

Granted Land in Abu Dhabi: Restrictions on Dealings



Dealings with residential and commercial land

and properties in Abu Dhabi granted to UAE nationals by the government (“Granted Land”) are subject to certain restrictions. When dealing with a property in Abu Dhabi, it is important that owners, purchasers and lenders first check if the property was registered as the result of a government grant to the current owner or to a previous owner, as this usually results in the property being classified as Granted Land. If a property has been registered as Granted Land, then it is necessary to check if any restrictions apply to the Granted Land. In this article we outline the general restrictions that apply on disposals and dealings with commercial Granted Land and residential Granted Land, and the current exceptions allowed by the laws and regulations in Abu Dhabi.

Prohibition on disposal of commercial Granted Land

With effect from 20 September 2017, there is a general prohibition on the sale, mortgage or other disposal of commercial Granted Land in Abu Dhabi. Administrative Resolution No. 289 of 2017 on the Ceasing of Real Estate Disposals relating to Granted Land in the Emirate of Abu Dhabi (“Resolution”) introduced this change.

The prohibition on disposal of commercial Granted Land in Abu Dhabi prevents sales, purchases and transfers. The Resolution also prohibits the creation of mortgages, musataha rights, usufruct rights, long-term leases (meaning leases with terms in excess of four years) and any other real estate rights, over such properties.

We understand from our discussions with the regulators in Abu Dhabi that the prohibition introduced by the Resolution does not affect the short term leasing of commercial Granted Land. Abu Dhabi Law No. 20 of 2006 on the Leasing of Spaces and the Tenant-Landlord Relationship defines a short term lease as a lease with a term of up to four years (“Short Term Lease”).

The prohibition imposed by the Resolution also does not apply to commercial Granted Land located in those areas of Abu Dhabi that have been designated for foreign real estate investment (“Investment Areas”). The Abu Dhabi Executive Council determines these Investment Areas in accordance with Law No. 19 of 2005 on Property Ownership in the Emirate of Abu Dhabi, as amended by Law No. 2 of 2007 and implemented by Resolution No. 64 of 2010 issued by the Chairman of Abu Dhabi Executive Council.

At present, the main Investment Areas in Abu Dhabi include:

- Al Raha Beach (Executive Council Decision No. 23 of 2005);
- Reem Island (Executive Council Decision No. 23 of 2005);
- Saadiyat Island (Chairman of the Executive Council Resolution No. 14 of 2008);
- Lulu Island (Chairman of the Executive Council Resolution No. 38 of 2008);
- Yas Island (Chairman of the Executive Council Resolution No. 15 of 2008);
- Al Reef (Chairman of the Executive Council Resolution No. 36 of 2005);
- Seih Al Sedira (Chairman of the Executive Council Resolution No. 49 of 2008);
- Masdar City (Chairman of the Executive Council Resolution No. 50 of 2008);
- Al Maryah Island or Abu Dhabi Global Market (ADGM) (formerly known as Al Sowwah Island) (Chairman of the Executive Council Resolution No. 24 of 2009);
- Abu Dhabi Ports Company designated land including part of KIZAD (Executive Council Resolution No. 60 of 2010); and
- Nurai Island (Executive Council Resolution No. 37 of 2017).

We understand that in rare cases the Abu Dhabi Executive Council may consider granting exceptions from the prohibition on the disposal of commercial Granted Land. We also understand that the current prohibition is of a temporary nature and at some stage in the future an alternative regime will be implemented for commercial Granted Land.

Prohibition on disposal and leasing of residential Granted Land

A similar prohibition on disposals applies to residential Granted Land in Abu Dhabi. UAE nationals are not permitted to sell, mortgage or lease residential Granted Land, whether inside or outside Investment Areas. The prohibition on leasing includes both Short Term Leases registerable on the Tawtheeq Register and long-term leases registerable on the real estate register.

We understand that as an exception, the disposal or lease of residential Granted Land (including any building or villa on the land), will be permitted if all of the following conditions are satisfied:

1. The construction of the villa or building has been completed and all licences, including the building completion certificate and occupation licence, has been issued;
2. Any housing loan granted by the government to the owner has been settled in full and a no objection certificate to release the mortgage over the residential Grant Land has been obtained; and
3. The applicant owns another property in Abu Dhabi suitable for the residence of his family.

Conclusion

It is important that investors and financiers carry out thorough due diligence checks before entering into any agreement intended to create or transfer a real estate right over a property. Al Tamimi and Company can assist in identifying any restrictions applicable to a property. This process includes checks to determine whether the property is classified as Granted Land, and therefore may be subject to prohibitions on disposals and leasing.

Al Tamimi & Company's real estate team regularly advises on matters concerning properties in Abu Dhabi. For further information, please contact [Maha Dahoui \(m.dahoui@tamimi.com\)](mailto:m.dahoui@tamimi.com) or [David Bowman \(d.bowman@tamimi.com\)](mailto:d.bowman@tamimi.com).