

# A new decree establishing a special judicial committee for Real Estate and Rental Disputes in the emirate of Ras Al Khaimah

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His Highness Sheikh Saoud bin Sakr bin Mohammed Al Qasimi, Ruler of Ras Al Khaimah, has issued Amiri Decree No. 2 of 2012 on the formation of a special judicial committee for real estate and rental disputes in the Emirate of Ras Al Khaimah on 15 February 2012 (the "Decree").

Pursuant to the Decree, a Real Estate and Rental Dispute Settlement Committee (the "Committee") shall be established and formed of a Chairman and (a maximum of) four members who shall be appointed by a resolution issued by His Highness the Ruler, or the delegate thereof. The Decree does not specify whether the members of the Committee must be judges or not.

The Committee shall have the sole competency of settling all real estate disputes and complaints in respect of cheques, related to real estate transactions of the various real estate development companies registered in Ras Al Khaimah. The Committee shall also be competent to settle all the rental disputes, and complaints in respect of cheques issued under leasing contracts.

## **Committee authority**

The Decree grants the Committee certain authority as follows:

- 1- settling disputes by means of conciliation or Arbitration if the parties agree on such a solution, otherwise the Committee shall settle the dispute by a Decision issued by the Committee.
- 2- ordering a cheque issuer to write a new cheque in place of the cheque which is the subject of the complaint, which shall become due on the date specified by the Committee.
- 3- cancellation of returned cheques issued in favour of a real estate developer, where it is proved that the developer is not entitled to same.
- 4- referring the returned cheque to the competent judicial authority for appropriate legal action to be taken against the cheque issuer, where it is proved that the developer is entitled to the value of the cheque.
- 5- instructing the assistance of suitable experts, consultants, engineers and specialists who are experienced in real estate and leasing matters.

Existing cases which have not yet been decided by the Court (or any other authority) must be referred to the Committee pursuant to this Decree.

The Decree states that judgments issued by the Committee shall be final and conclusive. However, it also allows the parties to submit a petition to the same Committee for reconsideration of its judgment within 15 days of the date of the judgment issuance. No petition for reconsideration may be submitted more than once.

Judgments of the Committee shall be executed by the Department of Execution of the Courts of Ras Al Khaimah.

## **Fees**

The fee for filing a case before the Committee is 10% of the amount which is the subject of the claim, up to a maximum of 30,000 Dirhams. A fee of 30,000 Dirhams is payable for the issue of a petition of reconsideration of a judgment.

## **Validity**

The Decree cancels Amiri Decree No. 12 of 2010 regarding the establishment of judicial committee for real estate dispute in the Emirate of Ras Al Khaimah. It also cancels Amiri Decree No. 7 of 2011 regarding amendment to Decree 12 of 2010, which gave the judicial committee authority over tenancy disputes.

## **Commentary**

The significance of the Decree is that it allows parties to request the same Committee to reconsider a previous decision issued by it. At the same time, it clarifies the jurisdiction of the Committee over all property disputes and tenancy cases, together with clarifying the amount of fees chargeable for filing any property or tenancy related claim.

The Decree does not mention the names of the members of the Committee (as it was the case in Amiri Decree No.12 of 2010), and the names of the members will be decided pursuant to a decision to be issued by His Highness the Ruler of Ras Al Khaimah.

The Decree clarifies to all parties with real estate and tenancy related disputes in Ras Al Khaimah, the legal route and the competent authority over such disputes. Ras Al Khaimah is an important real estate market of the UAE with major real estate projects. With new property development projects expected, we anticipate that the Decree will bring a greater amount of confidence to the real estate market in Ras Al Khaimah.

Al Tamimi and Company represents many clients before the Committee and has a great deal of experience handling real estate and tenancy related disputes in Ras Al Khaimah.

If you have any queries about the Decree or the Committee, please contact Mohammad Kawasmi, Head of Property – Northern Emirates ([m.kawasmi@tamimi.com](mailto:m.kawasmi@tamimi.com)).