Global Corporate Real Estate Guide - United Arab Emirates

Real Estate Law

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# What is included in the term “real estate”?

The term “real estate” is not defined in any UAE legislation. However, Article 101 of Federal Civil Transactions Law No. 5 of 1985 (“**Civil Code**”) states that “anything of a permanently fixed nature and which cannot be removed without damaging or altering its surroundings shall be regarded as real property.”

Law No. 7 of 2006 Concerning Land Registration in the Emirate of Dubai defines property as “any immoveable object with a fixed space that cannot be moved without destroying or changing its feature” and Law No. 13 of 2008 Regulating the Interim Real Property Register in the Emirate of Dubai defines real property as “land and any fixed structures constructed on it which cannot be moved without damage or alteration to its structure.”

# What laws govern real estate transactions?

The UAE is a civil law legal system based on a constitution, Sharia principles, federal law and local emirate laws and regulations. In addition to this, some free zones within Dubai, such as the Dubai International Financial Centre (DIFC) have their own real estate laws and regulations.

The Civil Code governs the day-to-day matters in the UAE and the emirates will have jurisdiction in all the matters not conferred upon by the federal authorities as per Articles 121 and 122 of the UAE Constitution of 1971 (as revised in 2009).

**Dubai**

In Dubai, the following specific legislation exists for matters, such as:

The registration of all dispositions, pursuant to Dubai Law No. 7 of 2006 (as amended by Dubai Law No. 7 of 2019)

Law No. 6 of 2019 Concerning Ownership of Jointly Owned Real Property in the Emirate of Dubai

The registration of all off-plan property sales pursuant to Dubai Law No. 13 of 2008, as amended by Dubai Law No. 9 of 2009, clarified by Dubai Decree No. 6 of 2010 and further amended by Dubai Law No. 19 of 2020

Registration of short-term leases on the Ejari system pursuant to Dubai Law No. 4 of 2019

Registration of mortgages pursuant to Law No. 14 of 2008

Ownership law pursuant to Law No. 7 of 2006

Landlord and tenant law pursuant to Law No. 26 of 2007

**Abu Dhabi**

In Abu Dhabi, the following specific legislation exists for matters, such as:

Law No. 3 of 2015, Concerning the Regulation of the Real Estate Sector in Abu Dhabi

Law No. (19) of 2005, re-organising Real Property in Abu Dhabi (as amended by Law No. (2) of 2007, amending certain provisions concerning Real Estate ownership)

Law No. (3) of 2005, concerning the regulation of Property Registration in the Emirate of Abu Dhabi, together with Department of Municipal Affairs Chairman‘s Decision No. (52/1) of 2008 on the issue of an Executive Regulation regarding the Organization of Real Estate Registration in the Emirate of Abu Dhabi

Law No. 3 of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi

# What is the land registration system?

Real property rights are defined as in rem rights over real property, as opposed to being purely contractual rights, and include musataha and usufruct rights. All real property rights are required to be registered, regardless of the term length.

Dubai recognizes freehold title to land, leasehold, usufruct and musataha interests in land, off-plan property and short-term leases. In Abu Dhabi, all real property rights, including rights of usufruct and musataha, are required to be registered, regardless of the term length.

Law No. (7) of 2006 Concerning Land Registration in the Emirate of Dubai requires that all dispositions relating to real property rights must be registered at the Dubai Land Department otherwise they will not be deemed effective.

Dubai Law No. 13 of 2008, as amended by Dubai Law No. 9 of 2009, requires real estate developers to register off-plan property in the Interim Register (Oqood) also maintained by the Dubai Land Department.

Short-term leases must be registered on the Ejari system, maintained by the Dubai Land Department.

# Which authority manages the registration of titles?

**Dubai**

In Dubai all instruments affecting land are registered at the Dubai Land Department.

**Abu Dhabi**

In the Abu Dhabi Global Market (ADGM), all real estate transfers that are recognized by the ADGM must be registered with the ADGM Land Register.

# What rights over real property are required to be registered?

**Dubai**

In Dubai, short-term leases (i.e., with a term of less than 10 years) must be registered with the Real Estate Regulatory Agency (RERA) on the Ejari system.

Long-term leases of not less than 10 years and not more than 99 years must be registered on the Real Estate Register of the Dubai Land Department.

All mortgages must be registered at the Dubai Land Department pursuant to Law No. 14 of 2008.

A developer must register all off-plan property in the Interim Register at the Dubai Land Department.

**Abu Dhabi**

In Abu Dhabi, there is a differentiation between a long-term lease and short-term lease by the term. A short-term lease (i.e., with a term of less than four years) must be registered on the Tawtheeq system and typically, a tenant will be responsible for the registration process and fees. Leases for a term over four years but less than 25 years will be registered with the Tamleeq system and the responsibility for registration may be provided for in the lease. Any leasehold interests located within the ADGM must be registered with the ADGM Land Registrar.

# What documents can landowners use to prove ownership over real property?

Normally, landowners will have to produce the following, in addition to the Oqood certificate for off-plan property:

**Dubai**

A title deed that is issued by the Dubai Land Department, or the Abu Dhabi municipality, respectively for freehold, usufruct, musataha and long leases

An Ejari certificate issued by the Dubai Land Department for leases under 10 years

**Abu Dhabi**

For leases under four years in Abu Dhabi, a registration certificate issued by Tawtheeq

For leases over four years but less than 25 years a registration certificate issued by Tamleeq

# Can a title search be conducted online?

No. The title deed must be physically inspected.

Prospective buyers can conduct an ownership certification validation search on the Dubai Land Department website, which will identify the owner and if there is a mortgage over the property, but it does not replace a review of the physical title deed.

# Can foreigners own real property? Are there nationality restrictions on land ownership?

The right to own real property in Dubai is restricted to UAE nationals, nationals of the Gulf Cooperation Council (GCC) member states and to companies fully owned by these, and to public joint-stock companies. Non-UAE nationals may, in certain areas and subject to the approval of the Ruler, be granted the following rights:

Freehold ownership of real property without time restrictions

Usufruct or leasehold over real property for a period not exceeding 99 years

**Dubai**

The designated areas where foreigners are permitted to acquire leasehold or usufruct interests in property are determined by the Ruler of the Emirate of Dubai by way of decrees and regulations issued from time to time.

A foreign company can only own freehold, leasehold or usufruct in the designated areas of Dubai by establishing one of the following company vehicles:

Jebel Ali Free Zone Authority offshore company

Dubai Multi Commodities Centre company

Company incorporated in the ADGM free zone

RAK International Corporate Centre offshore company

DIFC company, partnership, foundation, real estate investment trust or real estate fund, subject to the approval of the DIFC Registrar of Companies (approval is given on a case-by-case basis)

LLC whose ultimate beneficial owners are 51% UAE nationals and 49% non-GCC nationals

A fund or a trust cannot own property anywhere in Dubai.

Within the DIFC, all foreign nationals, foreign companies and GCC nationals have a right to acquire real estate without restriction on the type of vehicle used.

**Abu Dhabi**

In Abu Dhabi, unless the real estate asset is located within an investment zone, only individuals or companies ultimately wholly owned by UAE nationals are able to hold real rights (rights in rem) in real estate. Essentially, the four categories of rights in property that the foreign ownership restrictions apply to are as follows:

Ownership (freehold or outright ownership of land)

Musataha

Usufruct

Long-term lease

The investment zones are as follows:

Al Raha Beach and Reem Island

Al Reef Area

Lulu Island

Saadiyat Island

Yas Island

Al Sidayra

Masdar City

Al Maryah Island

Allocation of land to Abu Dhabi Airports Company

Allocation of land to Abu Dhabi Ports Company

Allocation of land from Al Falah Fahed Island

Had Al Saadiyat Project

Al Jaraf Area

Nurai Island

Land allocated to the higher corporation for specialized economic zones

Al Jubail Island

Al Shamkha

Kaser Al Amouaj

# Can the government expropriate real property?

Yes. Pursuant to Article 1135 of the Civil Code, local and federal authorities can acquire real estate compulsorily if it is necessary for the public’s benefit, such as the construction of highways, and just compensation is paid. In addition, each emirate can pass its own laws to regulate compensation. The quantum of compensation payable depends on the value of what is expropriated along with loss of profit and any other damage that may arise as a result of the expropriation.

Each emirate can pass its own laws to regulate compensation. Dubai Law No. 2 of 2022 provides that the Acquisition Committee rules on applications for compensation by persons affected by expropriation.

# How can real estate be held?

The Civil Code provides for the following types of tenure:

Freehold, which is the most superior of real property right and provides for the right to use, enjoy and occupy land or property permanently

Musataha, which is the right to build on land for a specified duration not exceeding 50 years

Usufruct, the right to use, enjoy and occupy land or property belonging to another person for a fixed term not exceeding 99 years

# What are the usual structures used in investing in real estate?

Property is usually held in the name of individuals as tenants in common or in the name of corporate entities.

Generally, a special purpose vehicle is used to purchase or develop land due to the ability to ringfence liability.

Structures used to invest in real estate include joint-stock companies, limited liability companies, a Jebel Ali Free Zone company, a Dubai Multi Commodities Centre company, a company incorporated in the ADGM or a company incorporated in the DIFC.

# How are real estate transactions usually funded?

The acquisition of real estate is usually financed by the buyer’s own funds and by bank loans (if the buyer does not have enough funds or if the buyer wishes to have financing).

# Who usually produces the documentation in real estate transactions?

A transaction will usually begin when heads of terms or a memorandum of understanding is produced by the broker on behalf of the seller and the buyer. This document sets out the fundamental commercial terms that have been agreed between the parties. Once the seller’s lawyer has received the heads of terms or memorandum of understanding, they will prepare the initial draft of the sale and purchase agreement. In the meantime, the buyer’s lawyer will carry out due diligence, the results of which will steer the negotiations on the sale and purchase agreement received from the seller.

**Dubai**

To effect registration in Dubai, a standard Form F agreement produced by the Dubai Land Department will be entered into by the seller, buyer and broker and lodged with the Dubai Land Department. The agreed sale and purchase agreement will be appended to Form F.

**Abu Dhabi**

To effect registration in Abu Dhabi, a standard form lease agreement produced by Tamleeq (for a term over four years but less than 25 years) or Tawtheeq (for a term under four years) will need to be submitted to the Abu Dhabi Municipality.

# Can an owner or occupier inherit liability for matters relating to the real estate even if they occurred before the real estate was bought or occupied?

Generally, a buyer would require that a seller provides an indemnity for any liability that the seller may have following completion.

# Does a seller or occupier retain any liabilities relating to the real estate after they have disposed of it?

If a seller has provided any indemnities, then it may retain liability following a sale.

On expiry of a lease, a tenant is obligated to hand back the property to the landlord in the same condition that it was at the beginning of the tenancy, subject to fair wear and tear. Similarly, a landlord must hand over a property to a tenant in good condition.

In respect of damage to the environment, liability remains with the person responsible.

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