



## Restricted Usability of Powers of Attorney when Leasing Real Estate in the Emirate of Dubai

Many real estate owners do not live in the United Arab Emirates themselves and only visit the country from time to time. Regardless, such investors want to lease their property located in the Emirate of Dubai as hassle free as possible. Hence, it is of utmost importance to place the management of the property into capable hands.

### 1. Mandating Management Companies or Brokers

Management companies taking care of the leasing and the maintenance of real estate often charge fees that are out of proportion to the achievable rental income. Further, most real estate owners rarely have the opportunity to verify beforehand whether the chosen partner will represent their interests in a competent, diligent and reliable manner.

Regularly, therefore, owners grant power of attorney to a trusted individual and task them with the administration of their property. The authorised person then handles the conclusion and termination of tenancy contracts as well as their EJARI registration and deregistration, receives rent cheques and organises repair and maintenance works.

Such approach is beneficial for both parties. On the one hand, the tenant can approach a locally available contact person in case problems arise. The landlord on the other hand has a representative in place who acts in his best interest. In many cases, disagreements between the parties can be prevented in advance or at least cleared up quickly without further ado.

Since many investors living abroad only know the broker who assisted them with the purchase of their property personally, it was not uncommon that this particular broker was appointed as the legal representative to lease the object in question. Due to the profession of the broker and consequently his inherent know-how as well as the mandatory compliance with the rules and regulations issued by the concerned authority, the real estate owner could in most cases be sure that his interests were sufficiently safeguarded.

### 2. Limited Recognition of Powers of Attorney

Meanwhile, however, the Dubai Land Department ("DLD") has restricted the eligible group of people who are permitted to represent parties to a tenancy.

Accordingly, persons employed as a real estate broker or any other position in a brokerage firm and consequently having their work permits sponsored by a brokerage firm are no longer able to act on behalf of either landlord or tenant. The same holds true for owners of brokerage firms - regardless of their nationality.

This rule applies even in spite of the fact that the person in question can produce a notarised and, if necessary, duly

legalised power of attorney authorising him to conduct any such action on behalf of the grantor. Although the DLD does not contradict the overall validity of such a power of attorney, the authority refuses to acknowledge such document when performing actions with regard to tenancies. Thus, brokers' conflicts of interest shall be eliminated and the rights of grantors of powers of attorney safeguarded.

As a result, the requirements applying to the group of persons who are permitted to act as legal representatives within the scope of real estate transactions now also apply to tenancy related matters. For many years, brokers have been prohibited from acting as legal representatives of buyers or sellers when selling, buying or gifting real estate. This restriction directly resulted from the past real estate crises and in particular aimed at, apart from preventing conflicts of interest, averting the practice of "property flipping".

Currently, the DLD does not seem to plan the implementation of the additional rule already applying to the use of powers of attorney during real estate transactions to tenancy related matters, namely that the date of issuance of such document may not date back more than 24 months.

### 3. Practical Repercussions

In practice, employees or owners of brokerage firms can no longer act as representatives during the conclusion or termination of tenancy contracts or their respective registration or deregistration in the EJARI system.

Many real estate owners are now faced with the choice as to whether they handle their obligations as landlords themselves or whether they appoint a different person as their representative.

Provided that a landlord intends and actually can conduct the respective actions on his own, he would at any rate have to ensure the timely courier shipment of the original signed contractual documents as well as to schedule his personal attendance in Dubai on short notice as and when required. Additionally, it would be advisable to agree that the tenant is responsible for the registration and deregistration of the tenancy contract in the EJARI system.

Should the property owner, contrarily, decide against personally tending to his rights and obligations or is he



prevented from doing so due to medical or factual reasons, the issuance of a self-consistent, legally valid and actually usable power of attorney can, depending on the circumstances of the individual case, potentially be time and cost consuming. This especially applies to cases in which a power of attorney has to be drawn up abroad and pass through the legalisation process.

#### 4. Conclusion

In summary, property owners who still do not want to or cannot deal with the lease of their property on their own and have previously provided their broker or another employee or even the owner of a brokerage firm with a power of attorney, should appoint another representative - who meets the requirements of the DLD - in a timely manner.

Otherwise, delays should be reckoned with when registering or deregistering tenancy contracts in the EJARI system as EJARI will only recognise contracts signed by duly authorised persons. Such delays, in turn, can cause significant disadvantages for the tenant since neither the connection of water and electricity nor the application or renewal of residence visas for dependants or domestic staff can be processed prior to the successful registration of the tenancy contract in the EJARI system.

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#### Do you have questions? - We would be glad to answer them!

From our office located in the heart of Dubai, our team of German attorneys has been advising small and medium-sized companies, corporations and individuals on the laws of the United Arab Emirates for more than a decade. Our areas of expertise include corporate and commercial law (in particular business set ups), commercial agency law, employment law as well as tenancy and real estate law. We would be happy to attend to your questions as well. Contact us!

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