

# A LANDLORD CAN RAISE RENT BY 7% ONLY IF THERE WAS NO INCREASE LAST YEAR

■ DUBAI DECISION NOT A WELCOME DEVELOPMENT FOR SOME INVESTORS



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ON JANUARY 1, His Highness Shaikh Mohammad Bin Rashid Al Maktoum, Vice-President and Prime Minister of the UAE and Ruler of Dubai, issued a decree on the increase in rents in Dubai.

The decree states in Article 1 that with respect to any lease agreement for property that is renewable in 2007, any increase shall not exceed 7 per cent of the existing annual rent, provided that the rent was not increased in 2006.

## THE DUBAI RENT COMMITTEE

■ **The decree** has authorised the special judiciary committee (the Dubai Rent Committee) to settle disputes between landlords and tenants.

■ **The Dubai Rent Committee** will implement the new decree allowing a maximum 7 per cent increase on annual rent on properties

■ **The committee** was also tasked to come up with appropriate measures to implement the new decree.

■ **An official of the Dubai Rent Committee** will implement the new rule.

■ **Tenants and landlords** can contact the Dubai Rent Committee in case of disputes relating to rents.

■ **The Dubai Rent Committee's office** is located on the ground floor of the Dubai Municipality headquarters on Baniyas Road. Its telephone numbers are: 04-2232766 and 04-2215555.

Article 2 states the rent may not be increased in 2007 for properties in respect of which the lease agreement was entered into in 2006. This means that the maximum increase in rent for residential, retail or commercial properties in Dubai shall be limited to 7 per cent of the existing annual rent.

This means a landlord can only increase by such 7 per cent if he did not increase the rent in 2006. If the landlord did increase the rent in 2006, it follows that he cannot increase it in 2007.

The decree has been anxiously awaited by tenants. In November of 2005 Shaikh Mohammad issued a similar decree mandating that rent increases for all leased properties in Dubai shall not exceed 15 per cent annually.

The rent cap was in effect until December 31, 2006. The new decree acknowledges the 15 per cent rent cap decree in the preamble. Many tenants have been understandably concerned as to whether the rent cap would continue beyond 2006. The new rent cap for 2007 is, no doubt, a very welcome development for tenants.

However, the rent cap of 7 per cent is not such a welcome development for some developers, landlords and investors. Some landlords and investors have purchased properties with the purpose of renting them to tenants.

## Guaranteed returns

Certain developers who have sold property on a lease-back basis have contractually promised such landlords/investors guaranteed annual returns of 6 to 15 per cent of the property's purchase price on the assumption that rents could continue to be increased subject only to market demand.

Some such developers had not forecast government rent controls such as the new 7 per cent rent cap decree. Such rent controls may detrimentally affect the viability of certain guaranteed returns for such lease back arrangements.

Lease-back represents the sale of property to the landlord/investor, and its immediate lease-back by the latter to the developer, who will in turn sub-lease the property to a tenant.

Given such scenario and others like it that will result in lower investment returns than forecast, certain developers, landlords and investors may attempt to circumvent or avoid the new decree by not renewing lease agreements or taking other mitigating steps.

The Dubai Government, through the decisions of the Rent Committee, has already shown that it has limited patience



■ The decree ensures that the maximum increase in rent for residential, retail or commercial properties in Dubai is limited to 7 per cent of the existing annual rent

for such circumvention or avoidance measures. The Rent Committee's recent judgments have generally favoured and ordered renewal of tenancies with an increase in rent up to the allowable rent cap in cases in which the landlord has refused to renew a tenancy.

It should be noted that the new 7 per cent rent cap decree also refers to Decree No 2 of 1993 regarding the Formation of the Special Judicial Committee for the Resolution of Disputes between landlords and tenants, as amended (i.e. the Rent Committee) in the preamble of the new Decree.

The Rent Committee is the official en-

tity in Dubai empowered and authorised to adjudicate lease disputes upon application by a tenant or landlord. For example, if a tenant receives a landlord's notice of a rent increase of more than 7 per cent for 2007 then he may file a complaint with the Rent Committee.

The new decree further refers to the Rent Committee by stating in Article 3 that the Committee may, in the course of a complaint filed with it, order an increase in rent to market rent for lease agreements with periods exceeding three years and expiring in 2006 or 2007.

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