

THE TROIKA AND THE REAL ESTATE MARKET

The “Memorandum of Understanding” agreed between the Troika¹ and Portugal, the text of which was revealed to the Portuguese this week, contains a number of undertakings that have a significant impact on issues of relevance to the real estate sector, in particular, in relation to renting and ownership of property.

In fact, if on the one hand it provides for a number of (long-awaited) changes to the lease system that could revitalise this market – which is clearly one of the Troika’s objectives – the Memorandum also provides for the “other side of the coin” in measures aimed at discouraging people from buying property. It “punishes” owners who will suffer a significant increase in the taxes on their real estate assets together with a reduction in the income tax deductions allowed for expenses of those assets.

The objectives expressed in the document are aimed at (i) improving the access of households to accommodation (ii) encouraging the mobility of workers (iii) improving the quality of housing and promoting a better use of the housing stock, and (iv) reducing the incentives to turn to financing by households.

¹The word ‘Troika’ has been adopted in Portugal to describe the International Monetary Fund, the European Central Bank and the European Commission as a group in their role in the country’s financial assistance programme.

I – The Rental Market

The Government must present measures to change the new Urban Lease Law (Law 6/2006) so as to ensure a balance between the rights and obligations of owners and their tenants always giving due consideration to those who are socially more vulnerable.

This means that in the fourth quarter of 2011 the Government must prepare a plan of action to provide for the following measures:

- i) Broadening the conditions under which there may be a renegotiation of unlimited term lease agreements for housing purposes, including limiting the possibility of assigning the tenancy to first degree relatives;

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“Portuguese Law Firm of the Year”
Chambers Europe Excellence 2009, IFLR Awards 2006 & Who’s Who legal Awards 2006, 2008, 2009

“Corporate Law Firm of the Year - Southern Europe”
ACQ Finance Magazine, 2009

“Best Portuguese Law Firm for Client Service”
Clients Choice Award - International Law Office, 2008, 2010

“Best Portuguese Tax Firm of the Year”
International Tax Review - Tax Awards 2006, 2008

Mind Leaders Awards™
Human Resources Suppliers 2007

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- ii) Introducing a legal framework that improves access to housing by households through the phasing in of mechanisms to control increases in rent;
- iii) Reducing the prior notice the landlord needs to give to terminate tenancy agreements;
- iv) Creating an out-of-court eviction procedure for cases of breach of contract with a view to reducing the real time taken for eviction to 3 months; and
- v) Consolidating the use of out-of-court procedures that are currently available to handle division of inherited property.

II – Administrative procedures for rehabilitation

The Memorandum of Understanding also requires the Government to adopt legislation during the third quarter of 2011 with a view to simplifying administrative procedures for the rehabilitation of buildings. In particular, the legislation must include measures to:

- i) Simplify the administrative procedures for renovation works, safety requirements, use licences and formalities for innovations that benefit and improve the quality and value of the property (such as energy saving measures). In the case of building in horizontal ownership, the majority of owners of the individual residential

units will be defined as representing the majority of the value of the building;

- ii) Simplify the rules on temporary re-housing of tenants of buildings undergoing rehabilitation works, taking into consideration, however, the needs of those tenants and respecting their personal situations;
- iii) Grant landlords the possibility of terminating tenancy agreements to carry out large scale renovation works (that is, when they affect the structure and stability of the building) by giving at least 6 months' prior notice;
- iv) Bring uniformity to the rules that determine the level of the state of conservation of buildings and the conditions for the demolition of buildings in ruins.

III – Taxes on Property

The Memorandum of Understanding also makes provision for the adoption of a number of measures in the area of taxes on real estate assets. In particular, it provides for the revision by the Government of the legislation applicable to the valuation of real estate assets for tax purposes. It also requires the Government, in the third quarter of 2011, to alter the taxes on real estate assets in order to level the playing field in terms of incentives to renting as opposed to buying housing.

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