

GUIDE TO BUYING PROPERTY IN
DUBAI





Le Reserve, Al Barari, Dubai UAE

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THE RESIDENTIAL PROPERTY PURCHASE PROCEDURE IN DUBAI

Buying property in Dubai should be relatively straightforward, but we would always recommend that you instruct the services of a reputable agent, (surveyor) and notary.

This document has been compiled as a guide for potential purchasers of property in Dubai. It does not seek to provide or replace legal advice which you should obtain, nor is it intended to have any contractual effect.



Al Barari, Dubai UAE

LEGAL FRAMEWORK

Ownership of real property in Dubai is restricted to citizens of the United Arab Emirates and GCC nationals, as well as companies wholly owned by them and public joint stock companies.

Other foreign nationals - and companies wholly or partly owned by them - have the right to own real property in Dubai but only in certain areas designated by His Highness the Ruler of the Emirate of Dubai ("*Designated Areas*").

The Designated Areas include both residential and commercial areas in and around Dubai. The purchasing party is not required to hold any type of residency or similar permits in order to purchase real property.

PROCEDURES

The procedures for purchasing real estate in Dubai are straightforward for the most part.

In a nutshell, the procedure to transfer ownership of real property purchased with cash is as follows:

- Buyer and Seller agree terms. This can be done with or without the assistance of a real estate broker or solicitor.
- An Agreement of Sale or MOU (*Memorandum of Understanding*) is signed and a deposit (*usually 10%*) is paid.
- The parties meet at the offices of the developer to apply for a No Objection Certificate ("*NOC*") to transfer. The developer will usually issue the NOC against payment of a fee once the developer is satisfied that any amounts due to the developer in the form of service charges have been settled in full.
- Once the NOC is issued, the parties are free to attend at the offices of the Dubai Land Department to effect transfer of ownership. The Dubai Land Department will insist on payment of the purchase price being made in the form of a manager's cheque made payable to the seller on the date of transfer. Once the formalities are completed, a new title deed will be issued in the name of the buyer.

If the buyer is purchasing with the aid of a mortgage then the bank's involvement will of course be required. Likewise, if the seller has an existing mortgage over the property then there will be more steps involved and the procedure is more

complicated as the buyer will be required to settle the seller's mortgage in full prior to the NOC application. As such, the risk for the buyer increases significantly and there are more steps involved in order to complete the transaction.

Powers of Attorney

If the seller or buyer is represented under Power of Attorney then it is a requirement that such Power of Attorney is either signed before a Notary Public in the United Arab Emirates, or notarized in the country in which it was signed and then legalized up to the UAE Embassy in that country. When the document reaches Dubai it should then be attested at the Ministry of Foreign Affairs and, if not prepared in Arabic, it will have to be legally translated into Arabic before it will be acceptable to the Dubai Land Department.

Currently, the Dubai Land Department is insisting that Powers of Attorney are no more than two years old. It should also be noted that the Dubai Land Department will only allow an attorney to accept proceed funds if the POA expressly states that this is allowed and also only if the attorney presents an undertaking to the Dubai Land Department on the date of transfer confirming that the funds will be paid to the seller upon clearing.

Time Frame

From start to finish the average property sale and purchase in Dubai takes about 30 days to complete from the date on which the Agreement for Sale is signed. However, it could take longer if there is a mortgage, particularly on the seller's side.

Documents Required

Individual seller and buyer
Original Title Deed
Original passport
Corporate seller and buyer
Original Title Deed Original Certificate of Incorporation / Trade License
Original Memorandum and Articles of Association
Legal Translation of the Memorandum and Articles of Association
Original Certificate of Good Standing (<i>not more than 6 months old</i>)
Original Certificate of Incumbency (<i>not more than 6 months old</i>)
Copy of shareholder(s) passport(s)
Original Resolution approving the sale or purchase (<i>as the case may be</i>)
Original Power of Attorney
Attorney's original passport

The above list of corporate documents is not exhaustive and the requirements will vary depending on the corporate entity in question. It is therefore advisable when dealing with a corporate entity to approach the Dubai Land Department prior to the completion date to have the documents pre-approved.

Apart from presenting original documentation to the Dubai Land Department and the developer, the seller/buyer will also need to ensure that they have prepared copies of the same in order that the original documents may be returned. Any documents presented to the Dubai Land Department which are not in Arabic are required to be translated into Arabic by a certified legal translator.

COSTS

The following fees will generally apply to the sale and purchase of real estate in Dubai:

- ♦ NOC fees – these can range between AED 500 and AED 5,000 and are payable to the developer, usually by the seller but this is subject to mutual agreement. Certain developers also levy a refundable deposit upon the buyer which is only refunded when the buyer presents the new title deed at the developer's office and their records are updated.
- ♦ Real Estate Agent's Commission - this commission is for the most part paid by the buyer and is usually 2% of the purchase price. Often, the seller will also be responsible for the payment of agent's commission if the seller retains an agent.
- ♦ Transfer fees – these are calculated at 4% of the purchase price with an additional amount paid towards Admin fees which currently does not exceed AED 5,000 and paid to the Dubai Land Department.
- ♦ Mortgage registration fees (*if applicable*) are calculated at a rate of 0.25% of the registered loan amount and paid to the Dubai Land Department.
- ♦ Developers ask for their annual services charges to be paid in advance and buyer's should therefore account for their pro rata share upfront.

Additional fees will apply at the offices of the developer and the Dubai Land Department in order to discharge a seller's mortgage.

FINANCING

Although a large proportion of real property in Dubai is transferred on the basis of cash, financial institutions in Dubai do offer mortgages. For the most part however these are only available to UAE nationals and those foreign nationals resident in Dubai.

Restrictions on mortgages have been placed upon banks and lenders by the UAE Central Bank.

These Central Bank Regulations currently restrict lending to foreign nationals purchasing real property where construction is completed to the following:

First Property

- ♦ Up to a maximum of 75% of the value of the property for property valued at less than AED 5 million;
- ♦ Up to a maximum of 65% of the value of the property for property valued at more than AED 5 million.

Second and Subsequent Properties

Up to a maximum of 60% of the value of the property irrespective of the value of the property.

A separate set of loan to value ratios apply to UAE nationals.

For properties under construction, the restrictions are:

Up to 50% of the value of the property irrespective of the purpose for which the property is being purchased or the value of the property.

The same loan to value ratio applies to UAE nationals in this instance

Certain other restrictions have also been imposed by the Regulations, including but not limited to:

- ♦ maximum term of the mortgage should be 25 years;
- ♦ maximum age at the time of the last installment payment should be 65 years for foreign nationals (*or 70 years if self-employed*);
- ♦ the ratio of debt to income shall not exceed 50%;
- ♦ the maximum financing amount allowed for foreign nationals shall not exceed 7 years annual income.

Palm Jumeirah, Dubai





Nurai Island, Abu Dhabi, UAE

TAX AND STRUCTURING

The Dubai law currently places no restrictions on the number of properties a foreign national can own and there are no tax implications in Dubai itself on real property ownership. Foreign nationals are encouraged to seek independent tax advice from experts in their home countries as to how their ownership of real property in Dubai might affect them for the purposes of tax elsewhere.

If a foreign national wishes to acquire property in the name of a corporate entity then the only corporate entities permitted to purchase real property in Dubai are

either companies registered within the United Arab Emirates or offshore companies incorporated in the Jebel Ali Free Zone. The Dubai Land Department does not apply any restrictions however on the structure of the corporate offshore entity and these can therefore be owned either by individuals or foreign companies. As at the date of this note the Dubai Land Department has blocked Jebel Ali Free Zone offshore companies from buying real property. We await confirmation of whether there is a temporary or permanent block.

INHERITENCE

As a general rule in Dubai, the principles of Sharia'a apply to issues of inheritance.

However, as a foreign national, issues of inheritance have to be divided into whether the foreign national is a muslim or a non-muslim.

In the case of muslim foreign nationals, the principles of Sharia'a law applies automatically to their real property and the Succession Courts will on application issue a Succession Certificate to this effect.

In the case of non-muslim foreign nationals, the laws of succession in his/her country in which he/she is a citizen should be upheld by the UAE Courts and his/her real property should devolve, upon death, in accordance with his/her Will that is accepted to be valid in that country.

There are however no guarantees in this area and foreign nationals should note that issues of inheritance in the UAE are not straightforward. Obtaining a Succession Certificate can take months, if not years in some cases.

Of late, the option of a foreign national signing a "Dubai Will" before the Dubai Notary Public has been popular and the route chosen by many. These Dubai Wills should ideally supplement the home will and be restricted to UAE assets. Note however that Dubai Wills are largely untested and expert legal advice should be sought where inheritance issues apply.

N.B. The regulations fees etc applicable to real property in Dubai change on a regular basis. The information in this note is valid as at November 2013.