Real Estate REviews Real Estate REviews Real Estate

15 December 2025

Legance

The focus of this special issue:

Latest news from the Municipality of Milan and Roma Capitale

This edition will also feature:

Building renovation and new construction // Donation: Simplification Bill news // Syntethic Warranties

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EDITORIAL *by Giuseppe Abbruzzese*

It's been five years since the first issue of REviews, and during this time the number of readers has increased tenfold.

This result both surprises us and motivates us to continue with this editorial project, which began with a very simple idea: **to do something different from anything that has ever been done.**
This is why we insist: **REviews is not a newsletter.**

We receive far too many newsletters on a daily basis. Some rush to be the first to publish the latest ruling, new regulation, or last-minute bulletin. That's fine: it's valuable work, but we don't want to add to the clutter.
We've chosen a different path.
We don't want to clog up people's inboxes who are already inundated with notifications and alerts.
We opted for a magazine: less frequent, more thought out, designed to compile only really relevant news, put it in order, link it together, and offer it when—and only when—the whole picture becomes interesting.
This allows us to take the necessary time to understand whether a new development is truly useful, or just much ado about nothing.
There is something else that sets us apart: **we do not write to lawyers.**

We target industry professionals, using clear, direct, and matter-of-fact language. Because real estate law is complicated enough without adding technical jargon.

This special edition, designed to celebrate the magazine's fifth anniversary, is particularly packed with content.
Inside, there is a little bit of everything that has made 2025 so vibrant: the amendments to Milan's PGT and Rome's PRG, the latest guidelines regarding demolition and reconstruction, the statute of limitations on illegal land subdivision, synthetic warranties, and many more issues that are reshaping the sector.
Not just a summary, but a compass to guide us: to help understand what's happened and, above all, what lies ahead.

And what about 2026?
We will change the issue frequency and introduce some new features that we are already working on.
Keep reading. The best is still to come.

LATEST NEWS FROM THE MUNICIPALITY OF MILAN: AMENDMENT TO THE PGT AND NEW INTERPRETATIVE RESOLUTIONS *by Matteo Bianchi*

During 2025, the Municipality of Milan adopted several measures aimed at clarifying and/or updating municipal town planning and building regulations.

Amendment to the PGT: City Council Resolution No. 1358 of 6 November 2025 approved the guidelines for initiating the procedure for a partial regulatory amendment to the NTA (Technical Implementation Regulations) of the Regulatory Plan and the Services Plan of the current PGT.
Among the guidelines for the amendment, it is requested that the implementation methods provided for in the Regulatory Plan be aligned with the provisions of DGC No. 552 of 7 May 2025 and the subsequent DD No. 4192 of 27 May 2025 (see paragraph below) on the methods of intervention.
Until 19 December 2025, any interested party may submit suggestions and proposals.

Intervention methods: City Council Resolution No. 552 of 7 May 2025 established that, for the construction of buildings taller than 25 metres or with volumes greater than 3 cubic metres per square metre, the following implementation methods must be used:

a. Implementation Plan, in the case of interventions that differ from the morphological standards of the PGT;
b. Agreed Building Permit, in the case of interventions implementing the morphological standards of the *Nuclei di Antica Formazione* (Historic Core Areas) or the *Tessuti urbani compatti a cortina* (Continuous street-front urban fabric) *within areas characterised by a recognisable urban design;*
c. Direct entitlement in all other cases, only if there is no change in urban use and if the areas required as territorial endowment do not have to be obtained through transfer, easement or payment. In such cases, the procedure is carried out through a Building Permit Agreement. In addition, Executive Decision No. 4192 of 27 May 2025 specified that, in the case of demolition-reconstruction or new building projects, direct authorisation may only be used if the project does not exceed 25 metres in height and/or 3 cubic metres per square metre.

Continuing on the subject of intervention methods, City Council Resolution No. 1409 of 13 November 2025 (i) defined remedial measures for building works already completed or in progress and subject to criminal proceedings for alleged building offences and (ii) provided guidelines to be followed

for the correct classification of building renovation works.

Town planning fees: City Council Resolution No. 11 of 3 March 2025, supplementing Resolution No. 28 of 17 May 2023, approved the town planning fees for the construction of facilities and works of public interest not carried out by the competent authorities, nor included among the town planning works carried out by private parties and in accordance with town planning instruments.

Monetisation: Executive Decision No. 2808 of 10 April 2025 - implementing the previous City Council Resolution No. 1512 of 6 December 2024 - updated the monetisation values of the areas to be sold for the construction of public facilities and facilities of public or general interest. In addition to this, Executive Decision No. 5322 of 30 June 2025 also approved the criteria for calculating the economic benefit achieved as a result of the failure to transfer areas intended for such facilities free of charge.

BUILDING RENOVATION AND NEW CONSTRUCTION: THE ISSUE OF CONTINUITY BETWEEN DEMOLITION AND RECONSTRUCTION

by Valentina Brovedani

In light of the criminal cases involving town planning in Milan, the Administrative Judge is gradually realigning himself with the Criminal Judge, increasingly restricting the distinction between building renovation and new construction.

On this point, two important rulings single out the concept of continuity between the demolished building and that which has been rebuilt as the distinguishing feature between the two categories of intervention:

- Lombardy Regional Administrative Court, Section II, No. 2757 of 23 July 2025, rejected the appeal brought against the Municipality of Milan for the annulment of the injunction prohibiting the SCIA (certified notification of commencement of works) as an alternative to a building permit. The SCIA concerned a project, classified as a building renovation, which involved the demolition of a two-storey residential building, to be replaced by a five-storey residential building with a basement.
- The Regional Administrative Court confirmed the Municipality's assessment – according to which the intervention should have been classified as a new construction, due to the lack of continuity between the demolished building and the rebuilt one – on the assumption that this assessment is a typical example of the technical assessment of the administration and, therefore, is not subject to review of administrative acts by a court.
- Council of State, Section II, No. 854 of 24 November 2025, clarified the concept of reconstructive renovation by resorting to an *"interpretation respecting the letter and logic"* of Article 3, paragraph 1, letter d) of Presidential Decree No. 380/2001.

The Council of State has linked continuity with the existing building to the following limitations and conditions, which are not expressly provided for in the legislation:

I. **uniqueness of the building** undergoing renovation, as it is not possible to combine volumes previously made up of different structures, or to divide an original volume into several newly constructed buildings;
II. **concurrent timing of demolition and reconstruction,** in the sense that demolition and reconstruction must be authorised by the same building permit;
III. **the neutrality of the impact on the** territory the building renovation must be limited to the mere use of the existing volume, without further transformations of the landscape.

ROMA CAPITALE: AMENDMENT TO THE PRG AND SAFEGUARDS *by Michele Balducci and Vincenzo Acampora*

Through Resolution No. 169 of 11 December 2024, the City Council adopted the amendment to the Technical Implementation Rules (NTA) of the General Urban Development Plan of the Municipality of Rome.

Until the amendment is approved, safeguards will remain in place. These safeguards are (also) intended to ensure the continuity of preliminary investigations relating to building permits that have been submitted but not yet issued and/or finalised, as well as future applications.
In the event the building work subject to the application for planning permission has been requested and not granted is found to be non-compliant
(a) with the current NTA or
(b) with the NTA adopted through the variation,
any decision on the application for the relevant planning permission shall be suspended.
Building permits already issued or finalised, which conflict with the adopted NTA, shall remain valid only if works commenced by the date of adoption of the amendment and are completed within three years from that commencement date.
The explanatory circular Prot. QI/2025/0075625 of 4 April 2025, which contains the adopted NTAs, with a comparative table showing the differences with respect to those currently in force, can be found at the following link: http://www.urbanistica.comune.roma.it/images/uo_urban/circolarevarianteNTA.pdf

ILLEGAL LAND SUBDIVISION AND STATUTE OF LIMITATIONS *by Giulia Massimo*

Ruling No. 29727, of the Criminal Court of Cassation, Section III, of 26 August 2025, addresses the issue of the relationship between the statute of limitations for the offence of illegal land subdivision and the confiscation of the property.

The ruling states that the acquittal of the defendant due to the statute of limitations does not invalidate the previously ordered confiscation of the property, provided that an assessment has been made regarding the merits of the offence itself.

The ruling stems from proceedings for illegal land subdivision and other building offences, which were declared time-barred by the Rome Court of Appeal. Despite the statute of limitations, the trial judge had confirmed the confiscation of the land and buildings involved in the illegal urban and building transformation. The appellants complained that there were no grounds for confiscation, arguing that the statute of limitations had expired before the first instance ruling and that, therefore, there had been no effective assessment of the alleged offences.

The Court of Cassation rejected the appeal, reaffirming the long-standing principle, in light of the case law of the Joint Divisions of the Court of Cassation and the European Court of Human Rights, according to which the statute of limitations on the offence of illegal land subdivision does not preclude the possibility of ordering or maintaining the confiscation of the land and the subdivided works, provided that the objective and subjective elements of the case are established on the basis of evidence acquired before the statute of limitations expired.

In the case under examination, the Court ruled that the physical division of the land, the construction work carried out and the overall context of the negotiations constituted sufficient evidence to prove the existence of the alleged offence, thereby justifying the confirmation of the confiscation measure.

ASSESSMENT OF LANDSCAPE COMPATIBILITY EX POST: INTERVENTION BY THE MINISTRY OF CULTURE *by Flavia Maria Veroux*

Circular No. 19 of 2 April 2025 issued by the Ministry of Culture paves the way for ex post landscape compatibility assessments even in the case of "the creation of usable areas or volumes or the increase of those that have been lawfully built", under certain conditions.

The regulations on this point are as follows:

- Article 167, paragraph 4, of the Code of Cultural Heritage and Landscape (Legislative Decree No. 42/2004), pursuant to which the posthumous landscape compatibility assessment is excluded in the case of interventions involving an increase in usable areas or volumes or an increase in those lawfully built;
- Article 183, paragraph 6 of the Code, which prohibits the introduction of exemptions to the Code by other laws;
- Article 36-bis of the Consolidated Building Act (Presidential Decree No. 380/2001 - TUE), which provides for the obtaining of a posthumous landscape compatibility assessment *"in the case of interventions that have led to the creation of usable areas or volumes or an increase in those lawfully built"* in the specific cases identified by that provision.

The contrast is clear: the *Code* prohibits landscape compatibility assessment after the fact, while the TUE allows it.

The Circular states that the provision referred to in Article 183, paragraph 6, of the *Code* has a purely programmatic function and, therefore, although it is theoretically preferable that the provisions of the *Code* be derogated from only within that legislative text, it is quite possible that there are provisions contained in other legislative texts that introduce a derogation from it.

However, amnesty is only possible in specific cases and under the conditions set out in Article 36-*bis* TUE (including: failure to impose the relevant penalty and double compliance with the town planning regulations in force at the time of the infringement and those currently in force).

Finally, there is an invitation to the public administrations to set up an efficient internal structure so that they can promptly provide their opinion prior to the issue of the landscape compatibility assessment, in order to avoid the possibility of silent consent.

LAWFUL DISTANCES: RELEVANT ASPECTS *by Carlotta degli Effetti*

The Notary Office Study No. 227-2024/P offers an interesting overview of the varied regulations governing distances.

Among the most important aspects:

I. the integration of the code regulation through regulations derived from secondary sources: Article 873 of the Italian Civil Code refers to greater distances established in municipal regulations. Municipal regulations do not always integrate code regulations. Rules derived from municipal regulations and plans can be said to be supplementary when they govern neighbourly relations in relation to distances, whereas when they tend to satisfy general town planning interests, they do not supplement the provisions of the Italian Civil Code. This has a major impact on the remedies available to the injured private party: the violation of a rule that supplements the provisions of the Italian Civil Code entitles the injured party to restoration, while in other cases, the injured party will only be entitled to claim compensation.

II. the continuity of distance regulations:

   a. If new town planning and building regulations introduce more restrictive provisions, constructions still in progress must comply with the new provisions. Case law does not consider the legal situation of private individuals to be definitively settled after the issue of the building permit. Therefore, if the essential elements of the building have not yet been constructed, the project must be adapted to the new regulations. On the contrary, if the building has already been constructed, the new law will have no effect, as the essential elements already allow for the measurement of distances.

   b. In the event of new legislation that is more favourable than the previous one, it shall apply retroactively, effectively preventing the demolition of buildings previously constructed in violation of the now obsolete legislation. The only limitation to this principle concerns situations where a final judgement has already been handed down: in these cases, the legal decision prevails, and demolition orders must be carried out, even if the new legislation would have permitted the construction.

“SYNTHETIC WARRANTIES”: A NEW TOOL TO PROTECT BUYERS *by Filippo Grigolon*

The article “Synthetic warranties: a new protection tool in the context of extraordinary transactions” by Gabriele Capecchi, published in “Diritto Comunitario e degli Scambi internazionali” (Community Law and International Trade) - No. 1-2 - January-June 2024 - provides an overview of an increasingly popular tool in the field of the most relevant M&A transactions: synthetic warranties.

This is a subtype of buyer-side W&I policies, i.e. policies taken out with the insurer by the buyer in order to protect themselves in the event of post-closing breaches by the seller, resulting from the violation of the representations and warranties made in the *warranty agreement.*

In todays M&A landscape, there are frequent cases where the seller is unable or unwilling to provide guarantees, or where the potential buyer may not want to request specific guarantees from the seller in order to make their acquisition offer more attractive in a competitive bidding environment.

To enable buyers to obtain some form of protection in similar circumstances, insurance companies have begun to offer so-called “synthetic” policies in some markets, i.e., buyer-side policies that operate on the basis of “guarantees” negotiated directly by the buyer with the insurance company, and which therefore do not depend on the existence of an indemnity agreement signed with the seller, “synthesizing” into one contract a set of contractual guarantees that are usually the result of negotiations between the seller and buyer holding an insurance policy.

The scope of application of the synthetic policy will likely be more limited than that of a traditional W&I policy, given the reduced depth and extent of the due diligence process, in exchange for a higher premium.

Furthermore, the absence of contractual guarantees issued directly by the seller would prevent the insurer from taking action against the seller, with two exceptions: if legal guarantees not expressly waived in the sale agreement remain in force, or if the seller has fraudulently concealed relevant information. In the latter case, the insurer could seek recourse against the seller, but with a very difficult burden of proof.

To sum up, synthetic guarantees are definitely something new to keep an eye on, as they could turn out to be a really valuable tool in the Italian market too, adapting to the ever-changing needs of extraordinary transactions.

MORTGAGES AND MIXED CONDITIONS *by Ristela Prendi*

In its Order No. 243 of 7 January 2025, the Court of Cassation clarified that in the context of a preliminary contract for the sale of real estate subject to a condition precedent consisting of obtaining a mortgage, the condition must be classified as "mixed", as the granting of the mortgage also depends on the behaviour of the prospective buyer in preparing the relevant paperwork, and is also in the interests of both parties.

The failure to grant the mortgage, in the case in question, results in the termination of the preliminary sale and purchase agreement and the return of the deposit *tout court*.

Therefore, the provisions of Article 1359 of the Italian Civil Code, which deems the condition to have been fulfilled if it is not fulfilled due to the behaviour of the party who had an interest in preventing its fulfilment, would not apply.

This assumes that only one of the parties has an interest in the condition being fulfilled.

However, in the case of a preliminary agreement subject to the condition of obtaining a mortgage, the condition is set in the interests of both parties (a so-called bilateral condition), with the prospective buyer having an interest in fulfilling the obligation to pay the price in order to obtain transfer of the property, and the prospective seller having an interest in receiving the agreed payment.

In light of the above, the Court of Cassation clarified that either party may be considered in breach and that the dispute between the promissory seller and the promissory buyer regarding the failure to fulfil a mixed condition precedent, imposed in the interests of both parties, may be resolved by ascertaining whether one party is in breach or, in any case, predominantly in breach (in the event of mutual breaches), for failing to act in good faith, in view of the condition attached to the transaction and pending its fulfilment.

WHAT CHANGE IN TERMS OF DONATIONS *by Angela Maiuri*

On 27 November 2025, the bill concerning "Provisions for the simplification and digitisation of procedures relating to economic activities and services for citizens and businesses" (the "Simplification Bill") was finally approved by Parliament. In particular, Article 44 of the aforementioned Simplification Bill introduces important changes to the Italian Civil Code regarding restitution actions, i.e., actions that a legitimate heir may bring to obtain the restitution of an asset where the related donation has infringed upon their legitimate portion.

With specific reference to real estate, under the legislation currently in force, a legitimate heir whose legitimate share of the inheritance has been reduced as a result of the donation of real estate by the deceased, may request:

- the reduction in the donation that has affected his share of the legitimate portion; and
- subsequently, the return of the property including from third parties who have in the meantime purchased the property from the donee, thus obtaining it free of any encumbrances and mortgages that may have been imposed in the meantime.

According to the text of the provision included in the Simplification Bill, starting from the entry into force of the amendments, in the event of a property donation, the affected heir:

I. may no longer bring proceedings for restitution of the asset against third-party purchasers; and
II. the encumbrances and mortgages with which the donee has encumbered the property will remain effective, and he will only be able to claim monetary compensation from the donee (with all the risks arising from the possible insufficiency of the latter's assets).

The changes will apply:

- to inheritances initiated after the amendments came into force; or
- to inheritances initiated before the amendments came into force, only if:
  a. the request for reduction has not been notified and transcribed on the date of entry into force of the amendments; or
  b. the request for reduction or an extrajudicial deed of opposition to the donation is not notified and transcribed within six months of the amendments coming into force.

The change will have a significant impact on the market, which has always paid close attention to this issue, making it the subject of notarial verification at the time of purchase and developing specific insurance tools to protect the buyer.

MISCELLANEOUS CASE LAW *by Roberta Patrizia Giannotte*

Hotel liens, condominiums, structures built by maritime concession holders

Constitutional Court, No. 143 of 7 October 2025: Article 2, paragraph 2, of Law No. 1 of the Liguria Region of 7 February 2008, (Measures for the protection and enhancement of hotels and provisions relating to the regulation and planning of tourist accommodation in municipal town planning instruments) is unlawful insofar as it fails to provide as a sufficient condition for the release of hotel use designation, that the activity is economically unsustainable, but links it to other conditions (such as the unsuitability of the hospitality building, the practical impossibility of carrying out comprehensive renovation work on the property, and the location of the structure in areas unsuitable for hotel activities).

Court of Cassation, Civil Section II, Judgment No. 26702 of 3 October 2025: *in the case of the installation of a "mini-lift/lifting platform inside the stairwell of the building to remove architectural barriers (...) [involving] a "cut in the stairs" of between eighty and one hundred centimetres to the various floors of the building"* and which is carried out at the sole expense of the condominium owner involved, must be assessed in accordance with Article 1102 of the Italian Civil Code, which gives each participant in the communal property the right to make the most efficient use of the communal property, provided that this is compatible with the rights of others.
Therefore, no prior authorisation from the assembly is required, unless such authorisation is imposed by a contractual agreement approved by the condominium owners in the common interest, in the exercise of their contractual autonomy.

Court of Cassation, Civil Section III, Judgment No. 28278 of 24 October 2025: in the event that the holder of a maritime concession carries out works and interventions (i.e., submerging jute bags in the sea) that alter sea currents and, consequently, cause damage to a third party, the Region and the Municipality are liable for damages pursuant to Article 2043 of the Italian Civil Code. In fact, given that the concessionaire has possession of the stretch of sea in front of a beach resort, it certainly cannot be argued that the granting authorities maintain *de facto* power and, with it, responsibility for the custody of those stretches of water pursuant to Article 2051 of the Civil Code, but only the power to supervise them.

Court of L'Aquila, Judgment No. 577 of 1 October 2025: the millesimal tables remain valid until they are amended. Therefore, in the case in which the plaintiff, challenging the validity of a condominium resolution, also challenged the validity of the tables on the

grounds that they allegedly did not correspond to the ownership shares of various owners, the trial judge clarified the important distinction between the action challenging the tables and those challenging the resolution. In particular, he clarified that the tables do not confer title to ownership but, on the basis of that title, assess the elements that allow for the allocation among all the owners.

ENVIRONMENTAL FOCUS: CLARIFICATIONS BY THE MINISTRY OF THE ENVIRONMENT IN RELATION TO THE REMEDIATION OF CONTAMINATED SITES

by Francesca Carlesi and Martina Carrozzini

Below are two responses provided by the Ministry of the Environment to requests for clarification containing explanations and details on the remediation of contaminated sites.

1.1 Identification of CSCs (contamination threshold concentrations)

CSC's are the levels of contamination in environmental matrices above which a site characterisation and site-specific risk analysis are required.

The Ministry of the Environment has adhered to the jurisprudential orientation (e.g. Council of State, Section IV, No. 439/2022), according to which the identification of applicable CSCs must be based on the actual use of the area, giving a decisive value to essential elements, such as the activities actually carried out on the site, or even the potential function of the area or its intended use, depending on the setting in which the site is located. In the absence of a specific actual intended use, reference shall be made to town planning regulations.

In line with the above, the Ministry of the Environment takes into consideration a number of specific scenarios.

If a renewable energy production plant is located on a site, the special regulations governing this subject (i.e. Article 4-ter, paragraph 7, of Decree Law No. 181/2023) require the application of CSC for industrial and commercial sites, taking into account the temporary industrial use during the production of renewable energy.

Furthermore, in the event that a building permit has been issued for the construction of a prefabricated building for commercial use on an area designated for network services and infrastructure, and residential accommodation is located within the same building, the most restrictive limits for residential use must be observed, given the potential danger to human health.

Finally, with regard to road infrastructure and related facilities that do not have a specific town planning destination, the Ministry considers the thresholds for industrial and commercial activities to be applicable.

1.2 Diffuse pollution and real encumbrance

With its second response, the Ministry of the Environment addresses two issues:

- diffuse pollution, which the Environmental Code defines as *"the contamination or chemical, physical or biological alteration of environmental matrices caused by diffuse sources and not attributable to a single origin"*;

- real encumbrance constituting a form of guarantee to protect the expenses incurred by the Administration that directly carried out the safety and remediation measures.

With regard to diffuse pollution, the Ministry has clarified that it entails the cases in which it is not possible to establish a causal link between the activities of one or more parties and the pollution detected, meaning that the remediation work cannot be attributed to a party responsible. Consequently, remediation and environmental restoration measures are, from the outset, considered public measures, with the costs borne by the public administration and, in particular, by the Region.

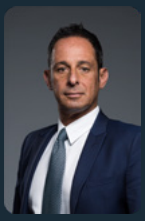
Regarding real encumbrance, in the event of contamination of groundwater only, the Ministry has clarified that, for the purposes of delimiting the areas on which to record the aforementioned encumbrance in the property registers, the following elements are to be taken into consideration:

- the results of the risk analysis which, by law, must be reported in the town planning certificate if the CSR is found to have been exceeded;
- the remediation project and, in particular, the contaminated areas subject to remediation measures;
- the purpose of the real encumbrance, which is to prevent the owner of the property from obtaining financial gain from the remediation of the polluted site.

CONTACTS

Legance professionals are available for any clarification and in-depth analysis, also with regard to specific cases.

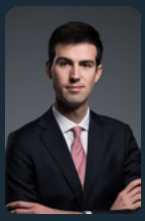
For further information:



Giuseppe Abbruzzese
Partner
+39 02.89.63.071
gabbruzzese@legance.it

Francesca Carlesi
Senior Counsel
+39 06.93.18.271
fcarlesi@legance.it

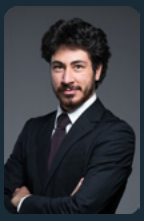
Roberta Patrizia Giannotte
Senior Associate
+39 02.89.63.071
rgiannotte@legance.it



Matteo Bianchi
Associate
+39 02.89.63.071
mbianchi@legance.it

Valentina Brovedani
Associate
+39 02.89.63.071
vbrovediani@legance.it

Michele Balducci
Associate
+39 06.93.18.271
mbalducci@legance.it



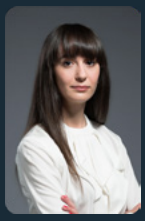
Vincenzo Acampora
Associate
+39 06.93.18.271
vacampora@legance.it

Giulia Massimo
Associate
+39 02.89.63.071
gmassimo@legance.it

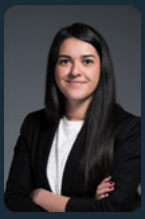
Flavia Maria Veroux
Associate
+39 02.89.63.071
fmveroux@legance.it

Carlotta degli Effetti
Associate
+39 06.93.18.271
cdeglieffetti@legance.it

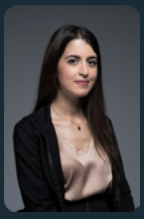
Filippo Grigolon
Associate
+39 02.89.63.071
fgrigolon@legance.it



Ristela Prendi
Associate
+39 02.89.63.071
rprendi@legance.it



Angela Maiuri
Associate
+39 02.89.63.071
amaiuri@legance.it



Martina Carrozzini
Associate
+39 02.89.63.071
mcarrozzini@legance.it

Or your point of contact within Legance.

Legance

REviews
is a project by Legance

Contacts
osservatoriorealestate@legance.it

Edited by
Legance

Graphic Design
vitamineD