

## Hotel reforms in Dubai: Setting the stage for 2020

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**K**nown globally as both a business and tourist destination, Dubai is home to over 80,000 usable hotel rooms and has an average occupancy rate of 76%, the highest occupancy rate of any city in the Middle East. Dubai's successful bid for the world expo trade convention in 2020 (Dubai Expo 2020) is expected to generate significant economic benefits and attract more than 25 million visitors.

While Dubai is already home to numerous hotels, the Dubai Department of Tourism and Commerce Marketing (DTCM) estimates approximately 45,000 new hotel rooms will need to be constructed by 2020. With foreign hotel project investors and operators seeking to capitalize on the numerous opportunities, an overview of the legal aspects concerning hotels within the emirate of Dubai is provided below.

### Recent legislative changes

In January 2014, the Ruler of Dubai implemented two major reforms to expedite the construction of hotel projects.

Firstly, the period for preliminary consent was reduced from six months to two months and a streamlined hotel approval office was established.

Secondly, with hotel room rates among the highest in the world, the Dubai government implemented reforms aimed at providing incentives for the construction of three and four-star hotels ahead of Dubai Expo 2020. Government land for developers of three and four-star hotels will be granted on "favourable" terms, and fees will be waived if landowners rezone hotel development plans to build more affordable accommodation.

The DTCM announced that developers of hotels fitting within these categories may be exempt from the 10% municipality tax for up to four years, which may be extended for a fifth year, if the qualifying hotel is completed by 2017.

The reforms are intended to encourage private developers to invest in the mid-range hotel sector and develop affordable, quality accommodation ahead of Expo 2020 and into the future.

### Designated areas

While ownership of property in Dubai was formerly limited to UAE nationals and nationals of Gulf Cooperation Council (GCC) countries, article 4 of Dubai Law No. 7/2006 granted non-nationals the "absolute and unlimited ownership right of the property" or the "usufruct right of the property or the right to rent same for a period of 99 years at most" in designated areas. This law allows foreign investors to own hotels within designated areas (such as the Dubai International Financial Centre), but hotels operating outside of such designated areas must be owned by a UAE or other GCC national.

The question remains, how can a foreign investor own and operate a hotel outside of the designated areas?

### Foreign ownership elsewhere

Foreign ownership of a hotel in Dubai proper requires specific legal structuring to ensure sufficient control and protection is provided to the owner.

A foreign owner (possibly an individual, but more likely a company) would obtain the use of the land through either a *musataha* right (renewable

right to use and develop land for 50 years) or a usufruct right (right to use and develop property for 99 years) via a land lease agreement with the landowner. The land lease agreement is a much more specialized document than a typical lease agreement, as its purpose is to secure and protect the rights of the foreign hotel owner. As such, a number of custom provisions and stipulations concerning rental payments, title and allocation of profits should be incorporated within a land lease agreement.

### Other requirements

If the foreign investor wishes to appoint a hotel operator (for example, a brand name hotel chain), a carefully negotiated hotel management agreement should address issues such as hotel construction, staff training, furnishings, insurance and bank accounts.

In addition to the land lease agreement and hotel management agreement, a number of other critical documents concerning the formation of the Dubai entity, treatment of loans and disbursement of dividends are required to provide adequate security and protection for foreign investors and hotel owners.

The legal strategy for addressing the myriad of issues that arise with respect to hotel projects in the UAE can contribute to the projects' success or failure and obtaining proper legal advice is important.

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