

# Steps to invest in Tourism

with a focus on Periodic Habitation Rights

A general overview

# Foreword

Before establishing a tourist or property development, developers will have to apply to the State for an award of rights of land use and benefit (**DUAT**). In addition, if the developer is a company with majority foreign equity, it will need an investment **Project** approved through the Centre for Investment Promotion (**CPI**). Environmental licensing is always required. However, in urban areas there are already 3 types of pre approved licences whereas in rural areas a pre-environmental and an environmental impact assessment is required. Construction licences must be obtained before building can start.

# DUAT

The application for a title for the right of land use and benefit must be submitted to the National Land Directorate and shall include the following:

- Applicant's identification details (single person) or Articles of Incorporation (legal person);
- Topographical map (issued by appropriate authority);
- Project Brief (to obtain the advisory report from the relevant entity - e.g.. MITUR, Provincial Directorate, etc.) ;
- Detailed coordinates map;
- Statement by the local administrative authorities, preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants (30 days);

# DUAT

- Public notice to be posted on site and in the District Headquarters for a period of 30 days (this notice to be sent by National Land Directorate to District Administrator for posting);
- Supporting document regarding deposit of amount for provisional title fee (National Land Directorate);
- Provisional title will be granted for maximum period of two years. Permanent title will be granted upon inspection of concluded venture or conformity with business plan (may be done within the projected period, if so requested).

# Project

The project application shall include the following:

- Rollout plan at the scale of 1:1000 or 1:2000, that enables the examination of the construction to take place;
- Plan of the buildings, in their different floors at the scale of 1:100, wherein the functional organization and the movement, indicating the areas and destination of all subdivisions other than for passage, stairs' width and corridors, as well as all architectural solutions to satisfy requirements pertaining to fire risks;
- Longitudinal and cross section required for the perception of the design, and each section should pass by the vertical access areas, if any;

# Project

- Front elevations of the different buildings at the scale of 1:100, indicating the finishing materials and colors to be used;
- Design of the expected solution for drainage, final destination of the wastewater and storm water systems, street layout, accesses and electrification;
- Statement signed by a locally registered architect or engineer responsible for the works confirming that the design is in compliance with the Urban Building Projects Regulations, whenever located in urban centers or areas covered by a town planning, and that the health and safety requirements have been complied with;
- Project brief (see next slide).

# Project

Project brief should follow have the following requirements :

- The description pertaining to the operation of the expected different services and installations and respective connections, horizontal and vertical flow, air ventilation routes, air conditioning facilities and other similar considered convenient for the solutions submitted;
- The deadline provided for the commencement and completion of the construction, as well as the beginning of operation.

# Project

- Environmental Impact Assessment and Environmental Management Assessment. Note that these must be approved by Ministry of Environment that will issue, if approved, a final environmental license;
- DUAT;
- Financial Viability Study;
- Official Opinion of the Local Administration;
- Various official templates dully completed.

# CPI

- CPI – Center for Promotion of Investments, falls under the Ministry of Finance and has the purpose of registering any foreign investment coming into the country. Internally it has two main purposes: (i) to register the investment in the Ministry of Planning and Development and (ii) allow repatriation of any investor monies brought into the country via the registration of the project in the Central Bank. The documentation to be submitted to CPI are the compilation in “Project”, excluding the detailed architectural and engineering drawings.
- Once project has been approved by the Minister of Planning and Development (via CPI) the investor, or representative, has 120 days to register the project authorization in the Central Bank in order to start registering all inflow of moneys

DUAT	PROJECT	INVESTMENT (CPI)
1.Community Consultation	1.Project Brief	1. 4 copies of all documents in column "Project"
1.Project Brief - to obtain the advisory report from the relevant entity (ex. MITUR, Provincial Directorate, ETC.)	1.Copies of plans, cross sections and elevations of the building	Apply for tax exemption / repatriation of funds (see CPI form)
1.Site Map (Topographical plan)	1.Plan of electrical, water supply and sewage system	Obs.: This may be done simultaneously with steps in column "Project"
1.Public notice (Administrative Post)	1.Environmental Impact Study and Environmental Management Study (requires prior approval by the Ministry of Environment / Environmental License)	Obs.: From CPI documents go to Ministry of Planning and Development and go back to CPI with the advisory report from the Minister.
1.Deposit the amount (National Land Directorate)	1.Advisory report from the Provincial Directorate of Tourism	
1.Deliver all paperwork to National Land Directorate	1.Liability agreement (Architect)	
	1.Site Map	
	1.DUAT	
	1.Feasibility Study	
	1.Local Administration advisory report	
	1.Official forms: "Modelo B"; Form "Modelo 11" and Stamp duty	
	1.Application to the Minister of Tourism	
	1.Inspection for Commercial License (after construction)	
	1.DINATUR	

# Registration of Periodic Habitation Schemes

- In addition all tourism or real estate projects operated under a Periodical Housing Rights Scheme are subject to compulsory registration with the tourism supervisory body, in this case the National Tourism Board (DINATUR);
- The supervisory body should draw up, for each tourism or real estate project operated under a periodical housing scheme, an accreditation certificate pertaining to the periodical housing scheme adopted;
- The law states that:

# Registration of Periodic Habitation Schemes

- The owner of the Periodical Housing Rights should submit, free of charge, to any person that so requests, an information document, with the value of a binding offer, which describes the tourism or real estate project in a clear and concise manner.
- The information document should contain the following :
  - o Name, nationality, residence address, in case of single persons, or the representative, in case of a trading company, as well as the Government Gazette where the Articles of incorporation were published, or certified copies of such Articles;
  - o The real or compulsory nature of the right which is the object of the contract, as well as the conditions for its implementation, and if such conditions were met;

# Registration of Periodic Habitation Schemes

- o The identification of the tourism or real estate project, indicating the buildings' description number in the Land Registry Office and its location, or mentioning the order of provisional and / or definitive authorization of the right to land use and usufruct, expiry date and issuing entity;
- o The guarantees pertaining to the conclusion of construction or, if that is not the case, the means for the reimbursement of the payments already carried out, as well as the plan for the payment of such guarantees.
- o The premises, equipment and services for common use of the tourism or real estate projects that the titleholder of the Periodical Housing Rights is entitled to, as well as the ancillary rights included in the price of the accommodation unit;

# Registration of Periodic Habitation Schemes

- o The method of operation and / or administration of the tourism or real estate project;
- o The expenses pertaining to the transfer of the Periodical Housing Rights, owed by the purchasers;
- o The average and maximum value of the regular instalment owed by the titleholders, as well as the criteria for the establishment and revision thereof;
- o The information regarding the manner and terms to implement the right to terminate the contract, indicating the person to be notified of such termination right;

# Registration of Periodic Habitation Schemes

- o The information regarding the manner to terminate the credit contract linked to the incorporation agreement of the Periodical Housing Right, whenever this is subject to termination;
- o The number of the operation license, if the tourism or real estate project is already operating.
- Whenever the immovable property is still under construction, the following should be indicated:
  - o The construction phase;

# Registration of Periodic Habitation Schemes

- o The deadline for the completion of the works;
- o The reference number of the construction permit;
- o The reference number of the project's installation permit.
- The adjustments provided for in the previous number must only result from circumstances beyond the will of the seller, except as otherwise agreed upon by the parties.

# Registration of Commercial Entity

- Over and above the accreditation of the scheme if the owner is not going to be the entity responsible for the sale of real estate fractions then a further authorization has to be issued to the seller. The requirements for this are:
  - o Articles of incorporation of the trade company;
  - o Certificate of registration of the legal entities pertaining to the sole proprietorship or trading company;

# Registration of Commercial Entity

- o Certificate attesting that the sole proprietorship or the company is not a debtor of the State, in terms of any contributions, taxes or other amounts, or that the payment thereof is officially guaranteed;
- o Certificate attesting that the sole proprietorship or the company is lawful in relation to social security;
- o Copy of the contracts entered into between the seller and the owners of the accommodation units subject to the Periodical Housing Rights scheme, which ensure the full enjoyment of their rights object of the contract or option agreement for the transfer of such rights, for the duration set forth therein.

The registration of periodic habitation schemes can now be inserted into the project brief meaning it does not have to go through the same motion twice. The registration of the commercial entity has to have a separate procedure.

In brief, the establishment and operation of periodic habitation schemes cannot be examined without reference to other legislation that will affect the development. The key areas are land legislation, investment legislation, the rules on companies in the Commercial Code, and tax legislation.

# Thank you



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