

Client Alert

November 2014

Long-Awaited Rules on Sales of Condos and Villas to Foreigners Adopted

In a move expected to stimulate demand in the high-end residential real estate market, the National Assembly adopted a new *Law on Residential Housing* (the “**Law**”) on November 25th, 2014. The Law opens the market to foreign home owners and investors more broadly than many had been expecting, though certain key restrictions remain.

At the time of this publication, the Law was still in the technical correction phase at the National Assembly and the final official version will take some days or even weeks to be published. But based on the last draft submitted for the National Assembly’s approval, and reports from the National Assembly session, we understand that some of the key points in the new Law governing foreign purchases of residential properties are as follows:

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| Effective date | The Law will take effect from 1 July 2015. |
| Scope of foreign individuals eligible to own houses | Foreigners who are allowed to enter into Vietnam; and Foreigners who are married to Vietnamese citizens. |
| Scope of foreign organizations eligible to own houses | Foreign organizations investing in residential projects in accordance with Vietnamese law; and Foreign invested companies; branches, representative offices of foreign companies; foreign funds and foreign bank branches which are licensed to operate in Vietnam. |
| Eligible housing products | Commercial houses including: <ul style="list-style-type: none"> • condominiums/apartments; and • separate landed-houses including villas, town-houses. |
| Forms of ownership | Purchase; hire-purchase; gift; inheritance; or build residential houses in the appropriately zoned land plots. |
| Rights of owners | In general, same as Vietnamese owners, including the rights to sell, mortgage, transfer, lease, contribute as capital, gift, bequest, exchange, etc. <u>Limitations:</u> Foreigners leasing out their houses must notify the competent state agencies and must pay taxes in accordance with the prevailing laws; Foreign organizations can only use the houses for their own staffs' residential purpose and must not use their houses for other purposes (such as office, leasing out, etc...); and Foreigners and organizations must make payment for |

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| | purchases or hire-purchases through a licensed credit institution in Vietnam. |
| <p>Limitation on number of houses acquired by foreigners (Foreign invested developers can still own 100% of a real estate project company)</p> | <p>Maximum 30% of the total condominiums in one single condominium building (or other cap provided by the Prime Minister in areas having a large number of condominium buildings);</p> <p>Maximum 250 villas, townhouses in an area having the population equivalent to an administrative level of a ward.</p> <p>This is a new approach to managing the foreign element in housing developments, which will require detailed rules for implementation purposes. Under the old "pilot" scheme, entire buildings were designated as saleable to foreign investors, but only on a case by case basis. Implementation and monitoring of the cap will require a new system of registration or the like with the local Department of Construction, most likely. Sanctions for exceeding the cap have not been specified but ownership rights may be compromised.</p> |
| Ownership term | <p><u>For foreigners:</u></p> <p>Maximum 50 years, extendable upon request and subject to applicable laws at the time.</p> <p>Indefinite term for foreigners married to Vietnamese citizens.</p> <p><u>For foreign organizations:</u></p> <p>Shall be consistent with the term of that organization's investment certificate, license in Vietnam.</p> |

These new rules leave many questions unanswered and it will take time for the implementing rules to be developed in the form of a Decree and one or more Circulars. In the meantime, the news of these changes is expected to give a boost to the market, not to mention the spirits of many foreign residents in Vietnam who've long hoped to be able to own their homes as well as vacation home investors throughout the region.

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