

## Making rental guarantees

**Q: I'm going to start an advertising campaign with a few national and major regional newspapers soon in the UK. I intend to include information on rental guarantees and wanted to ask how much substantiation is needed (by law). Will a disclaimer suffice?**

**A:** Working a step back from the advertisement itself, it is crucial that you and your sales team have a clear understanding of how the rental guarantees work. Will the terms of the rental guarantee be covered in a contract between the developer and the investor? If it is going to be covered in a contract, how will this be backed up and substantiated in practice?

In certain cases, a substantial developer will be able to use income streams from their portfolio of established projects to subsidise a typical initial one- to two-year guarantee period for their investors on a new project. In other cases, it is simply a case of the sales price to investors being 'uplifted' at the outset, effectively meaning that the investor is paying over the odds in the first place, only to pay themselves back for the rental guarantee term. Increasingly, savvy investors who have done their research into the pricing structures on comparable developments will usually be able to spot it if this is the likely case.

However the guarantee works, you wouldn't reasonably be expected to go into this kind of detail in an advertisement, where by its very nature, the message and information needs to be brief and snappy. So, the key here is to keep any initial information on rental guarantees in advertisements as realistic and accurate as possible, whilst also including appropriate

disclaimers. The risk is that if you don't, you may be leaving yourself open to being sued for misrepresentation by an investor.

If you're not doing so already, you might consider actively recommending your investors seek independent legal advice on any rental guarantee, as well as all other legal issues on their purchase. That way, it's our job as lawyers

to ensure that they understand how any rental guarantee works and it minimises the risk of you being the target if this, or any other aspects, don't work out as originally expected.

If you're an agent then, better still, you might instruct lawyers to take a look at the mechanics of the rental guarantee before you advertise it to make sure the deal stacks up from the investor's point of view. That way, if the lawyers do identify anything you're not comfortable with, you've got a chance to iron out any issues with the developer so that you can promote it with confidence.

**Dennis Phillips, Phillips International Lawyers**



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**Touros Village Beach Resort - [www.touros-beachresort.com](http://www.touros-beachresort.com)**

A new project in Natal Brazil, designed by Award Winning Architect studio Crest Homes. Stunning tropical low density development of 277 units consisting of apartments, bungalows and villas, prices starting from £49,900

