

# Ownership of educational land in Dubai - An Update

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In November 2020, we released a client alert ([available here](#)) briefly highlighting the entry into force of Decree no. 32 of 2020 on the ownership of educational land in Dubai (the '**Decree**'). In this article, we provide our analysis of the Decree with a view to assessing its impact on real estate developers and other private owners of educational land in the Emirate.

## Transfer of Educational Land

The Decree provides that, in addition to the educational land that is already included in the Order dated 18 March 2007, the following land shall be transferred to the Knowledge Fund Establishment (the '**Establishment**')

- educational land granted to governmental authorities, including land leased by these authorities or permitted by such authorities to be exploited or developed by third parties;
- educational land granted to real estate developers including land leased by such developers or permitted by governmental authorities to be exploited or developed by third-parties;
- educational land granted to individuals and private entities if:
  - a period of five (5) years has lapsed from the date of grant, and such individuals and private entities have not exploited the land; or
  - the educational activity has been permanently suspended on such land; or
  - upon the completion of the purpose for which such land was allocated to them;
- educational land allocated to the federal governmental authorities, foreign entities, civil society organizations or other authorities if:
  - a period of five (5) years has lapsed from the date of grant and the land has not been exploited; or
  - the educational activity has been permanently suspended on such land; or
  - upon the completion of the purpose for which such land was allocated to them;
- educational land allocated to civil society organisations, if such organizations lose their status as non-profit organizations; and
- vacant land that is allocated for educational purposes at a date that is subsequent to the date of entry into force of the Decree (i.e. 15 December 2020), including land that falls under the supervision of real estate developers.

## Exceptions

The Decree provides some exceptions where the above transfer requirement does not apply. These exceptions are as follows:

- educational land granted to educational governmental authorities;
- educational land located within educational zones, such as Dubai International Academic City and Dubai Knowledge Village;

- educational land encumbered by mortgages or financial obligations, unless the Establishment insists on acquiring the land; and
- mixed-use land if part of its use is allocated for educational purposes.

## **Special Rules for Real Estate Developers**

In addition to the above, the Decree allows real estate developers to whom educational land has been granted prior to the entry into force of the Decree to keep the ownership of such land provided that they pay the equivalent of 75% of the market value of the land to the Establishment. The amount can be paid over yearly instalments not exceeding 34 years in total.

If a real estate developer wishes to retain ownership of the educational land (subject to the above payment requirement), it must notify the Establishment of its desire to do so within a period of six (6) months starting from the date on which the Dubai Land Department would have determined the market value of the land. The Decree further stipulates that the Dubai Land Department must issue the market value of the land within a period of three (3) months from the date on which the Decree enters into force (i.e. 15 December 2020). This three (3) month period has now lapsed and we are not aware of any valuations having been issued by the Dubai Land Department to date.

Real estate developers who wish to retain their educational land are well advised to approach the Dubai Land Department and to make the relevant inquiries so as to verify whether the six (6) month notification period granted under the Decree has in fact started or not. This is because the Decree clearly stipulates that, if the real estate developer fails to notify the Establishment within that notification period, the Establishment may take all necessary action with a view to transferring the land to the ownership of the Establishment.

It is also important to note that if a real estate developer expressed its wish to retain ownership of the educational land but has failed to pay any of the instalments that are payable by it pursuant to the above, the Establishment is entitled to acquire ownership of the land and to forfeit any sums paid to it by the real estate developer. Equally important is the fact that real estate developers are not permitted to change the use of the educational land unless they obtain the prior approval of the Establishment and the relevant governmental authorities, in accordance with applicable planning standards.

## **Implementation Matters**

In furtherance of its objectives, the Decree stipulates that the Establishment shall enter into agreements with real estate developers that shall set out (i) the mechanism for determination of the market value of the land, (ii) the payment plan that the developers must adhere to should they wish to retain ownership of the land, (iii) the rights and obligations of each of the Establishment and the real estate developers in connection with the land, and (iv) other ancillary matters relating to the implementation of the Decree.

## **Novation**

Article 6 of the Decree provides that, following the transfer of ownership of the land covered by the provisions of the Decree to the Establishment, the Establishment shall replace the governmental authorities and real estate developers in lease agreements and other agreements relating to the

exploitation of the educational land.

## Conclusion

At the time of writing, there exists a significant land bank of educational land plots that have been granted to real estate developers and private individuals who, until now, have failed to build and operate schools on them. One could consider that the purpose of the Decree is to address the supply side of the market by having unused educational land transferred to the Establishment so that the Establishment can reallocate them as required, in accordance with the strategic vision of the Government of Dubai. Assuming this is the underlying purpose of the Decree, further clarity is required in the short term, and we are optimistic that it will be provided, in relation to the implementation aspects of the Decree.

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