

Tough competitor

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The move
towards owner
managed
properties

BREAKING THE DEADLOCK

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The final push: Moving from developer managed to owner managed properties

Law No. (27) Of 2007 Concerning Ownership of Jointly Owned Properties in the Emirate of Dubai was issued on 10 December 2007 and yet nearly five years later, all owners associations are still only interim owners associations with no real formal powers. The good news is that this is set to change as RERA has recently signed an agreement with Emirates NBD allowing them to open bank accounts for Owners Associations (OA). Whilst the details are still to be ironed out, this is a big step forward for Owner Associations in Dubai. As a result owners could be managing their own building finances by the end of the year.

Although this is a welcome move towards ensuring buildings are fully owner managed, many board members will understandably be nervous about the financial risk involved. Being a board member is a voluntary non-paying role. With the long hours that most people work in Dubai at their regular jobs, do board members want the extra headache of monitoring their building's bank account? Many IOAs have accounts running into the tens of millions of dirhams. Trying to keep track of all transactions on an account including paying supplier invoices on time, collecting service fee payments as well as ensuring adequate cash flow etc, could turn into a full time job.

Additionally, board members may have very little knowledge of each other and yet will be jointly managing a bank account along with their association manager. In Dubai, mismanaged bank accounts earns you more than a slap on the wrist and as such are voluntary board members willing to take on such a responsibility and potentially such a risk when they are not being paid for it?

Boards should look at recruiting a finance professional to the board

who can analyse the financial reports provided by their Owners Association manager on a regular basis to tie in with the levy period. The board should also scrutinise the annual accounts before the annual general meeting so that they are comfortable answering any questions the owners may raise. They also need to

sign off the annual independent financial audit at the end of each financial year approving all transactions throughout the year. Their role will become increasingly financial once they start managing their own bank account.

Once a building is managing its own bank account, they will no longer be able



▲ Dubai eagerly awaits the opening of the first Owners' Association bank account.

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to rely on their developer to ensure that there is adequate cash flow to pay their suppliers throughout the year. The board will have to manage their bank accounts as well as structure their payments to suppliers and ensure timely service fee collections to ensure that there is a sufficient cash flow throughout the



year to meet their financial obligations. There should be a detailed sheet showing proposed expenditure for the year with detailed cash flow so buildings don't run into problems. A prudent manager would also allow for some financial contingency as unexpected issues will always crop up through the year.

Another issue which will become more critical once owners are in charge of their own bank accounts is that of outstanding service fees. Some buildings have outstanding service fees amounting to more than their current year's annual budget. Operating a building with a large percentage of non-payers is an impossible task. Boards and their owner's association managers will have to work hard to persuade their owners of the need to pay their service fees.

Since the account will operate similar to a trust account, the banks approved by RERA to operate these accounts, will charge the Owners Associations to hold such accounts with them. Emirates NBD have advised that they will be charging AED2,500 per month to manage the account. Buildings need to build this additional cost into their budgets.

Whilst RERA and the approved banks still need to formalise the conditions and requirements for the operation of the bank account, boards must be fully conversant with the Jointly Owned Property Law and its associated documentation to ensure that they are running their community and potentially their bank account under the correct conditions and guidelines as set out by the Real Estate Regulatory Authority (RERA).

In order to open the account, the board members should ensure that they have already submitted their jointly owned property declaration, common area site plan, last year's approved financial audit and also their board registration documents as these will be required by RERA before a bank account can be opened.

RERA will need to formally approve the Owners Associations and provide a certificate to this effect before the bank accounts can be opened.

Board members have a duty to ensure that all financial issues are resolved with the developer before they start managing their own finances. The best way to resolve financial issues is to engage a RERA approved accountant to carry out an independent financial audit. This audit should be approved by both the board and the developer where applicable and should provide the necessary level of transparency.

Whilst bank accounts may add another level of responsibility for an already overburdened board, an efficient association manager should shoulder the majority of the administrative duties. The OA management company should have financial experience particularly in the field of OA management. They should provide regular financial reports to the board and suggest ways to ensure service fees are collected and cash flow is maintained. OA boards will rely heavily on their association manager and need to ensure that they are getting the best and most professional service for their money. Dubai is a small market and word of mouth will soon sort out the professional OA management companies from the rest. Some of the things to look for are the level of service they provide, their professional qualifications, how many buildings do they currently manage, what are their staffing levels, the reports they produce, what software they use, their response times and are they linked to the developer.

If boards are to successfully manage their buildings, they must ensure that they have chosen the OA manager most suitable for their building and also that they have a handle on their financials. Dubai eagerly awaits the opening of the first Owners' Association bank account. **AB**