

Abu Dhabi Rent Caps and Housing Fees

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A rent cap on leases in Abu Dhabi had first been introduced by Law No. 20 of 2006 on the Leasing of Spaces and Regulation of the Relationship between Landlords and Tenants in the Emirate of Abu Dhabi ("Landlord and Tenant Law") as amended. The rent cap was later abolished on 9 November 2013 but now, as a result of Resolution No. 14, the annual 5% cap has been re-introduced with effect from 13 December 2016.

Resolution No. 14 amends Article 16 of the Landlord and Tenant Law and applies to residential, commercial and industrial leases alike.

The Landlord and Tenant Law allows the parties to a lease to agree and fix the rent for the lease term. If the rent is not fixed then the landlord has the right to an annual rent increase. This right is now subject to a maximum annual increase of 5% of the existing rent. The rent cap may be increased, reduced or cancelled from time to time by the Chairman of the Executive Council as he considers appropriate (Article 16.2 of the Landlord and Tenant Law as amended). A tenant may ask the Abu Dhabi Rent Committee to determine the rent where a landlord asks for an increase which exceeds the rent cap (Article 16.5 of the Landlord and Tenant Law as amended).

While the decision to cap rentals was not expected (as the rental market in Abu Dhabi has been witnessing a fall in rents since early 2016), it is welcomed as it provides greater stability and protection for tenants in Abu Dhabi.

Abu Dhabi Housing Fee

In February 2016 the Chairman of Abu Dhabi Executive Council issued Resolution No.13 of 2016 ("Resolution No. 13") introducing a housing fee in Abu Dhabi. The housing fee is charged on all residential leases to expatriates and is calculated as 3% of the annual rent. Abu Dhabi Municipality has now started charging housing fees through electricity and water bills issued by Abu Dhabi Distribution Company (ADDC).

Collection of the housing fee will be backdated to the date of implementation of Resolution No. 13 in February 2016. It is expected that housing fees for 2016 will be collected as a one-off payment but going forward the housing fee will be divided and collected in monthly instalments.

Responsibility for payment of the housing fee falls on tenants and is distinct from service charges which are payable to developers or building owners for common services where payment remains the obligation of the landlord.

The Abu Dhabi housing fee is comparable to the fee imposed by Dubai Municipality which is calculated as 5% of the annual rent and paid in monthly instalments through DEWA bills.

Conclusion

We will need to wait and see if as a next step Abu Dhabi follows the approach taken in Dubai and implements a more complex system of rent controls regulated by a centrally maintained index of comparable rents. Such controls would distinguish between different areas and classes of properties and would reference permitted rent increases against average rents for comparable properties. In the short-term, the reintroduction of rent caps is not likely to have considerable effect on the market as rent levels are generally declining across the Emirate. In the long-term however rent caps should lead to more stable pricing in the residential leasing market. The introduction of a housing fee is not unexpected and tracks similar measures taken by the Abu Dhabi government in recent months to recover from residents the costs it incurs providing services.

Al Tamimi & Company's Real Estate team regularly advises on real estate matters in Abu Dhabi. For further information please contact David Bowman (d.bowman@tamimi.com) or Maha Dahoui (m.dahoui@amimi.com).