

inBrief

**Booming Market: Real Estate Ownership Rules for Foreigners in Dubai and Abu Dhabi**

By Shahram Safai, Silvia Pretorius, Suditi Surana and Alex Vromans
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The real estate market in Dubai has been making significant improvements in 2021 after the successful handling of the COVID-19 pandemic by the UAE. March 2021 had the highest number of transactions in 16 months as well as the highest number of secondary/ready properties transacted for foreigners in a single month since June 2015. This boom in sales resulted in record increases (23 per cent annual increase between April to June for luxury villas). Such developments in real estate activity will most likely translate into positive activity in Abu Dhabi as well.

With the above in mind and such renewed interest, in this inBrief we compare the foreign ownership laws for real estate in Dubai and Abu Dhabi:

Where can foreigners buy real estate - Dubai vs Abu Dhabi

Foreign investors should familiarise themselves with the two foreign ownership systems that operate in Abu Dhabi and Dubai so that they can make an informed decision when purchasing a property.

Dubai: The general rule regarding nationality requirements to acquire real estate interests in Dubai is set out in Article 7 of 2006 which states that: *“non-UAE nationals may, in certain areas determined by the rules, be granted the following rights: (a) freehold ownership of Real Property without time restrictions; and (b) usufruct or leasehold over Real Property for a period not exceeding ninety-nine (99) years.”*

The designated areas for foreign ownership of real estate interests are determined by the ruler of the Emirate of Dubai by way of decrees and regulations issued from time to time.

For foreigners, the most attractive designated areas have traditionally been Emirates Hills, The World Islands, Dubai Marina, Palm Jumeriah, Burj Khalifa, Downtown and Business Bay.

However, due to the current global economic climate, foreign

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investors have now been looking to Dubai's affordable housing sector which has seen strong returns in communities such as Jumeriah Village Triangle, Jumeriah Village Circle and International City.

Foreigners must make specific inquiries with the Dubai Land Department as to whether foreign ownership is permitted for areas which are not listed above as the list of designated areas is subject to change as previously alluded to.

Furthermore, foreigners should be aware that currently the Dubai Land Department (DLD) does not allow foreign companies to own real estate directly in designated areas; instead it requires foreign companies to own real estate by establishing subsidiary companies in the free zones of: (a) Jebel Ali Free Zone; (b) the Dubai Multi Commodities Centre; or (c) The Abu Dhabi Global Market (ADGM; which we note is a recent development pursuant to a memorandum of understanding dated 10 October 2018 between the DLD, ADGM, and the International Financial Centre in Abu Dhabi).

Abu Dhabi: As of 16 April 2019, foreigners have been granted the right to own real estate on a freehold basis in the investment areas pursuant to Law 13 of 2019 which states: *"Non-Nationals whether natural or legal persons, may own and acquire all original and secondary rights in rem of the real estate's existing within the investment areas, and they may conduct any disposition thereof."*

An original right in rem is defined as a right of ownership (i.e., freehold), and secondary rights in rem are defined as the right to grant a mortgage pledge or lien over that freehold property.

In a move to modernise its real estate laws, on 16 April 2019 Abu Dhabi announced that foreigners are now permitted to own freehold title to real estate within the "investment areas" in Abu Dhabi. Prior to this, foreigners were only able to buy real estate through long term leases of up to 99 years or rights of musataha or usufruct.

It is expected that this change in the law will contribute to the increasing demand in real estate in Abu Dhabi and level the playing field with Dubai in terms of its foreign ownership rules.

The ten most popular investment areas where foreigners can now buy freehold property are: Al Reem Island; Yas Island; Saadiyat Island; Al Reef; Al Raha Beach; Al Shamkha; Masdar City; Nurai Island; Al Falah City; and Al Maryah Island.

What are the transfer fees payable by foreigners - Dubai vs Abu Dhabi

Dubai: A transfer fee of 4 per cent of the value of the sale contract is payable to the Dubai Land Department to register a transfer of property in Dubai. The fee is the same regardless of whether it is a foreign individual or a company making the purchase.



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However, after the registration of the transfer, any change in the shareholding (at any level up to the ultimate beneficial owner) of the foreign company purchaser is considered a transfer of the real estate requiring payment of a further transfer fee at the Dubai Land Department.

Abu Dhabi: A transfer fee of between 1 per cent to 4 per cent of the property value is payable to register a transfer of property in Abu Dhabi. Currently, the Municipality is applying a rate of 2 per cent of the property value (or if higher the property value as assessed by the Municipality). The fee is the same regardless of whether it is a foreign individual or a company purchasing. Post-acquisition, the transfer fee process varies in the different investment areas in Abu Dhabi in respect of how changes in shareholders' equity of a foreign company are dealt with, and specific inquiries for each investment area must be made.

What permanent residency and long term visas are available to foreign real estate investors - Dubai vs Abu Dhabi

In both Dubai and Abu Dhabi, a 5 year residency visa may be applied for by the investors in real estate in the UAE if the following conditions are met pursuant to Cabinet Decision 56 of 2018:

- 1) the investor must have invested in one or more properties in the UAE with a total value of no less than AED 5 million;
- 2) the amount invested must not be derived from the proceeds of a loan. Consequently, it will not be possible for there to be a mortgage over the property if this visa is to be applied for;
- 3) the property must be owned by the investor for at least 3 years from the date of issuance of the residency visa;
- 4) the investor must be financially liable for any claims or civil judgements which reduce his/her financial solvency below AED 10 million; and
- 5) the investor must have a comprehensive health insurance policy covering him/herself and any family members.

In both Dubai and Abu Dhabi, a 10 year residency system called the "Golden Card" is available to the following categories of foreigners in the UAE (and their spouse and children): (1) investors; (2) entrepreneurs; (3) specialised talents; (4) researchers; and (5) outstanding students. Amidst the pandemic, Dubai and Abu Dhabi have seen this visa expand and in particular authorities are encouraging frontline workers such as doctors to apply. The "Golden Card" system has been in effect since 21 May 2019, and to date 6,800 qualified individuals with approximately AED 100 billion in combined total investments have been granted a "Golden Card" in the first round of applications; the UAE Government Communications Office has reported.

Other visa options which adhere to work flexibilities such as retirement and remote working have also been developed in light of the pandemic, making it an idealistic time to secure residency in Dubai and Abu Dhabi.

Conclusion

The new announcement in Abu Dhabi permitting foreign freehold ownership in the designated investment areas, along with the introduction of the 10 year residency and other long-term visa schemes in the UAE, will serve to increase investor confidence and attract more foreign investment into the UAE. Dubai and Abu Dhabi remain attractive markets for domestic and international investors alike with globally high rental yields and relatively low prices. The UAE's successful handling of the COVID-19 pandemic has added to such attraction. The UAE continues to attract entrepreneurial companies and people from across the world. There is much to be positive about regarding the Dubai and Abu Dhabi property markets in 2021 and 2022. ■

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