

Santa Ana del monte

Residents Cooperative

July 2010 Update Report

On Thursday the 1st of July 2010 Anthony Malpass, on behalf of the SARC membership had a meeting with Almudena at the HdT offices. This meeting lasted for almost 2 ½ hours and the following items/points were discussed:

The Creditors Vote:

At the time of the meeting the court had not released the result of the purchasers' vote to accept or reject the HdT settlement agreement and it was unknown as to what format the result of the vote would be given, as this has varied from judge to judge, or when the court would disclose the vote.

After the vote is disclosed there is then a period of 10 working days for challenges to be lodged with the court. It appears that the judge released so much detail to minimise the possibility of challenges being able to be put forward. If any challenge is lodged HdT then have 10 working days to rebuff it and HdT should know by the 16th July if there have been any challenges lodged. Therefore, it is possible that the result of the vote may not be finalised until the end of July or after August (due to the closure of courts for the summer holiday period).

After the meeting Almudena telephoned Anthony Malpass and informed him that the vote had just been made public. The result was published including how named creditors voted, their amount of credit and the percentages of the vote. The votes announced were; **Yes 52.55%, No 12.9%** and some creditors' votes were not counted.

Finance:

Almudena explained that there had been numerous high level meetings between HdT various Spanish banks & 2 international finance institutions. The negotiations are advanced with clauses of contracts being discussed and scrutinised by those involved for HdT and the relevant financial institution to reach a final agreed contract of finance.

It was explained that HdT are asking for mortgages to be available for purchasers' and for bank guarantees for all. The issue of bank guarantees was discussed at length, including a suggestion from a SARC member that land could be used to guarantee purchasers money and HdT agreed to look into if this would be possible.

San Jose Inversiones:

The court has given the date of the 30th November for the closure of the vote on the SJ settlement agreement. SJ have worked on the settlement agreement

with the SJ administrators and anticipate presenting it to the court very soon. After the judge reviewed and finally agreed its contents and that it is deliverable, SJ will then make it available for the SJ creditors. SJ intend to build upon the experience that they have gained through the HdT vote, holding meetings with purchasers and setting up a SJ website.

If the SJ creditors accept the SJ settlement agreement, then purchasers at SADM will have the opportunity to move their full deposit, individually or jointly, to a completed or near completed SJ property, either at el Pinet or Playa Golf.

Purchasers' Options:

All purchasers no matter how they voted or whether they have a live or cancelled contract will be offered the same choice of options, as outlined at the HdT meetings & as requested by the SARC membership. A further possible option was put forward on behalf of the SARC membership and HdT are going to be looking into if this suggestion is possible.

Purchaser / HdT meetings:

Almudena intends to come to the UK /Eire with a team of HdT staff, so that they can have individual appointments with purchasers, to discuss each purchaser's options directly with them, including the moving of plots, compensation etc. It is also planned that proof of the finance for SADM will be available and that all dates given are realistic and achievable. (Almudena stated that in the past she has trusted others, when they have given her dates etc but has learnt to only give dates when everything that affects them is achieved). This will be when new purchase contracts, with completion dates (that cannot be breached) will be provided to those who wish to continue with their purchase, even if it is only to have the opportunity to re-assign the purchase contract and recoup all of the deposit.

If SJ come out of administration, purchasers will have the possibility of moving to another development, have compensation and get a property earlier than at SADM. As Almudena and her staff will be working to achieve a positive outcome to the SJ vote and that the opportunity to move to a SJ development is dependent upon a positive result, it was agreed that the meetings are most likely to occur in December 2010.

SARC Members' questions:

Time frames:-

This was something that many were asking about and HdT are, as mentioned above, in the process of identifying the dates and will make them available shortly. They have already had an ***architect examining the foundations*** at SADM to see if any can be used or whether they need to be completely replaced. ***It initially appears that with some relatively minor work the foundations can be used and that should improve the time- lines.***

Bank guarantees:-

Bank guarantees are on most purchasers' minds and were discussed at length and it was said that ***HdT are working to ensure that ALL purchasers are given BG's*** with their new purchase contracts.

HdT Bank account requests:-

Information concerning the bank and the account details of the HdT bank account into which purchasers' funds was asked for by a member. Upon raising this, it became apparent that a few purchasers had been sending in a succession of emails building up to requesting this information. It was discussed as to why purchasers would be seeking information that their solicitor should have and be able to provide them with. It was felt that the information was probably being sought to try to build a case against the bank and that it would be helpful for HdT to comply directly to the purchasers with their request.

The concern raised by Almudena was that rather than asking clearly in a single email, a chain of emails was sent asking a subsequent question after receiving a reply. The problem this causes is that the staffing level is not high and in a person ***sending multiple emails delays the replies to other purchasers' emails.***

Comment / Opinion

It was clear from the meeting that HdT are sincere in their intention to proceed as soon as possible with SADM and that they have learnt to be sure of timings before they commit to a definite date. This is most welcome, as it has been a common issue amongst purchasers that time frames have not been adhered to in the past and it is helpful that more care is going to be taken to ensure that dates and time frames are as accurate as possible.

Although as a purchaser organisation we would like purchasers to be able to sit and discuss their individual position as soon as possible, we recognise that the outcome of the SJ administration process has impact upon the options available. Therefore, we ask for patience and understanding from all purchasers and wish to ensure all that SARC will continue to liaise with HdT to clarify when and where the meetings will commence and how they will be run.

It is very worrying that it appears that some purchasers who voted yes did not have their vote counted by the judge due to their legal representative previously voting no. We believe that the Judge requested for the anomalies regarding these votes to be clarified by the legal representatives, to enable the court to know which vote stood. We wonder if this did or did not occur and whether the wishes of clients were not voiced and honoured. It is worth noting that these votes could have been crucial and with them not being counted the yes vote lost. Therefore, one wonders why it appears that legal representatives did not do all possible to ensure their clients yes votes counted? We are aware that this occurred to some of the clients of DWF.

A further meeting will be held with HdT towards the end of July and a further update written and sent to members as soon as possible, prior to being posted onto the SARC website for all to read.

SARC July 2010