

Who can own Real Estate in Dubai and Where?: Part 2 of Know Your Rights for Real Estate Investors in Dubai Guide

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The Guide provides companies and individuals with the vital information they need when considering investing in real estate in Dubai and seeks to answer some of the important questions that investors have regarding their real estate investments and dealings with Dubai Land Department ('DLD'), Real Estate Regulatory Agency ('RERA'), developers and other relevant parties. The Guide has been published in English and Arabic and can be found at (<https://www.dubailand.gov.ae/Style%20Library/download/KnowYourRightsRealEstateInvestor.pdf>).

Over the course of next few months, we will be producing a series of articles aimed at keeping our clients informed on Dubai real estate laws and current DLD and RERA policies by exploring a number of legal topics mentioned in our Guide.

Part 1 of the series dealt with 'Key Issues Investors Need to Know when Buying Real Estate Off Plan' and was published in the previous edition of Law Update.

This article is Part 2 of the series and will focus on real estate ownership rules for UAE/GCC nationals and foreign nationals and designated areas in Dubai and the DLD policy about the right of foreign companies to own real estate in Dubai.

Who Can Own?

The DLD was founded in May 1960 and is authorised to register any real rights over property such as freehold title, usufruct, musataha and long term leases over real estate in Dubai. The only exception is Dubai International Financial Centre ('DIFC') free zone which has its own property laws and maintains its separate property register for the real estate located within the DIFC.

On 13 March 2006, the Government of Dubai issued Law No. 7 of 2006 concerning Real Property Registration in the Emirate of Dubai ("Property Ownership Law") which governs property ownership by individuals and companies in the Emirate of Dubai.

UAE and GCC nationals and companies incorporated in the UAE (excluding the free zones) that are wholly owned by UAE or GCC nationals have the right to own freehold title to real estate and to acquire all types of real estate interests such as usufruct, musataha and long term leases up to 99 years located in any area in the Emirate of Dubai pursuant to Article 4 of the Property Ownership Law. Furthermore, public joint stock companies are allowed to own properties anywhere in Dubai. From our experience, we are aware that public joint stock companies that are listed in Dubai or anywhere in UAE or GCC are accepted by the DLD to own real estate anywhere in Dubai.

If a company incorporated in the UAE has non-UAE or GCC shareholders, it will not be considered a UAE or GCC national for the purposes of Article 4 of the Property Ownership Law. Article 4 of the Property Ownership Law allows non-UAE or GCC nationals and companies to own freehold title, a long lease or a usufruct right up to 99 years in the areas in Dubai that have been designated for foreign ownership under regulations issued by the Ruler of Dubai ('Designated Areas').

Article 4 of Property Ownership Law is further complemented by the DLD policies which are not formally published and are subject to change from time to time. A brief summary of the current DLD policy is set out below:

1. Foreign offshore companies (such as Cayman, BVI) are currently not permitted to directly own real estate in the Designated Areas. However, offshore companies that owned property in the Designated Areas before this policy came into force are entitled to maintain their ownership, and are able to perform various real property dispositions (e.g. sale, mortgage, lease, gift, etc), but will not be able to make further property acquisitions;
2. Foreign onshore companies are also currently not permitted to directly own real estate in the Designated Areas. However, a foreign company can establish a company in the JAFZA or such other free zone approved by the DLD from time to time, and can register the real estate it intends to acquire in the name of the Dubai free zone company so established;
3. Free zone companies incorporated in other Emirates, such as Ajman and Ras Al Khaimah are currently not permitted to directly own real estate in the Designated Areas. However, a non Dubai free zone company that owned property in Designated Areas before this policy came into force is entitled to maintain its ownership and is able to perform various real property dispositions (e.g. sale, mortgage, lease, gift, etc), but will not be able to make further property acquisitions;
4. Pursuant to a recent memorandum of understanding signed between the DLD and DIFC authority, companies incorporated in the DIFC are now permitted to directly own real estate outside the DIFC free zone within the Designated Areas;
5. Foreign trusts or funds (offshore or onshore) are currently not permitted to own real estate in the Emirate of Dubai;
6. UAE/GCC nationals and onshore companies wholly owned by them (such as limited liability company, sole establishment registered with DED) can purchase real estate directly in their individual capacity in the Emirate of Dubai;
7. Non UAE/GCC nationals can purchase real estate directly in their individual capacity in the Designated Areas; and
8. Non UAE/GCC nationals and/or companies can incorporate a free zone company in Dubai such as the JAFZA and other free zones approved by DLD to register the real estate it intends to acquire within the Designated Areas only in the name of the Dubai free zone company so established.

It is important to be aware of DLD's instructions and related procedures regarding companies which are allowed to own real estate in Dubai before signing a sale and purchase contract which can be found at the DLD website (<http://www.dubailand.gov.ae/English/Pages/Default.aspx>) or by visiting the DLD offices in Deira, Dubai. It is also essential to note that DLD policy is to change any time and specific legal guidance on a proposed ownership structure should be sought prior to entering into any property transaction in Dubai.

Where Can You Own?

Regulation No. 3 of 2006 on the Designation of Areas in which Non-UAE nationals may own real estate in the Emirate of Dubai identifies the specific areas where foreign nationals (non-UAE/GCC nationals) can own freehold land and property and other real property rights such as usufruct and long-term lease rights for up to a period of 99 years. The Designated Areas for foreign ownership of real estate are determined by the Ruler of the Emirate of Dubai by way of decrees and regulations issued from time to time. Below is a list of the most important Designated Areas:

- The Palm Jumeirah
- The World Islands
- Downtown Dubai
- Old Town

- Burj Khalifa
- Business Bay
- Dubai Marina
- Emirates Hills
- Jumeirah Lakes Towers
- Jumeirah Beach Residence (JBR)
- Discovery Gardens
- Arabian Ranches
- Midriff (specified plots)
- Dubai Investment Park
- Falcon City
- Dubai Sports City
- Dubai Motor City
- International City
- Jumeirah Islands & Jumeirah Village

As we near Expo 2020 and Vision 2021, Dubai's real estate sector is entering into an exciting phase. With the launch of several new real estate projects, most of Dubai has become available for foreign ownership (except certain old parts of Dubai). The DLD is constantly reviewing and updating its real estate regulations and policies and adapting it to suit the investor interests. Should you require any legal advice regarding the issues raised in this article, please contact us at the Al Tamimi Real Estate team (<https://www.tamimi.com/en/industry/our-industries/real-estate.html>).

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