

BILL TO REFORM THE URBAN DEVELOPMENT LAW AND CIVIL CODE FOR MEXICO CITY ON CONSTRUCTION AND RESIDENTIAL PRE-SALES

On November 10, 2020 a bill was introduced to the Mexico City Congress seeking to amend and add a paragraph to article 93 of the Urban Development Law, as well as a new article 2279 Bis to the Civil Code, both for Mexico City (the "Bill").

The preliminary statements of the Bill discuss the issue related to certain irregular practices from some real estate developers when commercializing residential units, such as the marketing and pre-sale of apartments that are not included in the construction license granted over the underlying plot of land, and which may result in a demolition order of unauthorized units from the competent authority. This becomes a complex issue when the authority decides to proceed with the demolition of such units, and the units are no longer owned by the developer, but by bona fide third parties, unaware of the terms and conditions of the construction license.

The foregoing, represents an important problem in a city where the pre-sale of vertical condominiums has such a high demand, being the largest vertical developed in Mexico along with the State of Mexico.

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In this regard, the Bill proposes the prohibition of executing purchase and sale agreements with respect to projects during early construction stage on real estate assets, until the occupancy permit is granted by the competent authority, under penalty of definitive construction suspension in case of breach thereof.

The use and occupancy permit is obtained when the construction completion notice is filed, being the final authorization to be obtained to complete the construction authorization processes types B or C (residential up to 10,000 sqm and above 10,000 sqm, respectively).

It is important to note that despite the Bill preliminary statements mention pre-sales, the proposed text reform does not allow the execution of purchase and sale agreements only, being silent and, therefore not prohibiting the signing of promissory purchase agreements and sale offers.

The Bill was turned to the relevant Commission, through the Directive Panel for its analysis and subsequent ruling, which will be responsible for the drafting of the preliminary reform project. If the Bill is approved by the Commission, it will be included in the agenda for its presentation at the Congress, in order to be discussed, voted and, as the case may be, approved or rejected.