

## PART 98 RESEARCH

### 98.15 Oman: Real Estate Law

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#### Legal framework

Real estate in Oman is regulated by the Land Law (Royal Decree 5/80), 1980 which states that all land in the country is the property of the state, unless specified otherwise. The Law permits Omani nationals to enjoy the benefits of owning land on freehold and leasehold bases. Wholly Omani-owned companies and public joint-stock companies with 51 per cent Omani shareholding may also own real estate in Oman. However, corporate ownership of property is currently restricted to holding it for use as an administrative office, staff accommodation, warehouse, showroom or as a similar special purpose premise for achieving the company's objectives. This means that a company may not deal in real estate for investment purposes, unless it is a land development company with land development as its objective. Companies acquiring land for non-investment purposes are prohibited from disposing of the land within two years of its acquisition.

In addition to the Land Law, the following laws also govern real estate in Oman:

- The Land Register Law (Royal Decree 2/98), 1998;
- The Tenancy Law (Royal Decree 6/89), 1989;
- The Law of Expropriation of Property for Public Utility (Royal Decree 64/78), 1978;
- The Law Regulating the Ownership of Real Estate by the Nationals of the Gulf Cooperation Council States (Royal Decree 21/04), 2004;
- The Usufruct Law (Royal Decree 5/81), 1981; and
- The Law on Foreign Ownership of Land in the Integrated Tourist Complexes (Royal Decree 12/06), 2006.

#### Registration

Land registration is recorded and maintained by the ministry of housing (the ministry), pursuant to the Land Law and the Land Register Law. Ownership of real property is evidenced by Mulkhiya (the title deeds). Cadastres and real estate records of ownership, transfer, usufruct, and mortgages are maintained by the ministry. All transactions relating to real property are annotated and stamped on the Mulkhiya by the ministry. A real estate register is available for inspection by parties with an interest in a specific property.

#### Leases

The owner of real estate property may lease it for residential or commercial purposes in Oman. A lease under Omani law does not provide any real rights in the property, but confers upon the lessee a leasehold right to occupy a land or a building. Registration of a lease of a residential unit with the local municipality is compulsory, pursuant to the Tenancy Law (Royal Decree 6), 1989, and a lease of over seven years must also be registered with the ministry. The Tenancy Law was recently amended in 2008 by Royal Decree 72 to regulate tenancy terms in light of the sudden upsurge in rents.

#### Public utilities

The Law of Expropriation of Property for Public Utility empowers the government to acquire land from owners for public utility projects. According to this law, the determination of a project as a public utility project must be declared by a royal decree and the decree must contain the following:

- A statement about the project; and
- A survey map of the area likely to be acquired for the project.

Apart from publication of the royal decree in the fortnightly Official Gazette, notice of the declaration must also be affixed in the notice board of the relevant wilayat (district), police station and Shari'a court. The Law of Expropriation of Property for Public Utility also mandates adequate compensation for the owner of the expropriated immovable property.

## Gulf Cooperation Council states

Real estate entitlements of non-Omani natural and legal persons are regulated by various laws. Pursuant to the Law Regulating the Ownership of Real Estate by the Nationals of the Gulf Cooperation Council (GCC) States, the right to own land in Oman has been extended to GCC nationals and wholly GCC-owned companies. Prior to this law, the amount of land that a GCC national could own was restricted to 3,000 square metres. This law entitles GCC natural persons and wholly GCC-owned companies to own land or constructed property for both residential and investment purposes in Oman, and seeks to give freehold rights to GCC nationals on a par with Omani nationals. However, a GCC national purchasing a vacant plot of land is legally obliged to develop it within four years from the date of purchase. If the land is not developed within the stipulated time, the government is empowered to dispose of the land, after compensating the owner. Wholly GCC-owned companies are given the right to own real estate for investment purposes – a right that up till now is not even granted to Omani companies. Consequently, a law to address this anomaly is expected in the future.

## Usufruct rights

Pursuant to the Usufruct Law, usufruct rights over a land are granted by the owner of the land to a third party for a consideration to utilize and develop it. Usufruct is a real right to exploit and benefit from the land, pursuant to a written agreement between the owner and the grantee. During the currency of the usufruct, the grantee is entitled to beneficial use of the land. As this law renders foreign individuals and companies also eligible for the grant of a usufruct, this right continues to be the closest to a freehold right that a foreigner can enjoy in the country over land that is not designated to tourism purposes.

As it is legally permissible to assign a usufruct, this right may be mortgaged. A valid charge can be created over a usufruct which, however, will be coextensive with the usufruct right.

A usufruct right on government land can be held for a maximum initial term of 50 years, which may be extended for similar additional terms. Government land plots are routinely granted on usufruct by the ministry to what are regarded as public utility or infrastructure projects. Owing to the bar on foreign ownership of land in non-tourism areas, this right continues to be one of the most significant rights enjoyed by infrastructure companies in terms of creation of security interests for project financing.

The land plot reverts to the owner upon the termination or expiry of the usufruct agreement. The owner is legally obliged to compensate the grantee for any value additions to the land, without prejudice to the private agreement between the parties.

## Integrates tourism complexes

The Law on Foreign Ownership of Land in the Integrated Tourist Complexes was issued in 2006 to promote and market tourism in Oman. This law permits non-Omani individuals and companies to own land or build units for residential and investment purposes in areas designated by the government as “integrated tourism complexes” (ITC). Pursuant to this law, the government grants usufruct rights to real estate developers over designated lands for their development. The rights and obligations of a developer are recorded in a development agreement. Most ITC projects have well defined tourism, commercial and housing components.

Pursuant to the development agreement with the government, upon achieving the stipulated minimum build obligations, a developer is authorized to dispose of the constructed residential units to third party purchasers. In the event of a failure by the developer to either develop the land according to the development agreement or achieve the minimum build obligations within the stipulated time, the government is authorized to take over the land and the ITC project.

The ministry grants freehold titles over residential units to third party purchasers, upon the payment of a predetermined upgrading fee. But the sale of sub-divided plots and developed units is subject to the approval of the ministry of tourism. The Land Law and its executive regulations (issued in 2007 by Ministerial Decision 191) lay down broad rules relating to the rights and obligations of developers and address issues of concern to third party purchasers, such as the transfer of freehold title, succession, creation of security interests for financing ITC projects and housing loans, etc. As the concept of foreign real estate ownership and development of ITCs is still in a nascent stage in Oman, the government is contemplating various laws and tough regulations to govern the presale of units by developers.