A Reference Guide to Owning a Unit in Jointly Owned Property
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“These Guidelines are very necessary and bring a new type of real estate ownership to Dubai, categorically defining the rights of individuals on one hand, of residential communities on the other, and establishing the balance between the two”

Sultan bin Butti bin Mejren – Director General Land Department
A. Introduction

Law 27 of 2007 Concerning Ownership of Jointly Owned Properties came into effect on 1st April 2008. The subsequent release of the Regulations, as Directions, in 2010 has enabled owners to form Owners Associations and control the levels of maintenance and service charges for their properties.

The aim of this booklet is to act as a reference guide to assist you in understanding the implications of the regulations on everyday life in your community.

The concept of Jointly Owned Property has until recently been an unidentifiable ‘term’, used in property circles, for the majority of people. With the release of Regulations it will be important to understand how these affect the various stakeholders within the property industry.

(i) What is Jointly Owned Property?

Jointly Owned Property is the division of property into units and common areas. The subsequent registration of those units on the same title creates Jointly Owned Property (JOP). It is also known as ‘strata’ ownership in other parts of the world and ownership is not limited by time as in the case of leasehold property.

(ii) What is the relevant Law and Regulations?

The Law proclaimed in Dubai to facilitate the registration of Jointly Owned Property was Law No. (27) Of 2007 regarding Ownership of Jointly Owned Property and the relevant Directions are as listed below;

- Direction for General Regulation Concerning Jointly Owned Property
- Direction for Jointly Owned Property Declaration.
- Direction for Association Constitution.
- Direction Concerning Preparation of Survey Plans.

Definitions

**Common Area**: Those parts of Property that are designated for common use by Unit Owners and Occupiers including but not limited to lifts, passageways, swimming pools, recreational facilities and equipment, gardens, parking facilities and foyers.

**Unit**: Any flat, floor, a part of land or house (villa) connected or not connected with another house being part of Jointly Owned Property.

**Owners Association**: An Association constituted for the purposes of management, operation, maintenance and repair of Common Areas.

**Owner**: The person who is registered as the owner of a Unit in the Register.
B. Checklist

How much do you know about your Rights and Responsibilities?

Do You:

☐ know how to have a motion included on your AGA agenda?
☐ know who is eligible for election to the Board?
☐ know what records have to be kept by the Association?
☐ know how service charges are calculated and what happens when they are not paid?
☐ know what Community Rules are and how you can change them?
☐ want to know how to resolve disputes?
☐ what is covered by the Building Insurance?
☐ know how you can cast a vote?
☐ know how the OA enters into Supply Agreements?
☐ know how proxies work?
☐ know what your Association Manager does for you?
☐ know what a Reserve Fund is?

If you can’t say yes to questions like these, you need to read this guide.
1. **Common Area**

   **a. What is it?**
   Common area is all areas of land and anything within a building that is not included within a unit and is necessary for the existence, maintenance or safety of the property. It is jointly owned by all of the members of the scheme and the owners association is responsible for its management, maintenance and repair. An owner’s interest in common property is inseparable from the apartment title.

   Generally common area includes:
   - Structural elements of jointly owned property including the main supports, foundations, columns, beams, structural walls, steps, ceilings, hallways, staircases, stairwells, emergency exits, entrances, windows located on exterior walls, facades and roofs.
   - Parking areas, watchman rooms, recreational facilities and equipment, swimming pools, gardens, storage facilities, places designated for use by the owners association or whomever assigns or contracts to manage the jointly owned property;
   - Main utility equipment and systems including electricity generators, lighting systems, gas systems and equipment, water systems, heating and cooling systems, air conditioning systems and waste storage and treatment facilities
   - Lifts, tanks, pipes, generators, suction fans, air compressor units, mechanical ventilation systems;
   - Water mains, sewer pipes, ventilation shafts, gas pipes and flues and electrical wiring and conduits serving more than one unit;
   - All fittings, connections, equipment, and facilities used by more than one Unit Owner;
   - Any device for measuring the reticulation or supply of utilities.

   **b. Boundaries**
   If you are unclear about which parts of your unit are your individual ‘unit’ or which parts are common property, you should refer to the title plan for your Unit. Any common area is noted as such on the common area site plan and is usually shown by thick black lines.

   **c. Maintenance Responsibility**
   The owners association is responsible for the on going maintenance of common areas. This includes repair works and replacement and renewal of items when required. Owners are responsible to repair anything within their unit.
Any repairs or renovations to an individual unit that involve common areas (for example installation of a satellite dish) will need permission of the owners association to proceed.

The owners association can decide to allow a particular lot owner to make additions to, or alter, common property. They can also pass an exclusive use by law which will give an owner use (not ownership) of common area and make them responsible for the repair and maintenance of that area.

As a general guide the following applies;

<table>
<thead>
<tr>
<th>Damage to</th>
<th>Who is responsible?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceiling</td>
<td>OA must repair anything in the ceiling</td>
</tr>
<tr>
<td>Walls</td>
<td>OA must repair anything within the boundary walls. The owner must repair all walls within the unit if shared by more than one unit.</td>
</tr>
<tr>
<td>Carpets</td>
<td>The owner must repair and maintain carpets within the unit. Any carpets located in hallways, entrances or stairwells are the responsibility of the OA.</td>
</tr>
<tr>
<td>Tiles</td>
<td>Original tiles on the boundary walls and floors are the OA responsibility. Tiles on internal areas are the owner’s responsibility.</td>
</tr>
<tr>
<td>Light Fittings</td>
<td>The owner is responsible for the maintenance of lights within their own unit.</td>
</tr>
<tr>
<td>Garage doors (external)</td>
<td>Repairs to garage doors are the OA’s responsibility</td>
</tr>
<tr>
<td>Balcony (if on title)</td>
<td>Balcony repairs to the balustrade are generally the responsibility of the OA to repair.</td>
</tr>
</tbody>
</table>

To get repairs completed you should contact the OA Manager or the Board for your scheme detailing the issue and requesting repair. The Board may make a decision to organize minor repairs to be fixed without the need for a meeting however for larger problems a meeting may be convened to discuss the action to be taken.
Frequently asked questions?

Who is responsible for pruning trees?
The owners association is responsible for any gardening relating to the common areas. If the trees are within your Unit title boundary then you, as owner, are responsible.

I want to park in a section of driveway or yard, which is common area. Can I get permission to do this?
Send a written request to the Board for your owners association, permission will be voted on at their next meeting. Usually time limitations will apply.

Can I complete repairs to the common property?
Only if you have permission from the owners association to do so. The owners association should undertake to complete any repair work to common areas and not individual owners.

Can I do anything I like in my own garden?
If your garden is included as part of your unit you can do anything, as long as it does not breach the community rules, for example you cannot disturb your neighbours with excessive noise, overhanging tree branches or damage common areas.

Can I put a satellite dish on my balcony area?
In order to install a satellite dish you would need to get permission from the owners association to do so. Send a written request to the Board and the decision will be made at the next meeting.

Where does the money for repairs and maintenance of common areas come from?
Service charges are raised to cover the repairs and maintenance required. A budget and service charges are approved at the Annual General Assembly for the Owners Association.

What if the damage is accidental, is there a difference in who has responsibility to fix it?
The OA must repair the common areas and an owner must repair their unit – it does not make a difference how the damage occurred. However you may be able to lodge an insurance claim to recover monies in some instances.
2. Entitlements

a. Calculation
The entitlement of a property is a figure that represents a proportionate share of the scheme which is assigned to each unit in a development. Entitlements can be calculated by either of 2 methods;

1. Area Based – the entitlement for each lot is reached by calculating the ratio of the area of the unit (including all part lots shown on title such as balcony and car parks) to the aggregate area of all lots in the scheme represented by a whole number. This approach does not take into consideration the type of use and therefore can be distorted as it relates to residential and retail lot entitlements. In mixed use developments this leads too many disputes as it may disadvantage one type of lot owner, e.g. the retail lot owners will question the inclusion of the cost of facilities when they do not use them.

2. Just and Equitable Basis – the entitlement for each lot is calculated by taking into consideration all monetary liabilities that are created by a specific unit(s). The analysis is limited to the extent a lot creates costs or consumes services. The starting point is that entitlements should be equal and departure is only possible where it can be shown to be inequitable. The entitlement schedule is intended to produce a basis for allocating expenses equally to the extent that the lots disproportionately give rise to those expenses or disproportionately consume services.

b. Significance
The entitlement determines the amount of service charges an owner has to pay to the owners association for maintaining the common areas within the development. It also determines the share that the owner has of common property as well as can also determine voting rights at a meeting if a poll is called.

c. Can entitlements be changed?
Where an owner believes that the current schedule of entitlements is inappropriate they can propose a change to the jointly owned property declaration to adjust the schedule. This suggestion would have to be referred to the Board as a resolution for approval by special resolution of the owners association at either the next annual general assembly or an extraordinary general assembly.
3. Developers Responsibilities

a. Creation of an Interim Owners Association
It is necessary for the Developer to create an Interim Owners Association (IOA) for every building where units had been handed over to owners. The IOA is not a legal entity but is there to facilitate the handover of the buildings to the Owners Association. The Developer is required to establish an Interim Board comprised of Purchasers within the scheme in order to:
- Create the ability for the Developer and the Board to liaise on important issues
- Allow the Board to keep all owners informed
- Allow more business to be transacted at the First Annual General Assembly

b. Registration of an Owners Association
On transfer of the first Unit to a party, other than the Developer, it is necessary for the Developer to arrange for lodgment of the required documents to register the Owners Association as a legal entity. The Developer must also establish a minute book and accounting documentation; affect the building insurances and prepare all the documents necessary for the First Annual General Assembly including the budget, tenders and all other contractual documentation.

c. The First Annual General Assembly
The First Annual General Assembly of the Owners Association must be held within 3 months of its constitution, the Developer remains responsible for the convening of this meeting and preparation of the agenda. If the Developer refuses or fails to convene the meeting then it may be convened by any 3 owners acting collectively.
- The agenda for the first meeting should include the following;
  - The election of a board
  - The approval of the budget and the applicable service charges
  - The appointment of an owner’s association manager
  - Adoption of the audited accounts presented by the developer.
  - Appointment of the auditor for the following year
4. The Board

The owners association must elect a board who will make the day to day decisions required to run the community. However the owners association can overrule these decisions and also limit the type of decisions that the board can make.

a. Election
The board is elected at each annual general assembly. It can have between 5 and 7 members with 3 reserve members. At the first board meeting members must select a Chairperson. Anyone can be elected to the board as long as they are an owner or their authorised representative however no owner can be represented on the board by more than one member. All board members have to be approved by RERA and RERA may refuse to register or approve any board member.

b. Responsibilities
The board has the duty of putting into effect the decisions of the owners association. Board members are representatives of all owners and should take a long term view of the owner association to ensure that the facilities management produces a beneficial impact on the community. The Board shall be responsible for

- Ensuring that the owners association carries out its duties and functions under the law
- Setting a strategic direction for the owners association; and
- Monitors and direct the owners’ association manager in their performance.

c. Restrictions
There are certain matters that cannot be decided on by the board.

- Fixing or changing the service charge contributions for the year
- Changing the rights or privileges or obligations of the owners of a lot within the community
- Matters that are set out in the Association Constitution that are to be considered at the Annual General Assembly
- Matters requiring a special resolution
- Litigation matters
5. Voting

All owners and their representatives are entitled to vote at the general assembly, however they are unable to vote if service charges remain unpaid.

Owners may vote by;

- Attending the assembly in person and voting from the floor
- Attending the assembly and submitting a voting paper prior to the start of the assembly
- Sending a voting paper directly to the secretary prior to the assembly
- Appointing a proxy to vote on their behalf
- Casting an electronic vote (if available for the owners association)

Co-owners Voting

Where there is more than one owner of a Unit, although they still represent one vote at a assembly they should ensure that a voting paper sent to the owners association is signed by all of them or that a proxy form has been completed nominating one of the owners for the Unit to vote on everyone’s behalf either by voting paper or in person at the assembly.

Proxies

All owners have the right to appoint another voter as a proxy to attend an assembly of the owners association on their behalf. A proxy form is sent out with the agenda and should be completed and returned to the secretary 24 hours prior to the assembly. A proxy expires 1 year after the date on which it was given and no owner can exercise multiple proxy votes where the number of units represented is greater than 10% of the total of units in the scheme.

Counting Votes on Motions

A motion raised at a general assembly is decided on the number of votes cast for or against a motion, with each owner having one vote for each lot that they own. Most decisions at an assembly are resolved by a simple resolution however for changes to a jointly owned property declaration, other than the community rules, and a change to the policies and procedures put in place by the board, a special resolution is required.
In certain situations a ‘poll’ vote can be called either before or after the motion has been voted on. When a ‘poll’ is called votes are then recorded on the number of entitlements for a Unit rather than one vote per unit.

**Frequently Asked Questions**

**Does the Chairperson have a deciding vote at any assemblies?**
*No, there are no deciding votes at general assemblies or board meetings.*

**What can we do about people who refuse to attend the assembly?**
*Encourage people to get involved in their community and the management of it. However there is no requirement for them to attend and they can choose to stay uninvolved if they wish.*

**Are there circumstances where I will be unable to vote?**
*You will not be able to vote if your name is not on the roll of the owners association or if your service charges remain unpaid.*

**How do I get a ‘motion’ on the agenda for the assembly?**
*Anyone who is entitled to vote at a general assembly can ask for a motion to be put on the agenda. Written notice must be given to the Board, Secretary or Association Manager and they are obliged to place this on the agenda for consideration at the next general assembly. Only motions that are on the agenda will be considered at the assembly.*
6. Responsibilities of the Owners Association

The owners association has responsibility for the overall management of the scheme as well as the function of record keeping, financial management, the repair and maintenance of common property, enforcement of the community rules and also ensuring that the building insurance is kept up to date.

a. Assemblies
All owners are given the opportunity to participate in the running of their community. A general assembly is held once a year within 3 to 6 months of the date of the financial year end. An agenda is sent out to all owners on the association roll giving a 21 day notice period. This notice includes a detailed agenda of all the motions to be raised at the assembly along with copies of the minutes for the previous assembly, the financial statements for the previous year and the budget and a schedule of contributions for the new financial period as well as other necessary documents.

If, during the course of the year, issues arise that must be decided on at a general assembly, and the matter should be decided prior to the next general assembly, it is possible to call an extraordinary general assembly. This assembly can be called by the board or 25% or more of owners in the scheme.

b. Finances
The owners association has a mandatory obligation to keep accounting records and financial statements.

On constitution of the OA it is necessary to establish 2 funds a general fund, for the recurring costs in relation to the maintenance and general repair of the common areas, and a reserve fund, for those items of a non recurrent or capital nature.

(i) Service Charges
In order to raise the money necessary to maintain the common areas the owners association will prepare and approve a budget and contributions at its annual general meeting and this is then collected in the form of service charges sent out to owners on a quarterly basis. Notices for the collection of service charges are sent to owners at least 30 days prior to the service charge becoming due. If an owner fails to pay their service charges the owners association will make a decision to commence recovery action to enable the recovery of the debt.

(ii) Financial Statements
The financial statements prepared for the owners association are split into a Balance Sheet and an income and expenditure statement for the general and reserve funds. The income of the owners association is mainly generated from the issuing of service charges. It may also include any interest received from the bank accounts, penalties charged to owners who have outstanding debts and the proceeds for rental fees or utilization of the common areas for commercial advertising as well as any donations to that fund.

Expenditure from the fund includes any expenses that are incurred in the running of the common areas including the insurance, administrative costs, repairs and maintenance and utility costs.
Each owners association is required to have a 10 year reserve fund plan. The plan means that each owners association needs to decide what work is required and a plan providing when and how they are going to pay for it. It is essential for the owners association to engage a suitable qualified person to prepare this report. It is also just as necessary to ensure that is updated regularly.

c. Records
The owners association has an obligation to keep the following records under the Association Constitution.

- A minute book for Board meetings
- A minute book for general assemblies
- A file of official government communications
- A file containing current copies of the legal documents for example the jointly owned property declaration and the building management statement where necessary
- A file for those document required for meetings e.g. correspondence, copies of notices of meetings etc
- A register of the owners and occupiers (Roll of Owners)
- A register of contracts and agreements
- A register of the annual budget
- A register of assets
- Financial accounts

d. Insurance
The owners association is responsible for ensuring that the necessary insurance policies are in place and are up to date. The insurance cover also has to include not only the full replacement value of the building and common areas but any costs incidental to its replacement including removal of debris and any related professional costs.

The building includes owners’ fixtures and fittings for example items that are incapable of being removed from the building should the owner move out. Items included in this list are sinks, shower screens, cupboards, stoves and worktops.

The building must be valued at least every 2 years to ensure that the insurance value is up to date.

The owners association must make sure that there is also public liability cover with an approved insurer for the common areas. This insurance covers damage to common areas as well as death and injury where the owners association could become responsible.

It is highly recommended that individual owners take out their own contents cover for items within their own units. This contents cover should include things like furniture, curtains and carpets which are not covered by the owners’ association policy.

e. Supply Agreements
The owners association must enter into agreement with supply companies and entities that are licensed in Dubai. A supply agreement must be in writing and is approved at a general assembly by a majority of owners. Supply agreements are not to exceed the term of 3 years and those contractors are not able to subcontract its responsibilities.
7. Rights and Responsibilities of Owners

As an owner within a jointly owned property it is necessary for you to;

- Abide by the community rules for the scheme
- Ensure that your contact details are updated on the roll of owners
- Repair and maintain your unit and any property you have an exclusive right to use
- Pay your service charges

a. Community Rules

The Community Rules are found in the Jointly Owned Property declaration lodged with the Land Department. These community rules assist all occupants to live together harmoniously. Community rules can be made or changed by the owners association at a general meeting allowing the owners to manage the scheme in the way that they would like to.

Typical bylaws include;

- Noise
  Most communities include rules regarding the peaceful enjoyment of neighbours and others within the community as well as the behaviour of visitors.
- Parking
  Owners, residents and their visitors must refrain from parking on the common areas. Permission can be given by the Owners Association if necessary to do so.
- Keeping of animals
  The majority of communities do NOT allow the keeping of pets within lots without owners and occupiers first seeking permission from the Owners Association.
- Appearance of the lot
  Owners are generally not able to change the appearance of their lot if the change is not in keeping with the rest of the community or building.
- Obstruction of common areas
  Owners, residents and their visitors cannot interfere with the lawful use of common areas by others.
- Use of lots
  A unit cannot be used for any purpose (illegal or otherwise) than that stipulated in the community rules.
- Activities of children
  Community rules can contain some restrictions on unsupervised children using the common areas. The purpose is to minimize any harm to children, particularly on those common areas such as driveways and car parks.

Community rules are binding on all of the owners and occupiers within a community. If an owner or occupier breaches a rule the Owners Association have the authority to serve a breach notice and also may apply a penalty for the breach of up to 2000AED.

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b. The Roll of Owners
To ensure that you are fully informed with regards to owners association affairs it is necessary to have your name and current contact details entered onto the owners association roll.

Under the Association Constitution it is the vendor’s responsibility to inform the owners association, or its manager, of the transfer of the unit on the appropriate form. However it is also recommended that you regularly update your details.

The roll for the lot not only contains owners’ details but can also hold details of real estate agents, tenants and any nominees acting on your behalf either as proxy or by power of attorney.

c. Service Charges
Owners are required to pay service charges to the Owners Association to ensure that there are sufficient funds to meet its financial commitments in any given financial year. The service charge notice is sent in advance to the registered address, email address or fax number provided by the owner prior to the due date. This notice mentions the service charge amount, the period for which it applies, the details showing the allocation of the amount to the general fund and reserve fund, modes of payment and the payment due date.

The amount of the service charge and installments are approved at the general meeting of owners and are set in line with the budget prepared by the Board. Service charges are levied upon the lot and are attached to that lot. It is therefore essential that any new owners ensure that outstanding service charges have been paid to the OA before taking possession of the lot.

If service charges remain unpaid the owners association may impose a monetary penalty on the owner calculated at 12% per annum as well as claim for any costs associated with the recovery of the service charge. If non payment continues the association can refer to a solicitor for action in the court.
8. **Owners Association Manager**

The owners association can engage an association manager to help the owners manage the community. The manager can either be an owner in a voluntary capacity or a company engaged on a contract however they have to meet all of the necessary requirements set out by RERA.

The appointment of the managing agent can only be decided by a majority vote at a general meeting and the term of the appointment cannot exceed 3 years.

The Association Manager carries out all of the functions, duties and powers of the Owners Association. Standard services of a manager include;

- Negotiating, supervising and recommending the entry into contracts on behalf of the owners association and presenting recommendations to the owners association
- Supervising the performance of contractors and suppliers to the owners association
- Supervising defect repairs and warranty claims in relation to the common areas
- Preparing annual budgets
- Issuing service charge notice and collecting payments
- Communicating and considering complaints and requests of owners in relation to dealing with common areas and dealing with the same
- Coordinating insurances and dealing with insurance claims in relation to common areas
- Coordinating and attending meetings of the Board and the Owners Association and preparing minutes of same
- Responsibility for owners’ association correspondence and electronic communications
- Keeping the books and records as required by law
- Attending day to day operational matters and follow up of all legal matters related to any dealings, transactions and contracting

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**Frequently Asked Questions**

**How much influence do we have over the association manager?**

*The association manager is an employee of the owners association. They can offer advice and direction but final authority and the decision making power lies with the owners association.*

**How do we find a good Owners Association Manager?**

*Ask owners from other schemes or contact RERA and they will be able to provide a list of authorised managers for you.*
9. Disputes

Living in a jointly owned property often means that people of diverse interests and backgrounds are brought together in close contact and therefore disputes and disagreements can arise. In the majority of cases this can easily be resolved by talking about the problem and developing a tolerance and understanding of others.

Sometimes people in dispute have not even spoken to each other about the problem. One party may not even be aware that there is an issue. The first step to resolving any problem is communication.

When disputes cannot be resolved informally, there is a more formal process as set out by the Association Constitution.

a. Mediation

Many disputes can be resolved by mediation, a structured negotiation process in which an independent person assists both parties to reach a resolution. Mediation is confidential and private. Any offers or admissions made during the mediation session cannot be referred to in later proceedings.

Mediators are impartial and do not make decisions, they are there to help the people find their own solutions. This means that the agreement reached best suits all parties involved.

Disputes that are suitable for mediation are;

- Alterations to common property
- Noise problems
- Keeping of pets
- Water penetration problems
- Insurance matters

If no settlement is reached or an agreement breaks down, one side can refer the dispute to RERA as part of the dispute resolution process. Both parties will be asked to submit relevant information and documents to prove your argument. An adjudicator then looks at the application and all submissions. The decision is made and all parties are notified in writing with reasons for the decision. An Adjudicators’ decisions are binding and may carry a penalty for failure to comply.
10. Titling and Management Structures for Jointly Owned Property

a. A simple or basic scheme
The basic scheme management structure is a simple form of strata plan with one Owners Association and a set of Community Rules and a Board elected by the owner’s. This type of subdivision is recommended for schemes of units with one use as there is a propensity for high levels of disputation between owner associations if there are different uses for lots within the one jointly owned property for example retail and residential.

All units are required to contribute to annual service charges levied and voting rights are established in accordance with the entitlement schedule lodged with the Jointly Owned Property Declaration (JOPD). The voting rights determine the control of the Owners Association (OA) formed for a scheme and therefore the day to day operational issues.

There is only one Owners Association for the strata plan and all owners of lots in the scheme are members.

b. Layered Structure
The original lot is subdivided by a plan of subdivision into lots creating a higher association and secondary associations.

A simple diagrammatic explanation is set out below. It is possible to have mixed use components in a layered arrangement inasmuch as the commercial interest becomes separated from the residential component by means of a jointly owned property or secondary scheme. Facilities can also be excised into the common property of the higher association or under separate ownership in a separate lot.

This layered arrangement allows a higher association to be formed to allow an umbrella management group over the whole development but is restricted by jointly owned property law and its rules and regulations both from an administrative and management perspective. This constraint can be difficult for a hotel component as the Board for the higher association can also be in disputation and the make up of members can be controlled by the residential.
c. A staged development
Staging of jointly owned property is possible. This means that the number of units in the scheme increases as the construction or handover of lots is completed. The original jointly owned property declaration will have a comprehensive statement including the details of future development. Whenever a new stage is completed a new jointly owned property declaration must be lodged with the Lands Department. This owners association is obliged to approve and sign the new declaration; however it must not be inconsistent with those previously lodged with the Department.
11. Where to get more information

The Real Estate Regulatory Agency (RERA)

Call Centre: +971 4 222 1112
Fax No: +971 4 221 5533

www.rpdubai.ae

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