

LAND FOR INVESTMENT AND DOING BUSINESS IN ZANZIBAR

Introduction

Zanzibar has opened doors for domestic and foreign sustainable investments to achieve the economic transformation and aspiration of Zanzibar Development Vision 2050. To achieve this objective, Zanzibar has opened its doors to enable both foreign and domestic investors to acquire land for investment activities.

Zanzibar covers a land area of 2,643 square kilometers (Unguja 1658 and Pemba 985) and an Exclusive Economic zone (EEZ) area of 223,000 square kilometers.

This legal brief, provides highlights on the procedures for land acquisition and doing business in Zanzibar.

Land and Legal Framework

The Land Tenure Act 1992 provides that all land within the islands of Zanzibar occupied or unoccupied is public land administered by the Minister responsible for land affairs on behalf of the President. The land within the Free Economic Zones is administered by the Zanzibar Investment Promotion Authority (ZIPA).

In Zanzibar, both the citizens and foreigners have access to land ownership especially for investment activities. Land, for this matter, can be categorized in two classes namely registered land and unregistered land. The procedures of acquiring land depend on the category of land that the investor intends to acquire.

The Acquisition Process

Any citizen/Zanzibari has the right to own land. Once the right to own an interest over the land has been granted to a Zanzibari, the owner of such interest is free to sell, lease, bequeath or gift his interest over the land to any person including a foreigner. **Therefore, a foreigner may purchase any piece of land from the land owner and use it for his investment purpose. After the purchase process is done, the investor will have to process the registration of the land (under the lease system) in his names. The lease period is up to 99 years.**

Matters to be considered during the acquisition process:

In order to have a credible enjoyment of the land you acquire, the following steps are very important.

1. Conduct official search to ascertain the ownership

The official search report guarantees the buyer that the land is actually owned by the intending seller and that it has no any encumbrances. If the land is unregistered, the search report will have to be provided by the Sheha within which the land is located. If the land is registered, the report will be provided by the Commissioner for Land. Whereas the land is a free economic zone, the appropriate authority to provide its details is ZIPA.

2. Prepare, sign, attest and register land purchase agreement

Once it is ascertained that the land is clean and free from encumbrances and that the intending seller is the real owner, the sale agreement should be prepared and signed by the seller and the buyer. In order this sale agreement to have effect, it must be attested and registered.

3. *Site plan and beacon Placement*

If the land is unregistered, it must be surveyed. A site plan should be prepared and demarcations point (beacons) should be fixed. This will not be necessary if the land is a registered land.

4. *Request land transfer approval from the relevant institution*

The land transfer process from the seller to the buyer is done by the Land Transfer Board established under the Land Transfer Act, 1994. No permanent transfer of land or long term lease shall take place until the transaction is reviewed and approved by the Land Transfer Board. Once the Board approves the transaction, a **Transfer Certificate** shall be issued to the buyer.

5. *Apply for Government Lease*

Government lease is issued by the Land Commission. It is a certification that the buyer is a legal owner of the land. The buyer at this stage is at liberty to enjoy the land. The government lease is for 33 years up to 99 years renewable. **The property on this land, after being developed in accordance with the approved investment plan, may be sold, assigned, sub-leased or subdivided, inherited, or mortgaged.**

6. *Apply for relevant building permit before starting any development over the land*

No person is permitted to develop land without approval from the relevant authorities. Building permits are issued by the Development Control Unit (DCU) established under Building Regulation Act of 2015. The main purpose of DCU establishment is to oversee the issuance of building permits, control arbitrary and non compliant construction in Zanzibar.

Requirements for Building Permit:

The application for building permit is done by filing the following documents:

- ❖ A duly filled building permit Technical Form issued by DCU.
- ❖ 10 sets of project drawings which include: architectural drawings, topographic maps, general site layout plan, section and elevation of all structures, architectural details, engineering/structural drawings, and optional drawing.
- ❖ Bill of Quantities (BOQ) (5 copies);
- ❖ Land lease agreement (2 copies);
- ❖ Environmental Impact Assessment report (2 copies);
- ❖ Evidence of payment of building permit fee.
- ❖ Information and full address of registered contractors
- ❖ Investment certificate where the project is registered by ZIPA

- ❖ Passport size pictures of all shareholders
- ❖ Any other document to support the application as may be requested by DCU

DCU shall consider the application and issue a Building Permit or advise the applicant otherwise, within 7 working days from the date of submission.

APPLICATION FOR BUSINESS LICENSE/ INVESTMENT CERTIFICATE

Once the project is registered by ZIPA, no business license is required other than the Investment Certificate. This procedure is to be done before applying for the building permit.

Procedures for application of Investment Certificate

1. Submission of Intention to Invest

The investor is required to prepare and submit a concept note of his project by using Investment Intention Form which can be obtained from ZIPA. Once the concept note is accepted, the investor will be notified and provided with an Application Form.

2. Preparation and Submission of Business Plan

The duly filled and signed application form must be submitted to ZIPA along with the detailed business plan of the project. The business plan must be accompanied with the following:

- i. Proof of availability of capital for the intended investment.
- ii. Passport copies, passport size photographs and Curriculum Vitae of Directors
- iii. Police clearance certificates from country of residence and country of origin of all Directors and shareholders
- iv. Certificate of Incorporation of the Company
- v. Memorandum and Article of Association
- vi. Any other document to support the Application
- vii. Receipt of the payment of Application Form.

Minimum Capital Investment Required

The minimum capital required for hotels and real estate business is USD.2,500,000 for foreign companies and USD.300,000 for domestic domestic. The Capital required for other businesses is USD.300,000 for foreign companies and USD.100,000 for local companies. A company is considered domestic company if the majority shareholder is a Tanzanian by at least 55 percent.

Investment Certificate

After ZIPA approves the investment proposal, the investor is issued with the Investment Certificate. The investor will be required to purchase an Investment Service License on an annual basis, with the same fee paid upon approval, until all approved capital has been invested.

What if the investor does not meet the capital requirement of ZIPA?

If the investor does not meet the capital requirement to be registered by ZIPA, still may apply the license from the Commission of Tourism. The Commission where satisfied with the application for the license, it issues a letter of confirmation to allow the investor proceed with project activities pending completion of other requirements. However, one of the conditions for the grant of letter of confirmation that the applicant will be given the license, is that the company must be owned by Tanzanian citizen by at least 70 percent.

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