



## **San Jose Inversiones (SJI) UK Settlement Agreement Meetings Report 23<sup>rd</sup> October – 7<sup>th</sup> November 2010**

SJI organised several meetings throughout a weekend in November and also had a meeting in October that was instigated by a solicitor for his clients. A member of SARC attended all of the meetings in the UK to observe the questions raised by the purchasers and to monitor the answers given by SJI. They also informed SJI purchasers of the HdT vote and that there are now several HdT purchasers wishing to move their deposits to SJI coastal developments.

All the meetings started with an introduction of the two SJI speakers: Almudena, the Sales Director and Antonio, the Finance Director. An explanation of why the problem that we are all in occurred, what they had done to try to resolve the problem, why going into Administration had been necessary, an explanation of the Proposal, the options that purchasers will have if SJI come out of Administration and what it would mean if SJI is liquidated.

### **Why the problem occurred:**

This was mainly due to the loss of confidence of financial institutions in the construction industry and an unwillingness to invest. It was also mentioned how ecological objections had caused long delays at El Pinet and at Albaterra changes in the government and the need for new paper-work had caused further difficulties.

### **What have they done to try to solve it?**

SJI sought finance from many different sources and have considered numerous options, including the sale of land that would enable them to continue to build. This has facilitated El Pinet to have roads and swimming pools completed and SJI are now waiting on the electricity company to put in the underground power cables. This has been further delayed due to the electricity company having to decide from where the power cable is going to be run from and the route that it is going to take.

SJI have negotiated 1 million Euros finance from BBVA to complete El Pinet and they should be able to recommence building in the New Year if the Proposal is approved. SJI also explained that they have been following with the paper work for Albaterra but they do not anticipate that work will commence there for several years.

### **Administration:**

SJI has had its books, purchase contracts, business plan etc scrutinised by the court and it had been concluded that the company is still viable and potentially profitable. If the Proposal is accepted by the purchasers'/creditors, SJI will come out of this phase of the administration process but will remain under the court supervision for a further 5 years. During this time SJI will have to provide the court with 6 monthly reports, which the court will verify to ensure compliance with the Feasibility Plan and SJI's business plan. If they are found to be failing to perform, they will be liquidated.

**It was also stated that an organised purchaser group (SARC) will be keeping a close eye on the activities of SJI.**

### **Settlement Agreement:**

Purchasers only have to sign up to the agreement and not decide which option they prefer at this time.

### **Money back:**

The reason for 80% repayment was explained and purchasers were taken through the figures given to demonstrate how the funds would be generated to repay deposits. The time scale for the repayments was also explained and showed that it may be possible to repay purchasers earlier than planned, but not later.

### **Property or asset:**

A purchaser's deposit could be used to purchase a variety of different assets such as garages, commercial units, homes or even land.

### **Options available to purchasers if the Proposal is accepted:**

#### **SJI stated the following:**

- **Transferable Contracts**, SJI will help resell properties and a purchaser can also seek a buyer themselves. The new purchaser pays their deposit directly to the selling purchaser and immediately takes over the contract and obligations. Thus, the initial purchaser will recoup all of their money in a shorter period of time. If the property is not re-sold the purchaser will then await the 80% refund of the deposit as per the Proposal.
- **Compensation** for those who continue or resume with the purchase of a property. This will be given on an individual basis.
- If SJI comes out of administration it will be possible to **move purchasers between the two separate companies** and compensation will still be given on the property purchased. Instead of having a property on the coast it will be possible to have a property inland at Santa Ana del Monte Golf & Country Club (SADM), where a 2 bed quad house costs a similar price to a 2 bed apartment at El Pinet.

- **Purchasers can change their property** and if they are purchasing more than one property, the **deposits can be combined** and used to purchase a single property if they so wish. **Purchasers' can also combine their deposits and jointly buy a property with another purchaser.**

- **Those who have cancelled their purchase contracts can resume** with a property purchase and have the same options as mentioned above.

- **As prices** of coastal properties **are now lower** than they were prior to SJI going into Administration, SJI will be offering reduced prices for anyone wishing to continue with a property purchase in these locations.

### **If SJI is liquidated:**

All purchase contracts will automatically be cancelled and the Administrators will try to find a buyer for SJI assets for a period of one year. If no buyer is found then the assets will be sold at auction to the highest bidder. The court will primarily seek to repay the Privileged creditors and Debts against Assets. This is why only the Ordinary creditors have a vote on the Proposal as it is that group (us purchasers) who are not protected from a total loss of their money. Currently in Spain many companies are being liquidated and the assets are going very cheaply.

### **Upon the completion of the presentation the SARC representative was introduced to the SJI purchasers who then explained:**

- That SARC had been formed to enable purchasers to ask the company questions and to make information available to all purchasers to help them make informed decisions.
- SARC have been meeting with the company for over 2 years putting forward members concerns and questions.
- That SARC had negotiated with the company over several months to have the options available for all purchasers, including compensation, transferability of deposits and also for purchase contracts to be able to be sold on.
- That HdT had been voted out of administration and that one of the options made was to be able to move deposits to SJI properties, dependent upon SJI getting a “yes” vote and the availability of properties.
- That SARC had undertaken a consultation process with its membership and identified the potential of around 100 purchasers who wish to change to a SJI coastal development. The reasons given being; impending retirement and the need for a property earlier than HdT can provide, children being added to the family and also that on the coast the English language is more frequently spoken.
- That SARC is offering support to the SJI purchasers and has set up a page on its website to hold information concerning SJI developments.

## Comment/Opinion

**At all of the meetings SJI purchasers were annoyed that information had not got through to them and that various agents and in some cases, solicitors had let them down. They welcomed the SARC presence and the offer of support and to be able to be part of a collective voice.** They asked questions of SJI about the options and the answers given to them were consistent at each meeting. Some SJI purchasers expressed an interest in moving to SADM and as a result of this the SARC committee have been discussing making SARC membership open to both HdT and SJI purchasers, if SJI come out of administration. (As purchasers could be moving between developments this would enable SARC to support them through the process).

**As an independent purchaser group that has already gone through the process of voting on a Proposal we fully understand the choices that purchasers' face and that it is only the purchasers who are at risk of losing their money. Therefore, we urge SJI purchasers to think very carefully about the offer made to them (which is significantly better than the one that the HdT purchasers accepted) and the high risk of losing all their money if they decline the offer. It is our opinion that the SJI purchasers would have a significantly better outcome if the Proposal is accepted and urge SJI purchasers to do as the HdT purchasers did and save their money by accepting the Proposal and registering a "YES" vote ASAP. (Some of the HdT votes were placed too late and 1% of the vote was not counted for this reason)**

Although HdT are out of Administration, we initially included the following solicitors' comments as an appendix on a SARC report prior to the "Yes" vote and are now making this same information available to SJI purchasers for their reference.

## SARC Committee 15 Nov 2010

### Appendix

#### Three different Solicitors comments regarding the liquidation of HdT

##### 1) Posting taken from EOS an Internet forum

We are about to see what happens with the proposal of Herrada del Tollo to either continue trading or being liquidated. In my opinion, and this is the only thing I can recommend at the moment, we will have to wait and see the result of this. Starting a litigation route which I consider of high risk and that can lead to big costs (losing a case often means having to pay the other side's fees) is not something I will recommend to our clients unless we are certain enough that it will lead to a good result. Of course I may be wrong and this is why I would welcome other opinions of Lawyers involved, to share experiences on behalf of our clients. Kind regards,

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Martin de La Herran Sabick Abogado / Lawyer (reg. 851 Jerez) [www.abolex.es](http://www.abolex.es)

## **2) Email to a SARC member that was kindly shared.**

Dear

About the mail you have been sent by the Residents Association, I'd like to clarify some issues: .....

-As for getting a back payment higher than 65% with the liquidation of the company, it is not possible, it will always be lower and depends on the final amount results of the company liquidation.

Please, tell me if the meeting is finally in Spain and its result Best regards.

FERNANDO DE LA TORRE SÁNCHEZ -Abogado- Avenida San Francisco-Javier, nº1, 1ºC 30730- San Javier (Murcia)

## **3) Email in response to some questions**

Date: Tue, 13 Apr 2010 17:58:18 +0200

Dear Tony,

- .....
- 2.- The terms of payment would keep the same as in the original purchase contract.
  - 3.- From my point of view, if the company is liquidated it would be very difficult to ensure the creditors to get 65% of their money back.
  - 4.- (I have not clear the meaning of the question) The process of selling assets could take a long term.
  - 5.-I agree with the SARC assessment regarding the settlement agreement, because from my experience the liquidation process never satisfies the ordinary credits.

I hope to help you with these answers.

Do not hesitate to contact me if you need something more.

Regards.

Eugenio Pedreño Balibrea. Abogado.