

inBrief



Dubai Decree No.22/2022 – On the Approval of the Privileges of the Property Investment Funds in the Emirate of Dubai

By Shahram Safai and Eoin O’Flaherty | 7 September 2022

What’s happened?

On 22 July 2022 Dubai Decree No. 22/2022 (the **Decree**) came into force with the purpose of encouraging further investment in the Dubai real estate market via the provision of various incentives and privileges aimed towards real estate investment funds.

In this inBrief, we look at the various privileges that will now be afforded to property investment funds in order to attract further investment into Dubai’s already booming real estate market, as well as giving a brief overview of other key articles contained in the Dubai Decree.

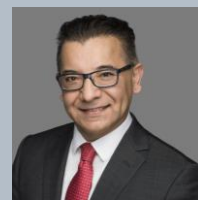
Previous Position

Traditionally, property investment funds were afforded the same property rights as those that were granted to any other investment entity or foreign investor.

However, property investment funds were not commonly utilised as an investment vehicle in Dubai as any change in the fund’s shareholding attracted the standard Dubai Land Department transfer fee. Due to the everchanging nature of many property investment fund’s shareholding this was seen by investors as an onerous burden.

Further, as property investment funds are permitted to be established only under the Abu Dhabi Global Market’s (ADGM) REIT framework (the ADGM Fund Rules), the Dubai International Financial Centre’s Investment Trust Law framework (the DIFC Investment Trust and REITS Rules Instrument), and the Emirates Securities and Commodities Authority’s framework (Administrative Decision 6/R.T of 2019 Concerning Real Estate Investment Fund Controls), property

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investment funds were not seen as a cost-effective investment method due to the various restrictive regulations that applied to them.

Privileges

However, now a registered property investment fund will be able to avail of the following privileges:

- a. property investment funds will have the right to own property, or the right of usufruct or rental for a duration that does not exceed (99) years in not only where UAE non-nationals are allowed to purchase, but, also in areas where ownership is typically **not** allowed to UAE non-nationals in the specific areas identified by the newly established Committee of Property Investment Funds;
- b. the Decree explicitly states that no Dubai Land Department registration fees shall be imposed upon the property investment fund on the disposition of shares by the shareholders of the property investment fund. This, as noted above, was one of the main factors in discouraging investors from utilising property investment funds as a method for investment; and
- c. Dubai Land Department registration fees applied for property purchased by the property investment fund have been reduced from the standard 4 percent of the market value of the property to 2 percent. Similarly, the applicable fee to register a usufruct right or long-term lease has also been reduced to a fee of 2 percent of the market value of the property.

Other Key Articles

a. **Article 4: Establishment of the Register**

The Dubai Land Department shall establish a register for the purposes of registration of property investment funds that meet the required criteria outlined below.

b. **Article 5: Conditions and Procedures of Registration in the Register**

In order for a property investment fund to be added to the register and thereby avail of the privileges set out above, the following criteria must be met:

- i. the property investment fund must be licensed by the relevant competent authority and hold a valid license;
- ii. the value of the real estate assets owned by the property investment fund at the time of submission of its registration application must not be less than AED 180,000,000;
- iii. the Property Investment Fund, upon submitting the application of registration in the Register, must not be suspended from trading its shares in the financial markets of the Emirate; and
- iv. the relevant registration fee of AED 10,000 must be paid to the Dubai Land Department.

c. **Article 6: Writing off from the Register**

A property investment fund can be removed from the register upon the occurrence of a number of circumstances:

- i. it no longer meets the criteria specified in the Decree;
- ii. it has been adjudged bankrupt;

- iii. upon its dissolution and subsequent liquidation of its assets; and
- iv. upon the restriction of its activities by virtue of a final judgement.

d. Article 7: Duration of entitlement to the privileges

A registered property investment fund is entitled to avail of the new privileges from its date of registration in the above-mentioned register until the date it is removed from same.

e. Article 9: Committee of Property Investment Funds

The responsibility for the identification of areas where ownership is not permitted to be held by UAE non-nationals and where property investment funds may now have the right of absolute ownership or usufruct or a long-term lease (the term of which does not exceed 99 years) will fall to the newly established Committee of Property Investment Funds (the **Committee**). In determining which such areas are suitable for investment and therefore available to property investment funds, the Committee shall consider:

- i. the market value of the real estate to be owned by the property investment fund shall not be less than AED 50,000,000;
- ii. the real estate shall have an investment return according to the standards of the Dubai Land Department;
- iii. the Provisions of Dubai Decree NO. 4/2010 (in the event that the property is, or forms part of, granted land); and
- iv. any other considerations as determined by the Director General of the Dubai Land Department.

It should also be noted that property investment funds are required to obtain preliminary approval from the Committee in advance of disposing of its interest in any property acquired in the areas identified by the Committee.

f. Article 12: Privileges of property investment funds operating in the DIFC

Whilst this Decree applies equally to all property investment funds licensed to operate in Dubai (including those licensed in free zones or special development zones), the extent of the privileges that shall apply to those licensed in the DIFC will be at the discretion of the chairman of the DIFC.

Future

The two key changes ushered in by this Decree (the permitting of ownership of selected real estate within areas where it is typically prohibited for non-UAE nationals to own property and the removal of the Dubai Land Department registration fee upon a change of a property investment fund's shareholding) are a significant development and an indication that property investment funds may now begin to have a greater impact on Dubai's real estate market.

We anticipate that the changes that have now been introduced will relieve a number of burdens that would generally apply to property investment funds and encourage investors to re-evaluate property investment funds as a viable investment vehicle.

If you require more detailed information, please do not hesitate to contact us. ■

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