

Santa Ana del monte

Residents Cooperative

December 2009 Report

On the 3rd December 2009 Anthony Malpass, on behalf of the SARC membership, met with Almudena to discuss the position in regard to the proposed settlement agreement and SADM. The meeting lasted two hours; please note that this report has been written as soon as it was possible to practically do so, to get information out to purchasers/creditors reasonably quickly.

The following information was either given or discussed:

Settlement Agreement

The agreement has been drafted and some minor alterations have been made by the administrators. However, the final document has been delayed due to administrators having to complete an informe (report) for the court, which includes the details of each creditor, their challenges and the outcome of these challenges. The informe therefore, has a new valuation of HdT's assets and the debt owed to creditors. The Court requires this document before the judge will consider the settlement offer, as it contains the up to date position of the company.

I was shown PDF copy of this informe and it was sealed by the Court on the 25th November 2009 and it appears, that despite the claims that have been made by some, no purchasers have been given privileged creditor status. It is a lengthy document and is over 2600 pages long, including the appendixes.

When the informe/report was sealed in the court, the third phase of the administration process commenced. This is the phase where the settlement offer/agreement is made available to the purchasers/creditors to sign up to or not. This phase lasts for 90, WORKING days and does not include weekends or Spanish Bank Holidays. This equates to about 18 – 19 weeks in which purchasers can accept the agreement and sign up to it at a Notaries office. Remember, that if you do not sign up to the settlement agreement you will be counted as a no vote.

It was reiterated that it is only the settlement agreement/offer that creditors are being asked to consider and sign up to. If the agreement is accepted then purchasers can decide which option they wish to follow. Importantly, it was pointed out that purchasers can move their deposits to different properties within phase 1, either changing for a dearer or cheaper property.

The administrators intend for the settlement agreement to be finalised and ready for sending out to the creditors before the 25th of December. HdT have drafted a covering letter to go out to the purchasers and have instructed professional translators to translate the letter and agreement into English, as soon as the administrators have given the documents their final OK.

E mail from HdT:

Importantly HdT will be sending a brief email to purchasers to check that their address's are correct to try to ensure that ALL purchasers receive the formal covering letter, which is to be sent to them, as part of the proposed settlement agreement legal process.

Website:

HdT have been making preparations to make the documents available to the purchasers/creditors and have constructed a HdT website, which Almudena showed to A. Malpass. Purchasers/creditors will receive a letter explaining the settlement offer/process and a unique password to access the HdT website. The site will be in Spanish and English and have the settlement agreement in a PDF format, this will enable it to be downloaded. There will also be an email address where questions may be posted and there will be a page of FAQ's for all purchasers to be able to see.

It was suggested by A Malpass that after a person logs on that they have the ability to change their password to enable them to remember it more easily. Furthermore, that there is a clear email address in case of difficulties logging on and accessing the site.

Notaries:

Almudena is currently in discussion with Notaries in the UK/Eire in preparation of instructing them to record purchasers acceptance of the settlement agreement.

Jumilla Town Hall

Almudena explained that HdT had presented documents to the Town hall on Tuesday 1st December to commence the process of getting the final build licences for phase 1 of SADM. It is planned that a copy of the document stamped by the Jumilla Town hall will be made available with the settlement agreement.

It asked what phase 1 would include and the reply was 2000 habitations, 9 hole golf course, commercial units, a pro shop and bar. Almudena is going to provide a map of SADM that identifies which sections are in phase1. A .Malpass took this opportunity to ask if HdT would reconsider the design of the club house and was told that this may occur and be more in keeping with the location of SADM and its architecture.

Financing of SADM Build

Two Spanish bank have said that they will finance the build of SADM upon the issuing of the final build licences by the Jumilla Town Hall. Almudena is trying to get the verbal agreement in writing, so that it can be attached to the settlement agreement but the banks administrative procedures are very slow.

Solicitors

Almudena explained that although some solicitors are in conversation with HdT and are aware of the impending settlement agreement that some appear to be pursuing their own agendas.

Comment / Opinion

It was obvious from the amount of planning that has taken place and the construction of the HdT website that HdT are about to propose a settlement/offer to the creditors. It is also noticeable that they now have a greater understanding of the importance of communicating with purchasers and answering their questions.

This final phase of the administration process is very important to the vast majority of the purchasers; as they do not have bank guarantees. If the agreement is not accepted then the company will be liquidated and in our opinion that would be the worst outcome possible for the majority of purchasers. It would most probably take many years to realise the assets and they would probably not achieve their listed value.

It may be that upon the conclusion of this process, all being well positively, that we purchasers scrutinise how the legal profession has behaved and whether there has been any conflict of interests that have negatively impacted upon purchasers and of course any examples of best practice.

6 December 2009
ADM