**LEGAL UPDATES**

**VOL 43, JUNE 2022**

**Dear Valued Clients and Partners,**

ADK Vietnam Lawyers would like to introduce to you the Legal Updates, Vol 43 of June 2022 with new legal provisions with notable contents as follows:

1. **The Ministry of Construction clarifies the basis of the options to stipulate the term of apartment ownership**

The Ministry of Construction has requested to add a new provision on the term of apartment ownership in the homeowner policy instead of the current long-term homeownership. Accordingly, the Ministry of Construction has proposed two options which has been approved by the Government and reported to the National Assembly to request to be included in the National Assembly's Law-making Program in 2023 (Report No. 53/TTr-CP dated March 28, 2022). The Department of Housing and Real Estate Market Management (Ministry of Construction) has just clarified the basis for the options to stipulate the term of apartment ownership, an issue that has attracted the attention of social commentary in recent times. Specifically:

**Option 1:** The Ministry of Construction proposes that the term of apartment ownership is determined according to the useful life of the construction work based on some of the following bases:

1. The characteristics of apartment buildings are large-scale constructions, with many people living, over time, the building will be degraded, no longer ensuring safety during uselife. When the useful life is expired according to the provisions of the law on construction or the construction has not expired but it is degraded the competent authority will assess the quality. In case the building can still be used, it will continue to be allowed to use or if it is not safe, it will have to be dismantled for rebuilding.

The above provision is also suitable for the provisions of civil law. Accordingly, property ownership right will be terminated when the property is destroyed or terminated in accordance with law.

1. It is necessary for the addition of regulations on the term of ownership of apartment building according to the useful life of the construction work to have legal basis to overcome the difficulties and problems in the renovation and reconstruction of high buildings and acilitate urban embellishment.
2. This option still ensures the rights of people living in those apartment buildings. In addition to the rights of the property owners - during the ownership term, the owners of the apartment - in the event of demolition when the safety conditions are not satisfied - still have the right to be relocated on the same location without moving to another one or to be relocated on another location according to the Government’s relocation policy.
3. The ownership term of an apartment building may be 50 years, 70 years or longer depending on the quality of the construction work. Currently, according to the provisions of the law on construction, the useful life of the construction work is determined according to the construction design documents (design life) and the actual use term.
4. This option is based on the experience of many countries around the world (such as China stipulates the ownership term from 50 to 70 years; Thailand stipulates the ownership term of 30 years and can be extended; Singapore and the United State stipulate the maximum ownership term of 99 years and in case of extension, the owner must pay a certain fee etc.). When the apartment building's useful life expires, the ownership period will terminate (unless it is extended) and demolition, reconstruction and urban embellishment will be carried out.
5. The Ministry of Construction believes that investment in construction of apartment buildings is still a future trend in urban areas, especially in large urban areas, which require saving land.

After being approved and included in the Law-making Program by the National Assembly, the Ministry of Construction will draft the specific content to consult the experts, scientists and people. The National Assembly will also consider, discuss carefully and assess the overall impacts of this policy before deciding.

**Option 2:** The Ministry of Construction proposes that the apartment building ownership term is determined according to the land use term in accordance with the law on land. According to the Department of Housing and Real Estate Market Management, there will be 2 situations:

1. The Law on Land (amended) remains the regulations on long and stable land use term as the current law, the long-term apartment ownership will remain as the current Law on Housing. Therefore, the handling of old and expired apartment buildings will still have the same difficulties and problems currently.
2. The Law on Land (amended) stipulates the term of land use for the construction of apartment buildings, the term of ownership of the apartment building will also be determined according to the land use term. When the land use term is expired, the Government will base on the provisions in the Law on Land (amended) to handle apartment buildings that have expired or no longer ensures the quality.

According to the Department of Housing and Real Estate Market Management (Ministry of Construction), the proposals to stipulate the term of apartment ownership start from the actual basis of difficulties and problems in the implementation of the current policy of renovation and reconstruction of apartment buildings.

The news related to the term of apartment ownership is still receiving a lot of public attention at the moment.

1. **Consider reducing fees and charges due to increased fuel prices**

The Ministry of Transport has received the The Ministry of Transport has received an official letter from the Ministry of Finance on the reduction of taxes, fees and charges in the field of transportation. Accordingly, the Ministry of Transport has just sent a written request to the Departments: Vietnam Railways, Vietnam Maritime Administration and Vietnam Inland Waterways to grasp the official letter of the Ministry of Finance and propose to reduce fees and charges in the fields under their management due to the impact of increased fuel prices.

Previously, the Ministry of Finance issued an official letter on consideration and decision on the policy of exemption and reduction of fees for using railway infrastructure; fees for entry and exit of water ports and inland waterway ports; propose to continue reducing VAT for transportation services; reduce corporate income tax under the direction of the Prime Minister. Currently, fees and charges such as: Fees for using railway infrastructure; Fees for entry and exit from ports and inland waterway ports are being implemented in accordance with the promulgated regulations of law.

In which, the fee for using railway infrastructure is regulated to be reduced by 50% (reducing the fee from 8% to 4% of railway transport business revenue) from February 8, 2021 to the end of June 2022 in order to reduce difficulties for subjects affected by COVID-19.

The charges for entry and exit from the port are from 5-50 USD/time depending on the vessel's capacity. The fee for entering and leaving inland waterway ports is from 5,000 to 50,000 VND/trip according to the tonnage of cargo vehicles/tugboats.

These fees and charges make up a small proportion of the transportation cost. During the implementation process, the Ministry of Finance did not receive any feedback on problems related to the payment of these fees and charges.

Therefore, the Ministry of Finance proposes the Ministry of Transport to urgently assess the impact of the reduction of fees and charges on the payers of fees and charges to the State budget, from which, propose a reduction in the amount of each item, send to the Ministry of Finance to consider, issue the Circular in accordance with the competence and order of law.

1. **Maternal leave, sickness are still supported with rent**

This issue is guided in Official Letter 410/CVL-TTLD dated June 8, 2022 of the Department of Employment on the implementation of the policy of housing rent support for employees under Decision 08/2022/QD-TTg of the Prime Minister. The highlights of this content are as follow:

The supported subjects according to the provisions of Section 1 of Official Letter 410/CVL-TTLD:

1. Employees who have labor relation, are renting, staying in accommodation, working in enterprises, cooperatives, business households with business registration are eligible for support of Decision No. 08/2022/QD- TTg.
2. Employees who leave work with maternity allowance, employees who leave work with sickness regime are eligible for rent policy support if they satisfy all conditions according to Decision No. 08/2022/QD-TTg.
3. Regardless of Vietnamese or foreigners.

Section 2 of Official Letter 410/CVL-TTLD stipulates the term for requesting support starting from February 2022.

Support amount, support duration, and support method are specified in Article 9 of Decision 08/2022/QD-TTg:

1. Support amount: 1.000.000 VND/person/month.
2. Duration: Up to 3 months.
3. Support will be provided monthly.

In addition, the Official Letter 410/CVL-TTLD also guides the time to start the labor contract, the duration of rental and accommodation, how to combine the number of months to request support and where to submit the application for consideration and approval for support.

We hope you found this brief legal update informative.

Kind regards./.

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