



# Planning on launching a new off-plan real estate development at the Gulf Property Show?

February 2019

**This article provides a brief overview of the licences available to Developers and the key documents required.**

## **Do you have a valid Developer's Licence?**

The RERA Law requires each Developer seeking to develop and sell Developments to apply for and maintain a developer's licence (**Developer's Licence**). The Developer's Licences are valid for a period of one (1) calendar year and will then need to be reviewed.

It is likely that a number of licenced Developers would have obtained their relevant Developer's Licence on or around March 2018 (which was the date the RERA Law came into effect). Accordingly, these Developer's Licences may be due for renewal. Article 20 of RERA Decision No. 2 of 2018 requires Developers to submit their renewal applications at least 60 days prior to its expiry.

Details of the documents required and the application process are available on RERA's website.

## **Which licence should you apply for in relation to your new Development?**

RERA permits Developers to launch, advertise and offer off-plan units (**Units**) under two (2) types of licences: a Market Research Advertising Licence or a Development Licence (which will include an Advertising Licence).

Deciding which licence a Developer should apply for will be determined by a number of factors including time, launch strategy and readiness / availability of the application requirements.

Developers should start compiling their documents and submitting their applications to RERA as early as possible to allow sufficient time.

We have set out a brief comparison of the two licences and their features as well as a flow chart below:

	ITEM	MARKET RESEARCH ADVERTISING LICENCE	DEVELOPMENT LICENCE
<b>RESERVATION OF UNIT</b>	Ability for Interested Buyers to Reserve Units	Yes	Yes
	Type of Agreement Permitted	Letter of Interest	Reservation Agreement
	Disclosure Statement	No	Yes
	Fee Payable	BHD 1000	1% of the Unit's purchase price
	Refund of Fee	Full refund	Partial refund (BHD 200 may be retained by Developer for administrative costs)
<b>SALE AND PURCHASE AGREEMENT</b>	Ability for Interested Buyers to enter into Sale and Purchase Agreements	No	Yes
<b>KEY REQUIREMENTS</b>	Building Permit	No	Yes
	Escrow Account	No	Yes
	Approved Master-Plan (if applicable)	Yes	Yes
<b>PROCESSING TIME AND VALIDITY</b>	Processing time by RERA	Five (5) working days	Forty (40) days
	Validity	Nine (9) months	Duration of Development (ascertained by Consultant Engineer)

### Key Documents

#### **Letter of Interest**

Developers that have obtained a Market Research Advertising Licence may only enter into a Letter of Interest with prospective buyers (**Interested Buyers**) to reserve a Unit for an Interested Buyer for a specified duration of time.

An Interested Buyer will pay a fee of BHD 1,000 (one thousand Bahraini Dinars) on signing the Letter of Interest which will be fully refundable.

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If a Developer subsequently obtains a Development Licence, it will provide the Interested Buyer with notice within fourteen (14) days of its issuance. The Interested Buyer may then conclude a Reservation Agreement within two (2) months from the date of receiving such notification should it wish to do so.

### **Reservation Agreement**

A Developer may enter into a Reservation Agreement with an Interested Buyer following receipt of a Development Licence (which will include the Advertising Licence).

The Reservation Agreement will reserve a Unit for an Interested Buyer for an agreed duration provided that this period is not less than seven (7) days. The Interested Buyer will pay a reservation fee equivalent to 1% of the Unit's purchase price and will include any fee paid by the Interested Buyer as part of the Letter of Interest (if applicable).

If the Interested Buyer terminates the Reservation Agreement, or the agreed reservation period has expired, the Developer may retain a maximum of BHD 200 as an administrative fee and return the remainder of the 1% fee to the Interested Buyer.

A Disclosure Statement must be provided with the Reservation Agreement which will include the following information:

- a) A copy of the Sale and Purchase Agreement;
- b) The Main Regulations, Articles of Association and Joint Property Bylaws (as defined in the RERA Law);
- c) A copy of the plan defining the Units and common areas;
- d) A two (2) year forecast of the service charges and, if available, management arrangements;
- e) Details of any restrictions which may impact the Interested Buyer's right to use the Unit or Common Area; and
- f) Any other details required by RERA and/or any governmental entity.



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### **Sale and Purchase Agreement (SPA)**

Developers may not enter into an SPA with an Interested Buyer unless they have obtained a Development Licence and after a minimum of seven (7) days from the conclusion of a Reservation Agreement.

The SPA will include a number of key requirements set out by RERA as well as a payment plan which will be based on a percentage of the completion of the relevant Development.

The SPA is binding on both parties and the Developer is required to register the SPA on the Off-Plan Sales Register at RERA and pay the applicable fees.

*The below flow chart is intended to assist Developers with which licence they may apply for in relation to their Development at this stage.*

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