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LEGAL ALERT



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CONDOTELS AND
OFFICETELS WILL BE
RECOGNISED IN TERMS OF
OWNERSHIP – IS IT A
BREAKTHROUGH FOR
TOURISM REAL ESTATE?

The Government has just issued Decree 10/2023/ND-CP dated 03 April 2023 (“**Decree 10/2023**”) amending and supplementing a number of articles of the decrees guiding the implementation of the Land Law. Notably, businesses, especially real estate businesses should pay attention to the new regulation on granting certificates of ownership of land-attached construction works with respect to the works used for tourist accommodation purposes (condotels, officetels, tourist villas and other construction works used for tourist accommodation).

- 1. Conditions for granting certificates of ownership of land-attached construction works with respect to the works used for tourist accommodation purposes**
- 3. Procedures for applying for certificates of land use rights and ownership of houses and other land-attached assets for construction works used for tourist accommodation purposes**

According to Decree 10/2023, for construction works used for the purpose of tourist accommodation as prescribed by the law on tourist activities on commercial and service land, if they fully meet the conditions prescribed by the law on land, the law on construction, and the law on real estate business, then the ownership of such construction works may be certified for the purpose of commercial or service land use.

- 2. Land use term for construction works used for tourist accommodation purposes**

The land use term of construction works used for tourist accommodation purposes will be governed by Articles 126.3 and 128.1 of the Law on Land. Accordingly, the land lease term for commercial and service use does not exceed 50 years. Upon expiry of the term, if the land user wishes to continue using it, the State will consider extending the land use term but not exceeding the time limit specified above. The land use term in case of receipt of transfer of land use right, for types of land with definite use terms, will be the remainder of the land use term before the land is transferred.

After completing the construction works, the investor of the real estate business project whose construction works are used for tourist accommodation purposes must submit the following documents to the Department of Natural Resources and Environment:

- Certificates of land use rights, ownership of houses and other land-attached assets; documents proving the fulfillment of financial obligations of the investor, in case there is a change in financial obligations, submit documents proving the fulfillment of financial obligations for such change (except for cases of exemption or deferred payment as prescribed by law).
- Layout design drawings showing the current construction status and consistent with the signed contracts; Notice of construction authorities allowing the investor to test and accept work items or works, or approving the acceptance results for the work items or works to be put into use; a list of properties (works, work items, part of a work item)

including the name of each property, land area, construction area for common use and private use of each property).

Next, the project investor will, on behalf of the buyer of the construction works used for tourist accommodation purposes, submit an application for a certificate of land use rights and ownership of houses and other land-attached assets or provide the buyer with necessary documents to carry out the application procedures.

Thus, Decree 10/2023 is considered as a solution to remove the legal "bottleneck" of the tourism real estate sector that has existed so far, since there has been no legal mechanism to recognise the ownership of tourism real estate (condotels, officetels, tourist villas and other construction works used for tourist accommodation). This can be considered a turning point to revive the tourism real estate market.

Decree 10/2023 will take effect from 20 May 2023.



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