

inBrief



Sharjah Law No. 2/2022

By Shahram Safai and Eoin O'Flaherty | 24 January 2023

What has happened?

On 27 October 2022 Sharjah Law No. 2/2022 was issued by Sultan Bin Mohammed Al Qasimi, Ruler of the Emirate of Sharjah expanding the rights of ownership of real estate within the Emirate to foreigners.

In this inBrief, we look at the implications of this new law and what the expansion may mean for the real estate market in Sharjah.

Previous Position

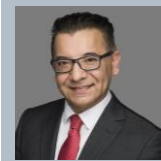
Previously under the laws of Sharjah, foreign ownership of real estate was limited to the right to hold a usufruct over property in specified areas for a maximum period of 100 years only. Non-UAE or GCC nationals were not permitted to own property on a freehold basis. A usufruct right is a limited right that permits the right holder to use and enjoy land owned by another subject to various contractual and legislative restrictions.

Therefore, whilst foreign nationals could hold such a property right, the right itself was quite restrictive and limited the foreign nationals' ability to deal with the property. The preclusion of foreign investors from participating fully in the Sharjah real estate market has meant that it has not experienced the same level of growth as that of its neighbor Dubai, which has permitted such investment in designated areas for some time and has experienced a further surge in foreign investment since the beginning of the conflict in Ukraine.

What has changed?

Sharjah Law No. 2/2022 amending Article 4 of Sharjah Law No. 5/2010, has restated the general position that the right of property ownership in Sharjah is limited to UAE and GCC nationals. However, it provides for a number of exceptions whereby the right of

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ownership can also occur, this includes areas and projects specifically determined by Sharjah Executive Council. It is anticipated that this will extend to the provision of rights of full ownership to foreign nationals in the specific areas and projects identified. We have summarised these exceptions as follows:

- a. transfer by inheritance by virtue of a sharia inheritance notice;
- b. through assignment by the owner to one of the relatives up to the first degree, as set forth in the implementing Regulation of the law; and
- c. ownership in areas and projects of real estate development, as per the controls determined by the Sharjah Executive Council.

Conclusion

Whilst the specific areas and projects remain to be fully identified by the Sharjah Executive Council, the granting of full ownership rights to foreign nationals is a positive step toward the encouragement of direct foreign investment in the Sharjah real estate market. Foreign investors that have been priced out of the Dubai market due to increasing property prices may now be more inclined to invest in the Sharjah market.

It should be noted that the tested legal and administrative framework that exists in Dubai which provides protection to foreign investors through various laws concerning the ownership and maintenance of jointly owned property, the sale of off-plan properties and the governance of escrow accounts relating to same has not been fully implemented in Sharjah thus far. Therefore, whilst Law No. 2/2022 is a welcome development, it may take some time before a complementary legal structure is in place that will provide foreign investors with the necessary comfort to significantly invest in this market. ■

For more detailed information, please do not hesitate to contact Shahram Safai at ssafai@afриди-انجيل.com.

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