge 4% per £1,000 (or 0.4%) of 50% of the purchase price annually, *i.e. not the 1980 value*. Others charge even more. Some bill clients annually, charging interest for any delay in payment. Some charge a grand total at Title Deeds transfer time, using the threat of not transferring the deeds if the buyer questions the amount. We at CPAG are unaware of anyone being supplied with proof of payment to the Inland Revenue by developers of any amounts, even though we have asked buyers in specific instances to request this. They were all refused.

It should be noted that this communication is usually conducted via the client's own lawyer who confirms, or fails to deny, that what the developer is doing is entirely correct.

At CPAG instigation some clients have been granted 'reductions' on the original invoice or request for IPT payment by developers at Title Deed transfer time after asking for justification of the invoice.

Although even the purchase price may be below £100,000 (and even at the 1980 equivalent this would not accrue IPT!) the developers still charge at 50% of the purchase price at 0.4% per annum.

We even have evidence from clients of one major developer charging at a rate of 0.4% on 100% of the purchase price (e.g. £650 p.a.) annually for 11 years, even though other sites of theirs are charged at 50% of the purchase price!

Many clients and residents' associations over the years have tried unsuccessfully to obtain meaningful explanations of the practices of developers re the charging of IPT.

The reasons for the silence are becoming very clear !

A. The Law (Sources: The Legal Opinion 16/08/07 and Later Updates)

“The obligation of every owner of immovable property in the Republic of Cyprus to pay annually a tax according to the market value of his property as assessed on the 1st January 1980, known as immovable property tax (IPT) is governed by the Immovable Property Tax Law, No. 24/80 (the Law) as amended by Laws 60/80, 68/80, 25/81, 10/84, 33/87, 239/91, 120/02 and 147/04.

According to the above legislation, the rate of this taxation was formed as follows:

(a) **From 01/01/80 to 01/01/81 (Law 24/80)**

(b) **From 01/01/81 to 01/01/84 (Law 25/81)**

(c) **From 01/01/84 to 01/01/90 (Law 10/84)**

(CPAG note: rates provided for all the above)

(d) **From 01/01/90 to 01/01/03 (Law 239/91)**

On each pound up to £100.000-: zero

On each pound from £100.000- up to £250.000-: 2°/oo

On each pound from £250.000- up to £500.000-: 3°/oo

On each pound over £500.000-: 3.5°/oo

(e) **From 01/01/03 to Present (Law 147/04)**

On each pound up to CYP100.000-: zero

On each pound from CYP100.001- up to CYP250.000-: 2,5%o

On each pound from CYP250.0001- up to CYP500.000- : 3,5%o

On each pound over CYP500.000-: 4%o

Sub section (3) of section 7 of the Law provides:

“... in the event of the sale of immovable property the purchaser thereof may, upon transfer of the property into his name, *claim from the Director of Inland Revenue refund* of the immovable property tax paid by the vendor for the particular immovable property, if:

(a) he submits the sale agreement or any other document proving that the immovable property tax for this property was added to the purchase price;

(b) the provisions of the Sale of Land (Specific Performance) Law have been complied with, and

(c) he proves that the tax he paid to the vendor exceeds the tax which would otherwise be legally levied for the property”.

According to the same legislation, no transfer of immovable property is allowed unless the transferor presents to the Land Registry a clearance certificate from the Inland Revenue to the effect that the immovable property tax for the property to be transferred has been settled.”

B. The Practice of Developers (Source: Legal Opinion)

“However, in most cases the transfer of the property takes place long after the signing of the sale agreement, the settlement of the purchase price and the delivery of possession of the property to the purchaser. This is so because of the long time (sometimes many years) it takes for the developer to issue a separate title deed for the property sold and in the cases of foreigners the time they need to obtain a licence from the Council of Ministers (around a year).

During this period the developers, being the registered owners, pay immovable property tax on the total market value of all their properties (sold or not) which usually exceeds CYP500.000-, i.e. at the rate of 3.5‰ and/or 4.0‰.

If there is no relevant provision in the Sale Agreement, the purchaser may not be liable to pay any such tax, although, even in this case, the developer may claim that the IPT paid by him for the particular property was paid on behalf of the purchaser, who had a legal obligation to pay the same, being the person “entitled to be registered as the owner of the property”. See section 2 of the Law, where “owner” is defined as the person who is also entitled to be registered as the owner, whether he was registered as such or not. ***However this is a matter of interpretation of each particular sale agreement.***

The result is the same as if the market value of the property as on 1st January 1980 was known at the time of the signing of the sale agreement and a provision was made in the contract that the purchaser will pay to the developer each year from the day of delivery of possession the immovable property tax corresponding to such market value. In this case the developer would collect from each purchaser 2 or 3 or 3.5 or 4.0 per thousand of the market value of 1980 (or nothing if such market value was less than CYP100.000-) and pay for the same property 4.0‰ on its market value. ***However, this cannot be done, because the market value of 1980 is assessed at the time of the completion of the property and the issue of separate title deed.***

In practice, most developers claim this tax at the time of the transfer of the property, on the strength of the relevant provision of the contract. In doing so, instead of obtaining from the Land Registry valuation of the property as on 01/01/80, some of them assess the tax at 3.5‰ on the purchase price, some others at 3.5‰ or 4‰ on the 50% of the purchase price, ***some others apply the rates of the law but on the purchase price, not the market value of 1980, etc.***

In these cases the purchasers may insist on an official valuation of the property as on 01/01/80 and refuse to pay any more than what they should pay according to such valuation. Of course this applies to purchasers who do not qualify for a refund according to the Law, because if they do, even if they pay more, such purchasers can claim refund of the difference.

The obligation to pay IPT is in a way part of the purchase price and there is no developer who will agree not to include such obligation in the relevant contract.

The developers rightly claim IPT from the purchasers, especially if there is a provision for that in the contract, because it is money they pay, even if the assessed market value of the property as on 01/01/80 is found at the end of the day to be less than CYP100.000-. ***Only, in this case the purchaser will be entitled to a refund of all the monies he paid to the developer for IPT.***”

Further Update of Legal Opinion on 2/10/07 in Response to Specific Questions by CPAG

The lawyer who provided the Opinion stated: “I did not express myself clearly with regard to the refund of IPT. As a result you were quite rightly confused and I apologise.

The law says that the purchaser is entitled to a refund of the IPT which was **paid by the vendor** for the particular property. ***If the vendor did not pay IPT tax for the particular property no refund is made to the purchaser.***

If for a project of, say, 10 houses the vendor was paying (for the land) say CYP100- per year, the 10 purchasers who were paying to the vendor, say, CYP350- per year each, will receive CYP10- each for each year they were paying and this only for a maximum period of 6 years (CPAG note ; later informed that there is no maximum claim period) and provided they deposited their contracts with the Land Registry etc.

In other words the Inland Revenue will refund whatever they were collecting from the vendor and will distribute this sum pro rata between the purchasers who are entitled to refund. ***In this way the Developers realise a substantial profit from the purchasers, i.e. they receive from them money they did not pay or much more than what they paid.***

Given that the relevant provision in the Sale Agreements is that the purchaser undertakes to pay the IPT for the property he purchases (without mentioning percentages) ***the purchaser may ask the developer to provide him with evidence on the IPT he paid for the property (land) upon which the purchased property has been erected and pay the share of this property to the IPT paid for such land.***

In other words the purchaser may refuse to pay more than what he will be entitled to recover from the Inland Revenue, without committing breach of his agreement. If on the other hand the Sale Agreement provides for a percentage (I have not seen such provision so far) then it is an obligation undertaken by the purchaser in the contract which he cannot avoid.”

Supplementary Questions (source: CPAG 30/8/07 and opinion 2/10/07)

Could you please confirm the following:

- a. Whether the rate of 4% (actually 4 per thousand) used by Developers is **legally** correct?

“That the rate of 4% used by the Developers is not legally correct. In fact there is no rate but a proportion in the sum paid by the Developer as IPT for the land upon which the purchased property has been erected.”

- b. Whether charging 4% on the inflated valuation of 50% of the purchase value per annum as opposed to the 1980 valuations and rates is **legal**?

“Again it is not legal”

- c. That all monies collected under the guise of IPT by Developers must **legally** be paid to the Inland Revenue as IPT.

“The developer collects, illegally much more than what he pays to the Inland Revenue (see above) but he has no obligation to pay the difference to the Inland Revenue.”

Summary by the Cyprus Property Action Group

The Immovable Property Tax law based on 1980 values is to most foreigners a very confusing concept which has no parallel in other EU countries.

Relying on this confusion, developers ensnare and contain clients in the Title Deed trap. Fully protected by the legal fraternity, they take the opportunity to abuse the law and not only effectively defraud foreign clients, but even more seriously, do so in the name of the Government.

Conveyancing lawyers who take a passive role in this fraudulent activity, knowing full well of the consequences to their own clients, are guilty of failing in their duty of care at best, and possibly much worse.

NB : CPAG Note (Nov 2008) – please see the latest IPT Guide on our website which gives a more simplified explanation of this complicated scam.