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The International Comparative Legal Guide to: Real Estate 2011

A practical cross-border insight
into real estate law

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1 Real Estate Law

- 1.1 Please briefly describe the main laws that govern real estate in Cyprus. Laws relating to leases of business premises should be listed in response to question 10.1. Those relating to zoning and environmental should be listed in response to question 11.1.**

The most important law that regulates real estate in Cyprus is The Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224.

Furthermore the main specific laws that govern real estate in Cyprus are the following:

- Sale of Land (Specific Performance) Law, Cap. 232 as amended.
- Immovable Property Transfer and Mortgage Law, 9/1965 as amended.
- Rent Control Law, 23/1983 as amended.
- Acquisition of immovable Property (Aliens) Law, Cap. 109 as amended.
- Immovable Property (Towns) Tax Law, 89/1962.
- Immovable Property Tax Law, Cap. 322.
- Fraudulent Transfer (Avoidance) Law, Cap. 62.
- Streets and Buildings Regulation Law, Cap. 96 as amended.
- Department of Lands and Surveys (Fees and Charges) Cap. 219.
- Town and Country Planning Law, 90/1972 as amended.
- Immovable Property (Fees and Charges) Law, Cap. 219 as amended.
- Compulsory Acquisition of Property Law, 15/1962 as amended.

General Sources of Real Estate Law are the Constitution of Cyprus, Contract Law Cap. 149, Trustee Law Cap. 193, Civil Procedure Law Cap. 6, Capital Gains Tax Law, 52/1980, Stamp Law Cap. 228, and Wills and Succession Law Cap.195.

- 1.2 What is the impact (if any) on real estate of local common law in Cyprus?**

Although Cyprus is a common law jurisdiction, section 4 of the Immovable Property (Tenure, Registration and Valuation) Law Cap. 224 provides the following:

“Notwithstanding anything in paragraph (c) of subsection (1) of section 29 * of the Courts and Justice Law contained or any other law that modifies or replaces it, and subject to the provisions of this

section, to the law relating to trusts, the law relating to *vakfs* and the provisions of any other law in force for the time being, no estate, interest, right, privilege, liberty, easement or any other advantage whatsoever in, on or over any immovable property shall subsist or shall be created, acquired or transferred except under the provisions of this law.”

Of course the above section provides some exceptions to the general principle.

*Paragraph (c) of subsection (1) of section 29 mentions that each court in the exercise of its civil or criminal jurisdiction will apply the Common Law and the doctrines of equity, save insofar as other provision has been or shall be made by any law made or becoming applicable under the constitution.

- 1.3 Are international laws relevant to real estate in Cyprus? Please ignore EU legislation enacted locally in EU countries.**

International Laws are not relevant to real estate in Cyprus.

2 Ownership

- 2.1 Are there legal restrictions on ownership of real estate by particular classes of persons (e.g. non-resident persons)?**

Section 23 of the Constitution of the Republic of Cyprus protects the right of each person to acquire, own, possess, enjoy and dispose of his own property.

The right of absolute ownership of land comprises of the right to have or to claim such property as his own, the right to possess, the right to use, the right to tenure, enjoyment and collection of fruit, and the right to dispose of, which includes the partial or total alienation, the charge, the change, or the destruction of the subject of ownership.

Of course, the right of property is restricted in a few cases. Under the Constitution, the right is subject to restrictions for the reasons set out in paragraphs 3 and 4 of Section 23 of the Constitution. Town planning and development and use for public welfare purposes, public security or public health of any property, are defined as explicit reasons that may impose statutory restrictions on the use of property. Of course, the owner of such property will be entitled to relevant compensation.

Furthermore, there are legal restrictions of ownership of real estate by particular classes of persons.

Section 3(1) of the Acquisition of Immovable Property (Aliens)

Law, Cap. 109 as amended, prohibits the ownership by an alien of an immovable property without obtaining permission from the Council of Ministers of the Republic first.

An alien can apply to the Council of Ministers for acquisition of only one immovable property, for example one residence, office and so on, and, in case of land, the land must not exceed the 4,014 sq.m in size. This restriction stands for all aliens other than EU citizens and EU companies.

Section (2) of the same Law provides among other definitions the definition for the word “alien”.

When the Council of Ministers’ permit is granted, and provided that there is a separate title deed issued for the property purchased, then the property may be transferred and registered in the name of the purchaser.

3 Real Estate Rights

3.1 What are the types of rights over land recognised in Cyprus? Are any of them purely contractual between the parties?

The provisions of section 4 of the Immovable Property (Tenure, Registration and Valuation) Law Cap. 224, are mentioned in question 1.2 above.

Section 4 is of great importance because it determines exactly in which way rights are created, acquired or transferred on immovable property. Some of the following issues were raised under case law:

- a. In *Spyros F. Michaelides vs. Chrysis Demetriades* (1968) 1 CLR 211 it was specified that a mortgage over immovable property does not constitute an estate in land but a contractual right for the benefit of the mortgagee and also encumbrance or charge upon immovable property.
- b. The right of a tenant under a leased property is not an encumbrance on the immovable property. Related is the decision in the case of Attorney General against the Nicosia Water Board (1961) 1 CLR.
- c. Under the provisions of section 4 mentioned in question 1.2 above and the Transfers of Real Estate and Mortgage Law, there can be no legal or equitable assignment concerning immovable property, as the principles of common law and equity do not apply.
- d. The lodgment of a contract of sale in the Lands Registry does not create any right over immovable property but only a charge on immovable property in favour of the purchaser. A related case is *Ayios Andronikos Development Co. Ltd vs. The Republic* (1965) 1 CLR 2362.

In view of the above there are rights directly connected with the ownership (estate in land and real rights) as well as purely contractual rights.

4 System of Registration

4.1 Is all land in Cyprus required to be registered? What land (or rights) are unregistered?

Yes, all land in Cyprus is required to be registered. The registered owner of the land is provided with a title deed (proof of the registration of ownership held in the records of the Lands Registry Office), which mentions the number of registration of the property, the plot number, sheet plan, the type of the property (house, apartment, field, exedra), the precise dimensions of it in square

metres, the name of the owner and its address, the city, the area, the location of the property and the share owned by the owner which is mentioned on the left-hand side of his name in fractions or in full, for example, the whole part or ½ or ¼ or 32/74. In addition, any rights related to the immovable property such as access fees are mentioned in the title deed.

Apartment title deeds mention the percentage of service charges as per joint ownership property, parking places, storage places or garden.

The registration number and sheet/plan are unique elements, identifying the property and distinguishing it from any other property.

4.2 Is there a state guarantee of title? What does it guarantee?

The title deed as mentioned in question 4.1 above is the official document proving that someone is the registered owner of the property described in it, as this is registered in the records of the Lands Registry Office. Therefore, there is no state guarantee of title.

4.3 What rights in land are compulsory registrable? What (if any) is the consequence of non-registration?

The provisions of section 4 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224, which are mentioned in question 1.2 above, are relevant to the provisions of section 40 of Cap. 224 which mentions the following: “No transfer of, or charge on any immovable property shall be valid unless registered or recorded in the District Lands Office.”

Therefore, oral or written transfers of property, acknowledgments of encumbrances and/or assignments of such rights are not valid unless completed by registration in the Lands Registry.

According to section 65E of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224, trusts referring to immovable property are not valid unless established by trust deed or a will and deposited at the Lands Registry.

Non-registration of any right means that no right is enforceable.

Lease agreements, when the term of the lease is to exceed 15 years, need to be registered.

4.4 What rights in land are not required to be registered?

Contractual rights that do not constitute an estate in land are not required to be registered. Non-registration of any right means that no right is enforceable.

4.5 Where there are both unregistered and registered land or rights is there a probationary period following first registration or are there perhaps different classes or qualities of title on first registration? Please give details. First registration means the occasion upon which unregistered land or rights are first registered in the registries.

There is no probationary period following first registration nor different classes or qualities of title on first registration, as land in Cyprus is registered. The rights over the land are enforceable only when the property is registered.

4.6 On a land sale, when is title (or ownership) transferred to the buyer?

This depends on each case and on the kind of land for sale. There are properties that, upon sale, have title deeds with the names of the owners and other properties such as developments under construction or recently completed, comprising of several apartments and stores, building complexes comprising of houses, apartments and so on, that, upon sale, a separate title deed covering the property has not yet been issued. Separate title deeds of each property of a development usually takes time to be issued and a certain procedure must be followed by the developer before, during and after the project is completed.

Where a separate title for the property sold exists, then the transfer to the buyer can take place immediately upon full settlement of the purchase price provided that the seller has settled all fees, charges and taxes that burden the immovable property being transferred. Such fees, charges and taxes may be one or more of the following: (i) immovable property tax; (ii) urban immovable property tax; (iii) capital gains tax; and (iv) inheritance tax (if applicable). Also, a certificate of payment of liabilities must be issued by the Sewage Board, Municipal fees and Community fees.

In the case where the purchaser is occupying the property before the transfer of the property, as from the date of delivery of possession the purchaser shall be responsible for the payment of all taxes and rates of the property until the issuing of title deeds.

If the purchaser has taken a bank loan or a loan from another organisation, the transfer and mortgage in benefit of the creditor take place simultaneously.

4.7 Please briefly describe how some rights obtain priority over other rights. Do earlier rights defeat later rights?

Earlier rights defeat later rights. For example mortgages, memos and liens registered earlier than others exceed later registered rights. If a bank registers a mortgage on a creditor's property and then another bank is dealing with the registration of another mortgage on the same property, then the first bank has to consent to the registration of the second mortgage. The same goes for memos. Earlier registered charges are also privileged. The deposition of the sales agreement prevents the property from being sold twice and grants the purchaser certain rights and priorities regarding the immovable property.

5 The Registry / Registries

5.1 How many real estate registries operate in Cyprus? If more than one please specify their differing rules and requirements.

The Lands and Surveys Department operates nine offices in the free territory of Cyprus. The Headquarters accommodates the Director and other managerial personnel; the Survey and Cartography Branches along with the Land Information Centre are located in Nicosia. The six District Lands Offices operate for the corresponding six districts of the island. The District Lands Office of Keryneia and Ammochostos are located in Nicosia and Larnaca respectively, after the enactment of a relevant Law, because the initial premises, including land registers and files, have been occupied by Turkish troops since 1974.

Furthermore, for the best service of the public, the District Lands Offices operate sub-offices, on a full basis in the Paralimni Municipality and periodically in the premises of the Municipality of Polis Chrysochous and the premises of the Communities Evrichou

and Agros.

The Department of Lands and Surveys is divided into seven Branches, under which a number of sections are operated:

- Administration.
- Registration.
- Tenure.
- Management of State Lands.
- Valuation.
- Survey.
- Cartography.

Moreover, after the recent organisational restructuring in the Department, three new Branches have been created:

- Geodesy and Special Surveys and Mapping.
- Transfers, Mortgages, Forced Sales and Encumbrances.
- Support and Cilis Administration.

5.2 Does the Land Registry issue a physical title document to the owners of registered real estate? Can any transactions relating to registered real estate be completed electronically? Can information on ownership of registered real estate be accessed electronically?

The Lands Registry issues a title deed to the owners of registered real estate. However, the parties to a transaction must be personally present at the District Lands Registry, or their lawyer or any other person authorised with a power of attorney by them. In view of the above, the transactions relating to registered real estate cannot be electronically completed. Information on ownership of registered real estate can be electronically accessed but only authorised users can have on-line access to the registry through the website www.moi.gov.cy.

5.3 Can compensation be claimed from the registry/registries if it/they makes a mistake?

Under section 61 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224, the Director may correct any mistake or omission in the Lands Registry or in any book or plan of the District Lands Office, or any certificate of registration and any such register, book, plan or certificate of registration corrected in this way has the same validity and effect as if the mistake or omission had not occurred.

Any compensation can be assessed by the court when there is a proprietary dispute to be resolved in court which is not within the range of powers of the Director of the Lands Registry, such as matter of the ownership of a property as in the case of a double registration.

5.4 Are there restrictions on public access to the register? Can a buyer obtain all the information he might reasonably need regarding encumbrances and other rights affecting real estate?

The Director shall provide to any interested party, upon payment of the fee, any information in relation to any entry in any register or other book kept in each District Lands Office. For the purposes of section 51A subsection (2) of the Cap. 224, an "interested person" means: the registered owner, and successors; the owner of any trees, buildings or other objects on the land which belong to another person and *vice versa*; the holder of any right or interest on the property; the person who meets the Director who is a prospective purchaser or mortgagee; the plaintiff in any action against the

owner of such property; the professional appraiser who would like some information for assessment purposes for certain real property in a case related to expropriation; as well as a lawyer who has been shown in any way to be entrusted by any such person to seek information about any entry under section 51A subsection (1) of the Cap. 224 and includes any person who is not determined in this manner in which the Director may order the specific provision of any information.

6 Real Estate Market

6.1 Which parties (in addition to the buyer and seller and the buyer's finance provider) would normally be involved in a real estate transaction in Cyprus? Please briefly describe their roles and/or duties.

In a real estate transaction in Cyprus, in addition to the buyer, the seller and the buyer's finance provider, normally there will be a lawyer, a real estate agent and a notary involved.

- **Real Estate Agents:** The involvement of a real estate agent is not always necessary to achieve real estate transactions, but sometimes companies and individuals provide real estate agencies to both parties, to a seller who wants to sell a property and to an intending purchaser seeking for a property to buy. A licensed real estate agent is registered according to the provisions of Real Estate Agent Law N71(I)/2010. The agent has to provide the buyer with all the information he might need concerning the property, for any burdens, charges of any kind and restrictions placed on the property.
- **Lawyers:** The lawyer, representing the purchaser, will first of all ask for an official search of the property to be sold. A search will provide the purchaser with any information found on the title deed, memos, charges, and mortgages other contracts of sale and encumbrances in general.

As the contract of sale is the most important document of the transaction, the lawyers of both parties will negotiate its terms and draft and/or review the sales agreement, to be signed by the parties and the witnesses. After the contract is signed the parties by themselves or through their lawyers will stamp the contract. After the official stamping, the contract will be lodged at the Lands Registry of the district the property is located, for specific performance purposes.

Each of the parties can grant a Power of Attorney to the lawyer to do all or any of the above acts on his behalf, or sign the sales agreement on his behalf.

6.2 How and on what basis are these persons remunerated?

- **Real Estate Agents:** When, in any land transaction, a licensed real estate agent intervenes providing his services, he is entitled to claim and receive the agreed fee. Unless otherwise agreed, the agent's fee will be 3% of the value of the real estate transaction and will be due and payable upon achievement of the transaction, namely the conclusion of the sale agreement. In case of non-fulfillment of the transaction/sale, for which the real estate agent is not responsible, he is entitled to a reasonable remuneration taking into account the time spent and the expenses made.
- **Lawyers:** Lawyers will be paid on the basis of the Minimum fees of Practising Advocates (out of court cases) Regulations 1985- 2006 as amended – Regulations 118/2008.

6.3 How has the real estate market in Cyprus recovered or reacted following the global credit crunch and worldwide recession in 2008/2010? Please include both local and international investors in your answer.

The global economic crisis has not of course left Cyprus unaffected, especially regarding the real estate market. Cyprus enjoyed more than a ten-year growth in the real estate market until 2008. Then the market began to fall, mainly because of the worldwide economic crisis and of course the lower demand from British buyers, due to UK recessions and the weakening of the pound against the Euro, which prompted British buyers to look for non-Euro destinations for investing. Investors are now being much more cautious about their investing decisions.

Towards the end of the second quarter of 2010, there were some early signs of stabilisation, with local buyers returning to the market taking advantage of lower prices.

The Department of Lands and Surveys registered an average increase during 2010 in real property sales volumes bought by Cypriots. Sales in Nicosia increased probably due to Cypriots taking advantage of opportunities in the market.

Some property developers have been offering discounts on a number of their projects in attempts to attract buyers and British expatriates have been selling their homes at low prices and returning to the UK.

The growth of incoming tourism mostly from Russia and from some other destinations, and of course the growth of investments by Russian businessmen in Cyprus, are reasons that are helping economic conditions in the island to stabilise after the economic downturn, and hopefully the Cypriot economy will return to modest growth this year.

Presently, the real estate and construction market are characterised by a weaker demand compared to 2008. However, despite the current situation, Cyprus remains and will remain one of the most popular destinations and attractive locations for Europeans, Russians and other nationals that seek to invest.

7 Liabilities of Buyers and Sellers in Real Estate Transactions

7.1 What (if any) are the minimum formalities for the sale and purchase of real estate?

The minimum formalities for the sale and purchase of real estate are the following:

- a) The proper sale and purchase of real estate begins with the signing of the contract of sale and it is finalised at the Lands Registry, where the transfer of the property is completed. The Contract of Sale is considered to be the most important document in real estate transactions. It must be signed by both parties and at least two witnesses.
- b) The purchaser will stamp the Contract of Sale within one month of its signing (if not then penalties are imposed) and he will pay for the stamp duty which, according to the value of the property will be as follows:
 - For property up to €170,860.00 (CYP 100,000) = 1.5 per thousand.
 - For property over €170,861.00 (CYP 100,001) = 2 per thousand.
 - For property over €8,550,000.00 (CYP 5,000,000) = fixed amount of €17,100.00.
- c) Following the stamping of the Contract of Sale, it will be filed at the Lands Registry, for specific performance

purposes under and subject to the provisions of Cap. 232 of the Sale of Land (Specific Performance Law), within two months after the date of signing. If the Contract is not filed at the Lands Registry within this period then the purchaser loses his right to lodge the Contract of Sale and of course his security for specific performance. According to section 3 of Cap. 232 Enforcement of the Contract of Sale: "Any Law to the contrary notwithstanding, any Court may by its order direct that any contract for the sale of immovable property in respect of which the formalities prescribed by section 2 have been complied with shall be specially enforced."

- d) The Contract of Sale is, as mentioned above, finalised with the transfer of the property to the purchaser. The registration fees are payable to the Lands Registry by the buyer relating to transactions for which a title has been issued. These fees are calculated using the scale set out in question 9.1 below.

7.2 Is the seller under a duty of disclosure? What matters must be disclosed?

The seller must disclose any information regarding the property for sale when he is asked to do so by the purchaser. The purchaser must be provided with an official search of the property to be sold and a recent copy of the title deed proving the ownership. Also, the seller, provided that this is the case, has to provide the purchaser with all the permits, building permit, planning permission, etc. so that to reveal that everything has been done legally and no problems with any authority shall occur in the future.

7.3 Can the seller be liable to the buyer for misrepresentation?

Section 18 of the Contract Law, Cap. 149 provides:

"Misrepresentation includes:

- The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true. Though he believes it to be true.
- Any breach of duty which, without an intent to deceive, gains an advantage to the person committing it, or any one claiming under him, by misleading another to his prejudice or to the prejudice of any one claiming under him.
- Causing, however innocently, a party to an agreement to make a mistake as to the substance of the thing which is the subject to the agreement."

Section 19 provides:

- When consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.
- A party to a contract whose consent was caused by fraud or misrepresentation may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.
- If such consent was caused by misrepresentation....., the contract, nevertheless, is not voidable, if the party whose consent was so caused had the means of discovering the truth with ordinary diligence."

After everything mentioned above, the seller can be liable to the buyer for misrepresentation. However, the buyer must always keep in mind what is referred in section 19(3) and carry out his own due diligence.

7.4 Do sellers usually give contractual warranties to the buyer? What would be the scope of these? What is the function of warranties (e.g. to apportion risk, to give information)? Are warranties a substitute for the buyer carrying out his own diligence?

The seller may give contractual warranties to the buyer, such as: he has not previously sold or granted any option to purchase which gives to another party rights that will have priority over the interest of the purchaser; he has no knowledge of public rights of way over the land, or legal proceedings which would render the sale of the land invalid; etc. No warranty is a substitute for the buyer carrying out his own due diligence. These are contractual warranties, which give rise to contractual rights and if the purchaser wants to be on the safe side prior to signing the contract and ensure the purchase, he has to carry out his own due diligence and avoid any claims against the seller who does not comply with the terms of the contract.

7.5 Does the seller warrant its ownership in any way? Please give details.

The seller can warrant his ownership by providing the buyer with a recent copy of the title deed, or with an official updated and recent search from the Lands Registry. The title deed as mentioned in questions 4.1 and 4.2 above is the official document proving that someone is the registered owner of the property described in it, as this is registered on the records of the Lands Registry Office.

7.6 What (if any) are the liabilities of the buyer (in addition to paying the sale price)?

If no special terms are set out between the parties on the contract of sale concerning the liabilities of the purchaser, then the purchaser is only liable to pay the consideration according to the terms of payment.

8 Finance and Banking

8.1 Please briefly describe any regulations concerning the lending of money to finance real estate. Are the rules different as between resident and non-resident persons and/or between individual persons and corporate entities?

The banks and/or other organisations in Cyprus may lend money to the buyer only when he meets the requirements laid down by the bank and/or other organisation. The buyer can also mortgage the property with the Lands Registry as a charge. The banks and/or other organisations in Cyprus, usually, offer mortgage services to resident and non-resident persons. In Cyprus, loans are offered in Euro as well as in foreign currencies.

8.2 What are the main methods by which a real estate lender seeks to protect itself from default by the borrower?

The main methods by which a real estate lender seeks to protect itself from default by the borrower are: a) to require registration of the mortgage with the District Lands Office; b) to seek a letter of guarantee from the registered owner in case where no separate title deed is issued; and c) to indicate guarantors in order to guarantee the repayment of the loan. It is important to note that the lender may enforce his rights against the borrower, in case where he fails to pay, through the court.

8.3 What minimum formalities are required for real estate lending?

The minimum formalities which are required for real estate lending consist of: a) the ability of the borrower financially; b) the property's estimation through an independent estimator; and c) determination of the ownership and any encumbrances on the property through searches at the Lands Registry.

8.4 How is a real estate lender protected from claims against the borrower or the real estate asset by other creditors?

Normally, the banks and/or other organisations, which are the lenders, have the first charge over the property. Then, a charge which has priority chronologically over any subsequent registration or subsequent creditors, either secured or unsecured, is created by the registration of the mortgage with the Lands Registry (Law 9/1965).

9 Tax

9.1 Are transfers of real estate subject to a transfer tax? How much? Who is liable?

Transfers of real estate are subject to transfer fees. The transfer fees are payable by the purchaser upon the procedure at the District Lands Office for the registration of the immovable property in the name of the purchaser or in the name of anyone he indicates. Transfer fees are payable at the rate of:

- 3% on purchase price up to €85,430;
- 5% on purchase price from €85,430 to €170,860; and
- 8% on purchase price over €170,860.

However, the District Lands Office may assess the current market value of the immovable property at the time of the purchase on the basis of comparative sales of immovable properties in the area of the sold immovable property.

When the purchaser of an immovable property is more than one, then the transfer fees may be reduced.

9.2 When is the transfer tax paid?

The transfer fees are payable upon the transfer of the title deed from the seller to the purchaser at the District Lands Registry Office.

9.3 Are transfers of real estate subject to VAT? How much? Who is liable? Are there any exemptions?

Transfers of real estate are not subject to VAT.

9.4 What tax or taxes (if any) are payable by the seller on the disposal of a property?

The tax, in Cyprus, which is payable by the seller on the disposal of a property is the Capital Gains Tax under the Capital Gains Tax Law, 52 of 1980.

Capital Gains Tax is at a rate of 20% of the profit made on the sale, adjusted for inflation and any costs of renovation. On a first sale, the first €17,086 of the profit is exempt. If the seller was living in the property for a period of five years, then the first €85,430 is exempt. When a person who is farmer disposes of agricultural land then the first €25,629 is exempt.

Council tax, municipality tax and immovable property tax are usually paid.

9.5 Is taxation different if ownership of a company (or other entity) owning real estate is transferred?

If ownership of a company (or other entity) owning real estate is transferred, the taxation that needs to be paid is the Capital Gains Tax. However, if the company proves trading, and where a property is purchased with the view to selling it at a profit, the company will be taxed with income tax, at the rate of 10%.

10 Leases of Business Premises

10.1 Please briefly describe the main laws that regulate leases of business premises.

The main law that regulates the lease of business premises is the Rent Control Law 23/1983 as amended. It deals with any conflicts, if any, between the landlord and the tenant.

10.2 What types of business lease exist?

Business premises and/or shops are governed by the Rental Control Law and under section 2 of the same Law, business premises and/or shops are immovable properties which may be leased for any work or trade or any other business purposes.

10.3 What are the typical provisions for leases of business premises in Cyprus regarding: (a) length of term; (b) rent increases; (c) tenant's right to sell or sub-lease; (d) insurance; (e) (i) change of control of the tenant; and (ii) transfer of lease as a result of a corporate restructuring (e.g. merger); and (f) repairs?

(a) Length of term

The lease between the landlord and the tenant may be for a periodic or fixed-term tenancy. The landlord and the tenant negotiate the length of term of the lease.

(b) Rent increases

An increase in the rent payable by the tenant may be claimed by the landlord through the court only when the first tenancy has been expired and/or terminated. The court appoints an official valuer to give an opinion about the premises and then a reasonable rent is determined by the court. However, the court cannot increase the rent more than 8% for the biennium beginning on April 22, 2009 until April 21, 2011 (Regulation 115/2009).

(c) Tenant's right to sell or sub-lease

The tenant may sell or sub-lease the business premises only if there is such clause in the tenancy agreement.

(d) Insurance

All business premises shall be insured, otherwise they are subject to a fine under the Law on Health and Insurance in Work Environments 89(I) 1996. An insurance certificate must be shown.

(e) (i) Change of control of the tenant

This matter can be decided between the landlord and the tenant. The terms of the lease are not affected where the tenant is a company.

(e) (ii) Transfer of lease as a result of a corporate restructuring (e.g. merger)

The transfer of the lease to such corporate entity which is the

product of a merger of the full rights of the original tenant is included by the term “tenant”.

(f) Repairs

If the tenant causes any damages due to his actions, then he is liable for the repairs. In any other case, the landlord is liable for any repairs of any defects in the premises.

10.4 What taxes are payable on rent either by the landlord or tenant of a business lease?

The tax payable on rent of a business lease in Cyprus is the income tax. Any person who is a tax resident of Cyprus in any one calendar year, is liable to income tax. The tax law in Cyprus defined a ‘temporary person’ as a person whose intention is to establish residence in Cyprus for a period not exceeding six months (183 days) in a calendar year. Income tax which is levied from rents of a natural person may be deducted at the rate of 20% of the gross rents. VAT is not payable on rents.

10.5 In what circumstances are business leases usually terminated (e.g. at expiry, on default, by either party etc.)? Are there any special provisions allowing a tenant to extend or renew the lease or for either party to be compensated by the other for any reason on termination?

Business leases are usually terminated at expiry of the term or on default. When the term of the lease is about to expire, then the parties may renew the lease either amending it or leaving it the same. Under section 11 of the Rent Control Law 23/1983, the landlord has the right to terminate the lease, *inter alia*, when the tenant refuses and/or fails to pay the rent within 21 days from the receipt of the notice in writing by the landlord to him, the tenant is causing annoyance or disturbs the neighbours or allows the use of the rented property for illegal purposes, the rented property is damaged due to the exclusive negligence of the tenant, the tenant has no right to sublease the property but he sublets it, the premises are required by the landlord for either himself or for his family, or the premises are required by the landlord for demolition, or demolition and reconstruction as to render the recovery of possession absolutely necessary. A tenant may extend or renew the lease through a court order if they have been conducting business in the rented property over the past five years (section 14 of the Rent Control Law 23/1983).

10.6 Does the landlord and/or the tenant of a business lease cease to be liable for their respective obligations under the lease once they have sold their interest? Can they be responsible after the sale in respect of pre-sale non compliance?

Under section 28(1) of the Rental Control Law, once the landlord and the tenant have sold their interest, they cease to be liable of their respective obligations, though, they remain responsible for pre-sale non-compliance. An order from the court is unenforceable against a sub-tenant or a statutory tenant for the recovery of possession by the landlord.

10.7 Green leases seek to impose obligations on landlords and tenants designed to promote greater sustainable use of buildings and in the reduction of the “environmental footprint” of a building. Please briefly describe any “green obligations” commonly found in leases stating whether these are clearly defined, enforceable legal obligations or something not amounting to enforceable legal obligations (for example aspirational objectives).

There are no “green obligations” which are commonly found in leases. Therefore, in tenancy agreements, green obligations clauses are not legally required to be included.

11 Zoning and Environmental Issues

11.1 What are the main laws which govern zoning and related matters concerning the use and occupation of land? Please briefly describe them and include environmental laws. Can the state force land owners to sell land to it? If so please briefly describe including price mechanism.

The main laws which govern zoning and related matters concerning the use and occupation of land are the Town Planning Law 90/1972, the Road and Building Regulation Law Cap. 96, and the Compulsory State Expropriation of Land Law 15/1962.

Section 3(1) of Compulsory State Expropriation of Land Law 15/1962 mentions the following: in compliance with the Constitution and the present Law, any property may be expropriated for public welfare purposes. The public welfare purposes are explained in section 3(2) of the same Law.

Within 14 days after the publication of notification of the expropriation, the authority shall enter into negotiations in relation to the compensation needed to be paid to the affected party (section 8(1) of the Law 15/1962).

11.2 Which bodies control land/building use and/or occupation and environmental regulation? How do buyers obtain reliable information on these matters?

The bodies which control land/building use and/or occupation are the planning authority for a planning permission and the municipality for a building permit. The buyers can obtain reliable information on these matters personally at the relevant authorities. The environmental regulation is dealt with the environmental authority.

11.3 What main permits or licences are required for building works and/or the use of real estate?

The main permits required for building works and/or the use of real estate are the building permit and the planning permission which are required for the construction. As soon as the above mentioned permits are issued and the construction is completed, the Final Certificate of Approval must be issued. When the Final Certificate of Approval is issued, the Lands Registry issues separate title deeds for the property.

11.4 Are building/use permits and licences commonly obtained in Cyprus? Can implied permission be obtained in any way (e.g. by long use)?

It is prohibited to start any construction work until the building permit and the planning permission from the relevant authorities

have been granted. If the construction work starts before the issuance of the permits, then the court can issue a demolition order. Implied permission cannot be obtained in any way.

11.5 What is the appropriate cost of building/use permits and the time involved in obtaining them?

The cost depends on the type of the development, on the particulars of the building, on the size of the building and so on. Therefore, the cost of building/use permits cannot be estimated. Normally, the time required for the issuance of the permits is 3 to 6 months. Unfortunately, because of the bureaucracy that exists in Cyprus, there is a high probability of delay.

11.6 In what circumstances (if any) is environmental clean up ever mandatory?

In relation to the environmental clean up, the European legislation together with the Cyprus legislation are fully aligned. Together, they try to protect the environment before the public gets harmed by contaminated soil or water caused by waste sites, chemical spills and chemicals.

11.7 Please briefly outline any regulatory requirements for the assessment and management of the energy performance of buildings in Cyprus.

On December 21, 2007, the Adjustment of the Energy Performance of Buildings Act of 2006 - N.142 (I) / 2006 was partly enacted. On the same day "The Roads and Buildings (Energy Performance of Buildings) Regulations 2006" - P1 429.2006 also entered into force.

With the entry into force of the Act, regulations and decrees, all new buildings and those with a total useful floor area over one thousand square metres undergoing major renovation must meet the requirements for thermal insulation of building envelope components, satisfying the maximum requirements defined in the relevant Ordinance of the Minister.

The Energy Agency of the Ministry of Commerce, Industry and Tourism has prepared a "Guide to Building Insulation", which is available free to the public, to inform both the public and those involved with the issues of engineers and designers.

Note that as a second stage, the legislation will require a certificate of energy efficiency for all new buildings and existing products for sale or rent on the basis of total energy needs. It also makes the inspection and maintenance of heating and cooling systems that are installed in buildings mandatory. The aim was that the second stage of legislation came into force in January 2010.

12 Climate Change

12.1 Please briefly explain the nature and extent of any regulatory measures for reducing carbon dioxide emissions (including any mandatory emissions trading scheme).

The Kyoto Protocol is a protocol to the United Nations Framework Convention on Climate Change (UNFCCC or FCCC), aimed at fighting global warming. The UNFCCC is an international environmental treaty with the goal of achieving "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system".

The Protocol was initially adopted on 11 December 1997 in Kyoto, Japan and entered into force on 16 February 2005. As of July 2010, 191 states have signed and ratified the protocol.

Cyprus has ratified the Protocol by Law No. 29 (III) / 2003.

Cyprus, uniquely with Malta in the EU, is not an Annex I country under the Kyoto Protocol and it therefore has no formal obligations to reduce its Co2 emissions.

However, the adoption of a strategic plan to reduce greenhouse gas emissions was absolutely necessary in order for Cyprus to contribute to reducing greenhouse gas emissions.

Within the above framework a Strategic Plan (National Allocation Plan) has been prepared by the Ministry of Agriculture, Natural Resources and Environment for reducing greenhouse gas emissions in Cyprus, setting out allocations of carbon dioxide emissions for the period 2008-2012. Support in the preparation of the NAP has been provided by Enviro-Markets International (UK) and the National Observatory of Athens (NOA).

The final draft of the National Allocation Draft can be found at the website of the Ministry of Agriculture, Natural Resources and Environment. (www.moa.gov.cy).

12.2 Are there any national greenhouse gas emissions reduction targets?

See question 12.1 above.

12.3 Are there any other regulatory measures (not already mentioned) which aim to improve the sustainability of both newly constructed and existing buildings?

See question 12.1 above.

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