



**THE LAW ON HOUSING 2023**  
**CREATING A MECHANISM TO SOLVE PROBLEMS**  
**IN HOUSING MANAGEMENT, ESPECIALLY CONDOMINIUM**

Shelter is universally recognised as a fundamental human right. In Vietnam, from the tradition of "Settle down - Have a happy career" and the perspective of attaching importance to the issue of "Building a home", the 2013 Constitution clearly defines that the State must have policies to create conditions for everyone to have a place to live. Implementing the 2013 Constitution, the Law on Housing 2014 has adjusted and regulated most issues related to the housing sector; thereby creating a legal framework and housing development policy to give many households the opportunity to own and improve housing, ensuring social security.

Facing great socio-economic changes, along with problems and shortcomings from the recent housing situation (such as the need to own low-cost housing is very large but the supply is mainly in the high-end housing segment; many apartment buildings are degraded but there are no mechanisms and policies to renovate or build new ones; creating accommodation for people whose accommodation has been revoked must be implemented, site clearance has not reached high consensus, etc.) along with changes in regulations in many related specialized laws, the need to adjust the Law on Housing 2014 to resolve outstanding issues and ensuring uniformity become urgent.

After a period of research, drafting, receiving comments and completion, on November 27, 2023, the National Assembly officially passed the **Law on Housing 2023** in the spirit of continuing to closely adhere to the 2013 Constitution as the State creates conditions for everyone to have a place to live.

Through this topic, ATA Legal Services will summarize the key points of the Law on Housing 2023 based on comparison with the regulations in the Law on Housing 2014, and at the same time provide an assessment of the impact, progress and limitations of these regulations for the business community, organizations and individuals.

## I. OVERVIEW ISSUES OF THE LAW ON HOUSING

General issues are adjusted and regulated by the Law on Housing 2023 on the basis of practical housing market development in Vietnam and other relevant legal regulations.

### 1.1. Modify and supplement basic concepts

#### *1.1.1. Officially recognized mixed-function housing (residential purpose combined with commercial business or other purposes)*

In recent years, many new real estate models have appeared in Vietnam such as: Condotel (housing combined with business activities to serve tourism similar to a regular hotel room), Officetel (combined housing and office for rent) or Shophouse (housing combined with premises for rent for business). However, the above types of real estate are not identified or recognized by the Law on Housing 2014. Law on Housing 2014 stipulates that housing has the sole purpose of living and serving the daily needs of households and individuals.

The Law on Housing 2023 officially recognizes the existence and legality of the above types of real estate under the name of mixed-use housing (mixed purposes can include tourism, commercial business). In order to limit profiteering or distortion from this regulation, the Law on Housing 2023 clearly stipulates that other purposes combined with residential purposes must be expressed in the decided project investment policy or acceptance.

From the perspective of land law, houses for residential purposes must be built on residential land; similarly, mixed-use housing also needs to be built on land

with corresponding mixed-use purposes. The Law on Land 2013 does not have regulations on mixed land use purposes (residential combined with other purposes). The above issue shall need to be resolved in the revised Law on Land 2013. At the time of drafting this topic, the revised Draft Law on Land 2013 has not been approved, so ATA will further analyze and evaluate the above issue in the revised Law on Land 2013 topic.

From a positive perspective, the provisions of the Law on Housing 2023 will contribute to promoting the development of Vietnam's real estate market in the direction of having more new products, serving more needs and increasing sales and opportunity to own a home for more people.

#### *1.1.2. Promote opportunities for stable housing for workers in industrial parks*

Workers in industrial zones are an important workforce and have many contributions to businesses. However, the minimum accommodation needs of workers in recent times have not been best guaranteed. Therefore, the Law on Housing 2023 adds regulations specifically applicable to workers in industrial zones, namely worker accommodation in industrial zones. Accordingly, these accommodations will be built on commercial and service land within the industrial park and workers can rent them while working in that industrial park. Businesses can be investors in worker accommodation projects in industrial parks or rent accommodation for workers to live in. The Law on Housing 2023 stipulates many preferential policies in investing in the

construction of worker accommodation in industrial parks (specific incentives will be presented by ATA in the following contents of this topic). Through this, these regulations are expected to help workers ensure accommodation and feel secure in production.

### ***1.1.3. Adjusting the concept of rent-to-own housing: abolishing the limit on the minimum rental value that tenants must pay in advance***

The recent housing law requires tenants to pay a minimum of 20% of the value of the rental housing in advance. This regulation has invisibly limited the ability of low-income individuals to access rent-to-own housing. The Law on Housing 2023 abolishes the above minimum limit and creates a more open regulation that allows the landlord and tenant to agree on a certain percentage of prepaid rental value without being bound by a minimum value to be paid in advance. For this regulation to truly promote its role in creating conditions for low-income people to access lease-purchase housing, there needs to be agreement and goodwill between the lease-purchaser and the tenant-purchaser. At the same time, there needs to be appropriate policies to encourage lease-purchasers to only collect a limited amount of prepaid rental value.

## **1.2. Prohibited actions**

In order to better ensure the rights of home buyers and people's right to have legal housing in the face of recent real estate market fluctuations, the Law on Housing 2023 adds the following strictly prohibited acts:

a. Decide or approve investment policies or approve housing construction

investment projects that are not consistent with land use planning and urban planning;

b. Building housing on land that is not invested in housing construction, building and renovating housing not in accordance with land use planning and construction planning;

c. Sign capital mobilization documents and mobilize capital for housing development when conditions are not met; using mobilized capital for the wrong purpose;

d. Managing and using maintenance funds and operating management funds in contravention of housing laws;

e. Arbitrarily changing the function and purpose of using the common ownership portion of the apartment building;

f. Business of discotheques, karaoke, bars; motor vehicle repair business. Other polluting service business activities according to the provisions of law on environmental protection.

The above acts that arise in practice and have had many negative impacts, adversely affecting the rights of home buyers, the community and society. Some acts have been regulated in other relevant legal documents. The Law on Housing 2023 has codified the above acts and identified them as strictly prohibited acts.

## **1.3. General regulations on housing ownership**

### ***1.3.1. Subjects are allowed to own houses in Vietnam***

The Law on Housing 2023 regulates who can own housing in Vietnam, including:

a. Domestic organizations and individuals;

- b. Vietnamese people residing abroad;
- c. Foreign organizations and individuals include: (i) Economic organizations with foreign investment capital investing in housing construction projects in Vietnam; (ii) Economic organizations with foreign investment capital, branches, representative offices of foreign enterprises, foreign investment funds and foreign bank branches operating in Vietnam; (iii) Foreign individuals are allowed to enter Vietnam.

Compared to the Law on Housing 2014, the Law on Housing 2023 has abolished the subject of household ownership in Vietnam. According to research, the revised draft Law on Land 2013 will remove regulations on land use rights of households. As a result, the regulation of household ownership of housing will no longer be consistent with the provisions of the revised Law on Land 2013, which will be passed in the near future. Furthermore, households in Vietnam have historically been determined on the basis of household registration books. Meanwhile, the household registration book is officially no longer valid from January 1, 2023 according to the provisions of the Law on Residence 2020, so the regulation on Household objects is also not consistent with the provisions of the Law on Residence 2020. The exercise of ownership rights over residential property of groups of people related by blood or marriage will be carried out in accordance with the provisions of the Civil Code, Law on Marriage and Family and other corresponding laws.

### ***1.3.2. Amending conditions for owning housing in Vietnam for Vietnamese residing abroad***

The Law on Housing 2014 only allows Vietnamese people residing abroad who own houses or land use rights in commercial housing construction investment projects to sell the land to organize their own housing construction. Meanwhile, the Law on Housing 2023 allows Vietnamese people residing abroad who are allowed to enter Vietnam to own housing associated with residential land use rights according to the provisions of land law. This regulation is intended to create consistency and synchronization with the current Law on Land, ensuring that Vietnamese people residing abroad still have the same rights and obligations as domestic citizens.

### ***1.3.3. Housing ownership rights in Vietnam for foreign organizations and individuals***

#### ***a. Additional forms of housing ownership in Vietnam***

According to the provisions of the Law on Housing 2014, foreign organizations and individuals can only own housing (including apartments and individual houses) through the implementation of housing construction investment projects in Vietnam or through purchase, lease purchase, donation, or inheritance of commercial housing in housing construction projects, except for areas ensuring national defense and security as prescribed by the Government.

The Law on Housing 2023 adds additional forms of foreign organizations and individuals to own housing in Vietnam through purchasing or renting housing from other foreign organizations and individuals that already own housing according to the provisions of the Law on Housing 2023.

**b. Foreign individuals are entitled to a one-time extension of home ownership**

As with previous regulations, foreign individuals are allowed to own housing according to agreements in transactions of buying and selling, renting, donating, or inheriting housing for a period of no more than 50 years from the date of issuance of the Certificate of Ownership (duration of housing ownership is clearly stated in the Certificate). However, the Law on Housing 2023 clearly stipulates that housing ownership can be extended once for a period not exceeding 50 years.

Thus, the provisions of the Law on Housing 2023 aim to attract foreigners to buy and own houses in Vietnam, helping to increase the attractiveness of the residential real estate market in Vietnam.

***1.3.4. Amend regulations on when to establish housing ownership***

The Law on Housing 2023 adds regulations that in case of direct investment in housing construction, the time to establish housing ownership is the time the housing construction is completed according to the provisions of construction law. This is an important basis to determine the rights, obligations and legality of transactions of transferring, pledging and mortgaging residential assets.

**1.4. Specify the transfer of residential land use rights in the form of dividing plots and selling plots**

The transfer of land use rights in the form of dividing plots for sale has been

mentioned in the Real Estate Business Law 2014 but there are no detailed and specific regulations, leading to many problems in practical implementation. The Law on Real Estate Business 2023 has specified this issue in more detail and will be provided by ATA to customers in the topic on the Law on Real Estate Business 2023. The Law on Housing 2023 for the first time regulates the issues related to land division and sale. However, as a specialized law on housing, the Law on Housing 2023 only regulates some relevant aspects of transferring land use rights in the form of dividing plots and selling plots for people to build their own houses. accommodation includes:

- a. Do not carry out "subdivision of plots for sale" in wards, districts and cities belonging to special class, class I, class II and class III urban areas;
- b. It is necessary to clearly identify the areas and locations where land use rights are transferred so that people can build their own houses in the content of investment project approval;
- c. Land use rights can only be transferred in the form of dividing plots for sale after the investor has completed and accepted and put into use the technical infrastructure system;
- d. Not included in the cases that cannot be transferred in the form of plot division and sale;
- e. Must fully comply with legal regulations on land and real estate business.

## II. NEW REGULATIONS RELATED TO HOUSING CONSTRUCTION INVESTMENT PROJECTS

Housing construction investment projects, in general, are a focal point of the Law on Housing 2023. The regulations of the Law on Housing 2023 reflect innovative thinking, a developmental perspective in line with modern trends, and even indicate the direction of the country's future development. Housing construction investment projects are also a matter of significant concern for many real estate businesses today.

### 2.1. Prioritizing the development of housing according to housing construction investment projects

The Law on Housing 2023 specifies that:

- a. Regarding urban areas, housing development is primarily carried out according to that of projects, with structures and housing areas tailored to market demands.
- b. Regarding other areas, based on specific local conditions, provincial People's Committees specify the particular locations and positions for housing development according to projects.
- c. Regarding class-I urban areas, inwards, districts, and cities belonging to special urban types, apartment building development is prioritized.

Developing housing according to investment projects has the advantage of ensuring coherence in planning, architecture, landscape, technical infrastructure connection, and environmental protection. Meanwhile, the trend of developing apartment buildings is an inherent trend in modern

cities worldwide to ensure housing for the population. Focusing on developing housing according to projects is a completely new policy of the Law on Housing 2023. For real estate development businesses, these new regulations represent an opportunity for them to invest in projects to meet the potentially increasing demand for apartments or houses in the upcoming time.

In addition to concentrating on developing housing according to housing construction investment projects, the Law on Housing 2023 also clearly defines that the objective of investing in housing construction is to develop housing to meet the residential needs of the population and minimize the land subdivision. Accordingly, the Law on Housing 2023 clearly stipulates that in urban areas such as wards, districts, and cities belonging to special urban and urban of class I, II, and III (areas with a high population density and high housing demand), project investors must build houses for sale, hire-purchase, or rent (instead of subdivide land for sale). For other areas (with lower population density), the provincial People's Committee, based on local conditions, determines the areas where project investors in housing construction investment projects can transfer land-use rights through land subdivision for residents to build their own houses. Additionally, the Law on Housing 2023 prohibits land subdivisions in social housing projects and housing for the armed forces.

### 2.2. Clear Regulations on the National Housing Development Strategy,

*LAW ON HOUSING 2023*

## **Programs, and Provincial Housing Development Plans**

The requirement for the compatibility of housing construction investment projects with the national housing development strategy, programs, and provincial housing development plans was stipulated by the Law on Housing 2014. However, the Law on Housing 2014 only outlined some basic contents of the national housing development strategy, and specific details of the provincial housing development program were specified in Decree 99/2015/ND-CP. In practice, the lack of consensus between the provisions of the Law on Housing 2014 and Decree 99/2015/ND-CP has led to the chaotic and inconsistent development of the real estate market (the real estate market is predominantly composed of mid to high-end products, while the demand is largely for affordable housing). To address these limitations, the Law on Housing 2023 has supplemented issues related to the national housing development strategy and legalized, and added provisions to the program and provincial housing development plans. Accordingly:

a. The National Housing Development Strategy has a 10-year term and aligns with the country's economic and social development strategy. The Ministry of Construction is the leading agency responsible for formulating the National Housing Development Strategy. The strategy must define specific objectives such as expanding the housing area, improving housing quality, and developing housing for all social groups, including resettlement housing, housing under the national target program, public

investment programs in housing, individual housing, etc.

b. While the Law on Housing 2014 stipulated the basis for developing the program and plan for housing development, and Decree 99/2015/ND-CP only specified the necessary content and the order for issuing the program and plan for provincial housing development, the Law on Housing 2023 supplements and clarifies provisions regarding the basis for developing the program and plan for housing development. These must be based on the results of implementing the previous provincial housing development program and plan, the current housing situation, and the housing demand in each stage. The Law on Housing 2023 also clearly defines the provincial housing development program's term as 10 years (instead of 5 years, 10 years, or longer), and the provincial housing development plan's term as 5 years (instead of 5 years or annually). These provisions will contribute to guiding the real estate market to develop in a direction that is appropriate for the country's economic conditions, preventing and limiting the "hot" development of certain types of real estate (especially high-end real estate) that do not align with the actual needs of the majority of the population.

c. The Law on Housing 2023 also establishes a mechanism to allow adjustments to the provincial housing development program and plan when there is a suitable basis, enabling localities to proactively implement them.

### **2.3. Housing Investment projects are oriented towards energy saving and environmental friendliness**



Based on relevant regulations, the Law on Housing 2023 specifies that the land area for housing development must be determined in urban planning, industrial park planning, higher-educational institution planning, and other construction planning. Besides, housing investment projects must meet the following requirements:

- a. To be implemented according to the approved detailed plan.
- b. Investment projects affected by climate change must meet the requirements of disaster prevention and control and climate change response.
- c. Investment projects that apply energy-saving, resource-saving, green buildings, or smart cities must meet requirements, standards, and regulations.
- d. Mixed-use housing investment projects must ensure the synchronization of technical and social infrastructure systems inside and outside the project scope.

Accordingly, the provisions of the Law on Housing 2023 aim at the development of housing projects that are environmentally friendly, energy-saving, resource-saving, and synchronous with technical infrastructure; thereby improving the quality of life and this is also the trend of housing development in the world.

#### **2.4. The strict management of the housing development projects**

The Law on Housing 2023 specifies the following cases for housing development under the project, including

- a. Commercial housing development;
- b. Social housing development; worker accommodation houses in industrial

parks; housing for the people's armed forces;

- c. Public Service housing development;
- d. Resettlement housing development;
- e. Renovation and reconstruction of apartment houses;
- f. Mixed-use housing development

With the orientation of focusing on housing investment project development, the Investment Policy plays an important role; because Investment Policy is the document that most clearly expresses the contents of the investment project and is an essential basis for implementing the next steps. The Law on Housing 2023 supplements the specific provisions related to housing project Investment Policies as follows:

##### ***2.4.1. Case in which Investment Policies must be approved***

The Law on Housing 2014 stipulates the request for a decision on Investment Policy for housing projects to be implemented for new construction investment projects; not only does inherit the provisions of the 2014 Housing Law and Decree 99/2015/ND-CP, the Law on Housing 2023 also stipulates and explains in the direction of expanding the scope of the case in which Housing Investment Policy must be approved, including:

- a. Public Service Housing: Investment Policy must be approved for projects to purchase commercial houses for public service housing;
- b. Condominiums: Investment Policy must be approved or decided, Investment Policy adjusted for investment projects on renovation and reconstruction of condominiums.

c. Worker accommodation in industrial parks: The Investment Policy must be approved by the Industrial Park Management Board.

#### ***2.4.2 The necessary contents must be written in the content of the investment policy stipulated by the Law on Housing 2023 including***

a. The division of component projects (if any), investment divergence;

For commercial housing projects: stipulating the right of land users and trading products in the project;

b. For investment projects to build houses with mixed-use: residential purposes must be clearly defined and used for office or commercial purposes, services, or other purposes; the separate division or non-division of different functional areas;

For projects with many work items: responsibilities for investment, construction, management, and post-investment use of technical and social infrastructure works of the project must be clearly defined (including contents of handover of technical or social infrastructure to local authorities or specialized management agencies with technical infrastructure, social infrastructure, etc);

c. For a project that applies for permission to transfer land use rights for people to build their own houses, the area and location to be invested in housing construction must be clearly defined and the area and location to be transferred land use rights to build houses by themselves or the whole project in case land use rights are transferred to people build your housing.

With the above regulations, in the coming time, the process of appraisal and approval of housing construction investment projects will be stricter, thereby, the quality of investment projects may be improved.

#### ***2.4.3 Investment Policy must be adjusted when changing any contents in the previous written approval***

The Law on Housing 2014 was amended and supplemented in the 2020 Law on Investment Law allowing project investors to only have to adjust Investment Policy in some cases. However, the Law on Housing 2023 requires investors to adjust the Investment Policy when there is a change in any content written in the previous approval decision.

This regulation aims to more strictly manage the implementation of Investment Projects under approved investment policies, but can also be a "barrier" for investors because the procedures for adjusting investment policies are often long and very complicated.

#### ***2.5 Requirements and conditions for housing investment project investors***

The Law on Housing 2023 specifies two groups of subjects allowed to be housing project investors including housing construction organizations with trade union capital and housing construction organizations with public investment capital, national public bonds, etc bonds, official development assistance, and equivalent funds. Thus, the Law on Housing 2023 aims to expand and mobilize various sources of capital for housing development purposes, including funds derived from the state budget. With

capital mobilized more widely and more towards social purposes, the provisions of the Law on Housing 2023 will be a premise and basis for creating more affordable housing products, suitable for the conditions of more families and individuals, and housing ownership opportunities will be more equal for all people.

The Law on Housing 2023 stipulates that investors of housing projects must meet the following three conditions:

- a. Having equity capital by the law on real estate business to implement for each housing construction investment project;
- b. Have the right to use land for each type of housing construction investment project by this Law or be allocated or leased land by the Law on Land;
- c. Have the capacity and experience to implement housing construction investment projects by the provisions of law.

Accordingly, the Law on Housing 2023 continues to stipulate that one of the conditions for being a housing project investor is that the investor must have the right to use land for each type of housing construction investment project; however, specific land issues for housing project implementation are invoked in the provisions of the amended Law on Land 2013. At this time, the amended Law on Land 2013 has not been promulgated, so

ATA will mention this content in the topic of the amended Law on Land 2013.

The Law on Housing 2023 stipulates that individuals have the right to use residential land according to regulations and if investing in housing construction where (+) houses with 02 floors or more are designed and built at each floor for sale, for lease and purchase, for combined sale, for lease, purchase, lease of apartments or (+) houses with 02 floors or more and the scale of 20 apartments or more for lease, must meet the conditions for being investors of housing construction investment projects. ATA also supplemented that, for this case, the above apartments are granted certificates by the law on land, sold, leased, purchased, or leased according to regulations. Regarding the issue of legality and the trend of legal regulation for the development of these apartments, ATA has researched and compiled the topic "Mini apartments – should be removed?" released in September 2023 – the time of the opinions, arguments that "mini-condominiums" are against the law and should be dismantled. It can be seen that ATA's analysis and suggestions have been partly clarified and affirmed in the Law on Housing 2023. Accordingly, according to our assessment, the Law on Housing 2023 aims to create more housing ownership opportunities in more diverse forms for all citizens.

### III. DEVELOPMENT OF COMMERCIAL HOUSING ACCORDING TO INVESTMENT PROJECT

Within the scope of this topic, ATA will focus on analyzing new regulations on housing construction investment projects that are of interest to many businesses and individuals; including commercial housing projects.

#### 3.1. The strict regulations on conditions for investors of commercial housing projects

The Law on Housing 2023 requires commercial housing project investors to be enterprises and must be in the case of land allocation, land lease due to winning the auction of land use rights, winning the bidding to select investors or being approved for investment policies and approving investors when investors have land use rights through agreements on receive land use rights for the type of land for which commercial housing construction investment projects are implemented or are having land use rights for the types of land on which commercial housing construction investment projects are implemented.

The conditions of commercial housing project investors under the Law on Housing 2023 are stricter than the Law on Housing 2014, specifically, investors must have legal land use rights according to regulations to ensure better interests for commercial housing buyers as well as the implementation of the project in practice with high efficiency.

#### 3.2. The strict regulations on responsibilities of investors

The Law on Housing 2014 and Decree 99/2015/ND-CP have detailed the responsibilities of commercial housing project investors. However, the Law on Housing 2023 has supplemented several responsibilities of investors based on absorbing and inheriting specialized laws such as land, and real estate business as well as requiring investors of commercial housing projects to be themselves and responsible for all transactions related to housing or use rights land in the project:

a. In case the area to which residential land use rights are transferred has been allowed for people to build their own houses according to regulations, the investor who builds technical infrastructure in the project for investment in housing construction may only transfer after completion and acceptance and put into use the technical infrastructure system by the law on housing in construction and the law on real estate business for the transferred area.

b. It is forbidden to authorize or assign the party to the investment cooperation, joint venture, association, business cooperation, capital contribution, or other organizations or individuals to sign contracts for rent, lease, purchase, purchase, and sale of housing, housing transaction deposit contracts or land use right business in the project.

## IV. HOUSING RESETTLEMENT DEVELOPMENT

Investment projects are increasingly being implemented across the country, leading to the need to arrange resettlement for displaced people becoming more and more important; along with that, improper resettlement arrangements are always one of the leading reasons why site clearance compensation is behind schedule. To overcome the above situation, the Law on Housing 2023 has stipulated the following notable contents:

### **4.1. Supplementing strict forms and principles when arranging the resettlement housing**

The Law on Housing 2023 recognizes three forms of resettlement housing arrangement, including:

- a. Construction of housing under projects for sale, lease, purchase or lease for resettled persons;
- b. Arranging housing for resettlers in investment projects to renovate and rebuild apartment houses; and
- c. Arrange for resettlement by the provisions of land law.

To ensure that resettlement services achieve the goal of quickly stabilizing people's lives, the Law on Housing 2023 supplements and more clearly stipulates the following principles when developing housing for resettlement compared to the Law on Housing 2014:

- a. Housing for resettlement must ensure conditions equal to or better than those to be withdrawn or cleared;

- b. In case housing is cleared for the construction of other works in urban areas in class-I urban areas, inwards, districts or cities belonging to class-I urban areas, and people wishing to resettle in class-I urban areas, inwards, districts or cities belonging to special class urban areas, the State shall arrange houses for resettlement of housing holders in class I urban areas, inwards, districts or cities of special urban areas in the form of ordering or purchasing commercial housing, arranging for the purchase, renting and buying social housing or paying money for self-purchase, rent, purchase or rental of housing (instead of arranging in other areas as prescribed in the Law on Housing 2014).

Thus, the Law on Housing 2023 has been adjusted in the direction of introducing the principle of ensuring the quality and conditions of resettlement housing and considering and addressing the resettlement needs of people in urban areas of large cities (which are densely populated areas, convenient transportation, technical and commercial infrastructure, education).

### **4.2. Additional subjects to be investors of housing construction investment projects for resettlement**

Compared to the Law on Housing 2014, the Law on Housing 2023 supplements two subjects allowed to be investors of resettlement housing projects, including provincial housing management agencies and district-level People's Committees.

## V. RENOVATION AND RECONSTRUCTION OF APARTMENT BUILDINGS

The issue of renovating and reconstructing apartment buildings is one of the new topics addressed in a separate chapter of the Law on Housing 2023. Although it is a new chapter, it is one of the focal points of the Law on Housing 2023. Law on Housing 2014 did not have specific provisions for the renovation of apartment buildings; it only had provisions for the renovation of housing in general. However, the need for renovating apartment buildings, especially in major urban areas like Hanoi, has become increasingly urgent. Therefore, the Law on Housing 2023 provides a legal framework for the renovation of apartment buildings.

### 5.1. Clarifying regulations on the terms of use of apartment buildings

Similar to the Law on Housing 2014, the Law on Housing 2023 specifies that the terms of use of apartment buildings is determined based on the design documents and the actual period of use verified by the competent authority. However, it clarifies the starting point for calculating the lifespan of apartment buildings, which is from the acceptance of the apartment building for use according to regulations.

The Law on Housing 2023 also clearly stipulates that when an apartment building reaches the end of its terms of use or is still within its terms of use but is damaged, at risk of collapse, or poses a safety threat to owners and users, the provincial People's Committee must instruct the inspection and quality evaluation of the construction. Previously, the Law on Housing 2014 assigned the responsibility for inspection

and quality evaluation of apartment buildings to the provincial housing management authority. The delegation of responsibility to the provincial People's Committee indicates the importance and necessity of this matter. With the guidance of the provincial People's Committee, various agencies and departments will be involved to ensure more effective and accurate quality assessment.

### 5.2. Principles after the renovation and reconstruction of apartment buildings

The renovation and reconstruction of apartment buildings must adhere to the following principles:

- a. Implementation in connection with urban renovation and beautification, ensuring the connection of technical infrastructure and social infrastructure, in line with construction planning, land use planning, regional housing development plans, and plans for the renovation and reconstruction of apartment buildings;
- b. Resettlement individuals have ownership rights to resettlement housing after renovation and reconstruction based on compensation, support, resettlement plans, and temporary housing arrangements;
- c. The selection of project investors for the renovation and reconstruction of apartment buildings can only be carried out after the approval of the renovation and reconstruction plans;
- d. Land acquisition, land allocation, land leasing, and land use change (if any) for the implementation of the renovation and reconstruction project must comply with land laws, except in cases where owners

agree to transfer land use rights to the project investor;

e. The agreement on the transfer of land use rights for the renovation and reconstruction project is carried out when it meets specific conditions, including: (a) the project does not fall under the provisions of public investment and investor selection through bidding; (b) the project only involves land area under the common use rights of apartment owners; (c) the agreement on the transfer of land use rights for the project to serve on-site resettlement based on compensation and resettlement plans has been unanimously agreed upon by all apartment owners and the project investor.

These principles ensure the rights of individuals with apartments subject to renovation and reconstruction, harmonizing with the interests of businesses.

### **5.3. Renovation and reconstruction of apartment buildings as a housing project**

Accordingly, the renovation and reconstruction of apartment buildings are carried out in one of three forms:

a. Real estate business enterprises invest capital or contribute capital alongside apartment owners to carry out the demolition and reconstruction of apartment buildings.

b. The provincial People's Council decides to use funds from the local budget for implementation.

c. Implementation in accordance with the laws on public investment for housing that falls under public property.

This regulation is entirely new compared to the provisions in the Law on Housing

2014, which required the shared owners of condominiums to take responsibility for the demolition and reconstruction of the buildings. The new regulations mentioned above create additional mechanisms to attract societal investment for the activities of renovating and reconstructing old apartment buildings.

### **5.4. Project investor for renovation and reconstruction of apartment buildings must obtain investment decision and approval**

Law on Housing 2023 stipulates that the decision on investment and approval of investment for projects for the renovation and reconstruction of apartment buildings as follows:

a. Projects falling under the compliance of laws governing public investment will adhere to the regulations concerning public investment.

b. Projects falling under the jurisdiction of both investment approval and investor approval by the Prime Minister will follow the provisions of the Investment Law

c. Projects not falling into the two cases above will follow the following procedure:

**Step 1:** Apartment owners organize a condominium meeting to select an investor for project implementation.

**Step 2:** The chosen investor is responsible for submitting documentation and completing the procedures for investment approval and investor approval concurrently.

**Step 3:** In case an investor is not selected within the specified timeframe, after obtaining investment approval, the provincial housing management authority

organizes a bidding process to select an investor.

Therefore, the provisions of the Law on Housing 2023 regarding investor selection and investment approval differ from those in the Law on Investment 2020. The Law on Housing 2023 emphasizes safeguarding the rights, compliance, and respect for the opinions of condominium owners in choosing the entity responsible for renovating and upgrading the apartment buildings where they reside.

### **5.5. Incentive Mechanisms for Implementing Renovation and Reconstruction Projects of Apartment Buildings**

In line with the goal of attracting businesses to invest in the renovation and reconstruction of apartment buildings, the Law on Housing 2023 stipulates various incentives for project investors in this field:

a. Exemption from land use fees and land rental fees for the land area falling under the requirement for such fees within the scope of the renovation and reconstruction project. This includes the land area for existing apartment building construction, individual residences (if any), commercial and service facility construction, public infrastructure, transportation, social infrastructure, and other structures, including land with public assets, within the scope of the renovation and reconstruction project.

b. Particularly, the project investor is not required to undergo procedures for land price determination, land use fee calculation, or land rental fee requests; these processes are waived.

c. Engaged in business activities for the remaining residential area after resettlement arrangements and the area designated for commercial and service activities within the project scope. The project investor is exempt from land use fees and land rental fees when selling apartments in the renovated and reconstructed apartment buildings on the land area designated for existing apartment construction after resettlement arrangements.

d. Access to loans in accordance with legal regulations from the Land Development Fund, state financial funds other than the budget; advance funding from compensation, support, resettlement funds during land clearance; receipt of funds from future home purchases and lease payments and the area designated for commercial and service facilities within the project scope.

e. Financial support from the local budget to construct technical infrastructure, social infrastructure within the project scope as decided by the provincial People's Council.

f. Tax, credit, and other incentives as stipulated by law.

These incentives for project investors in the renovation and reconstruction of apartment buildings are set at a higher level than existing regulations for real estate businesses, indicating a specific and favorable policy. The real estate market may become more dynamic, with businesses showing increased interest in the revitalization and reconstruction of old condominiums. Residents in renovated apartment buildings will have the opportunity for improved living conditions, while businesses can seek





profits from investing in the renovation and reconstruction of older apartment buildings.

## VI. SOCIAL HOUSING DEVELOPMENT

Social housing is one of the most effective solutions to address people's housing needs. However, difficulties and shortcomings in the regulations of the Law on Housing 2014 have invisibly led businesses to pay less attention to investing in social housing. The consequence is an oversupply of high-end real estate in the market, while social housing is limited in supply and, if available, lacks public interest. The Law on Housing 2023 has undergone significant changes to attract more resources for social housing development.

### 6.1. Supplementing supported entities for social housing

The Law on Housing 2023 supplements two more groups of supported entities for social housing: businesses, cooperatives, cooperative unions within industrial zones, and students of specialized schools as defined by law.

### 6.2. Supplementing forms of social housing development

The Law on Housing 2023 supplements two groups of entities allowed to invest in social housing construction, including (i) the Vietnam General Confederation of Labor with the role of the project's investor using trade union funds for social housing rental for workers, and (ii) foreign-invested economic organizations participating in social housing development projects through capital investment or implementation of construction projects in cooperation with domestic enterprises, cooperatives, cooperative unions for sale, lease-purchase.

The Law on Housing 2023 also allows provincial People's Committees to report

to the People's Council on budget allocation for investing in the construction of social housing projects within the local area, ensuring coordination of technical infrastructure investment beyond the social housing project, connecting the technical infrastructure system of the social housing project with the system outside the project, and ensuring the overall social infrastructure within and beyond the scope of the project.

### 6.3. Requirements for social housing development

The Law on Housing 2023 establishes specific and separate requirements for social housing projects (in addition to minimum requirements for planning and construction according to legal regulations), including:

- a. Must be invested in land for social housing development.
- b. The housing developer must build houses for sale, lease-purchase, and not transfer land use rights for individuals to self-build houses.

### 6.4. Land for social housing development

The Law on Housing 2023 stipulates that land for social housing development includes:

- a. Independent land fund for social housing development.
- b. Land fund for building social housing within the scope of commercial housing investment projects.

These land funds are determined in the provincial housing development program and plan. In special urban areas, Types I,

II, and III, the Law on Housing 2023 continues to stipulate that the provincial People's Committee decides whether the housing project investor must allocate a part of the residential land area within the invested project that has built technical infrastructure to construct social housing or arrange land funds for social housing that have built technical infrastructure at a location outside the scope of the commercial housing investment project in that urban area, or pay an equivalent amount for the value of the land fund that has been invested in building technical infrastructure to construct social housing.

However, the Law on Housing 2023 does not specify the minimum area to be allocated for the construction of social housing within commercial housing projects.

### **6.5. Incentives for social housing project investors**

According to the Law on Housing 2023, investors of social housing projects who do not use capital from public investment sources are entitled to the following incentives:

- a. Exemption from land use fees, land rent for the entire project area; the housing developer is not required to carry out procedures to determine land prices, calculate land use fees, and the exempted land rent, and is not required to carry out procedures to request exemption from land use fees, land rent;
- b. Receive incentives for value-added tax and corporate income tax as prescribed by tax laws;
- c. Maximum profit rate of 10% of the total investment cost for the construction of social housing;

d. Allocation of a maximum of 20% of the total land area for business, service, and commercial housing development within the scope of the invested project;

e. Separate accounting for the housing project developer, not including the construction cost of the business, service, and commercial housing part in the value-added tax, corporate income tax for social housing, and enjoying the entire profit for the business, service, and commercial housing part;

f. In case the detailed planning option of the social housing investment project approved by the competent state authority does not allocate a separate land fund to construct business, service, and commercial housing within the project scope, the housing project developer is allocated a maximum rate of 20% of the total floor area of social housing for business, service, and commercial purposes. The housing project developer has separate accounting, excluding the investment cost of the business, service, and commercial part from the cost of social housing and enjoying the entire profit for the business, service, and commercial part;

g. Social housing project investors are eligible for preferential loans from the Social Policy Bank and credit institutions operating in Vietnam with preferential interest rates. In the case of constructing social housing for rent, investors are eligible for loans with lower interest rates and longer repayment periods compared to the case of building social housing for sale, lease-purchase, as regulated;

h. The Law on Housing 2023 allows provincial People's Committees to support the entire or a part of the

investment capital for the construction of connecting the technical infrastructure system of the project with the technical infrastructure system of the region, ensuring the overall social infrastructure within and beyond the scope of the social housing construction project;

i. The People's Council of the province allows the application of support mechanisms for project implementation on the local area.

The provisions on incentives for social housing project investors under the Law on Housing 2023 are adjusted to be more specific, clear, and expanded compared to previous regulations. Many incentives provided by the Law on Housing 2023 are specific and distinct compared to legal regulations on investment, tax, such as: (-) not required to carry out procedures to determine land prices, calculate land use fees, and exempt land rent; (-) entitled to

a maximum profit rate of 10% of the total investment cost for the construction of social housing; (-) entitled to the entire profit for the business, service, and commercial housing part; (-) allowed by the provincial People's Committee to apply support mechanisms for project implementation.

These incentives are indeed "attractive" to investors. Through this, the real estate market for social housing products is expected to encourage and create opportunities to attract capital, attention from businesses to invest in social housing construction. Investor interest in social housing will create more opportunities for ownership of housing for various social groups and also provide a basis for the Vietnamese real estate market to overcome current shortcomings.

## VII. DEVELOPMENT OF WORKER ACCOMMODATION IN INDUSTRIAL ZONES

Alongside social housing, providing accommodation for industrial workers is a new aspect addressed by the Law on Housing 2023, ensuring the goal of supporting workers in their living conditions for labor and production.

### **7.1. Detailed regulations on worker accommodation in industrial zones**

The Law on Housing 2023 stipulates that the following two groups are eligible for support policies regarding worker accommodation in industrial zones:

- a. Workers employed by enterprises, cooperatives, or cooperative unions engaged in production within the industrial zone.
- b. Enterprises involved in developing the infrastructure of the industrial zone and enterprises, cooperatives, or cooperative unions engaged in production within the industrial zone that invest in building worker accommodations.

Furthermore, the Law on Housing 2023 also outlines two forms of worker accommodation development in industrial zones:

- a. Enterprises engaged in developing the infrastructure of the industrial zone investing in building worker accommodations within the industrial zone.
- b. Enterprises, cooperatives, or cooperative unions engaged in production within the industrial zone investing in building or leasing worker accommodations within the industrial zone to allocate for their workers to rent.

To lease worker accommodations in industrial zones, conditions must be met:

- a. Enterprises, cooperatives, or cooperative unions leasing worker accommodations must have a leasing contract for the industrial zone area and be actively engaged in production or business activities within that industrial zone. They must also have labor contracts with workers employed by the aforementioned enterprises or organizations;
- b. Workers renting these accommodations must have labor contracts and confirmation from the enterprise or cooperative engaged in production within the industrial zone or the enterprise developing the industrial zone infrastructure;
- c. Approval of lessees must be carried out by the project owner; in cases of enterprises, cooperatives, or cooperative unions engage in production within the industrial zone and lease worker accommodations for their workers, the Industrial Zone Management Board is responsible for verifying the lessee approval process.

### **7.2. Incentives for project investors building worker accommodations in industrial zones and enterprises, cooperatives, or cooperative unions leasing worker accommodations in industrial zones for their workers**

To attract investors to invest in this type of development, the Law on Housing 2023 provides incentives for project investors, including:

a. *Exemption from land use fees and land rental fees for the entire project area; investors are not required to determine land prices, calculate land use fees, or land rental fees that are exempt, and they are also exempt from the procedures for requesting land use fee and land rental fee exemptions.*

b. Preferential treatment regarding value-added tax and corporate income tax according to tax laws.

c. *Access to loans with preferential interest rates.* In the case of developing social housing for rent, loans are available with lower interest rates and longer terms compared to building social housing for sale or hire purchase, as specified by the Prime Minister during each period.

d. Provincial People's Councils based on local conditions to issue support mechanisms for implementing social housing construction projects within their jurisdiction, in accordance with the authority and other regulations of relevant laws.

e. Other incentives as stipulated by the law (if any).

f. Infrastructure investment costs, technical infrastructure costs, and social infrastructure costs for worker accommodations in industrial zones are included in the industrial zone's infrastructure investment costs.

g. The investment costs of building worker accommodations in industrial zones are considered deductible expenses when determining taxable income according to tax laws.

h. For enterprises, cooperatives, or cooperative unions engaged in production within the industrial zone leasing worker

accommodations for their workers, the rental cost is considered a reasonable expense in the production cost calculation for corporate income tax purposes.

Accordingly, the incentives for investing in the development of accommodations for industrial workers within industrial zones are set at a higher level compared to current regulations for other businesses investing in industrial sectors, including: (-) exemption from land use fees and rental fees for the entire project area; (-) no need to carry out procedures for determining land prices, calculating land use fees, and rental fees; exemption from these procedures is granted, and there is no requirement to submit requests for the exemption of land use fees and rental fees; (-) exemption from the procedures for determining land prices, calculating land use fees, and rental fees; no requirement to request an exemption from land use fees and rental fees; (-) access to loans with preferential interest rates; (-) supported under special mechanisms and policies; (-) the cost of renting accommodations for industrial workers within the industrial zone is considered a reasonable expense in the production cost calculation for corporate income tax purposes.

These incentives aim to encourage and attract investors to invest in building accommodations for industrial workers within industrial zones.

### **7.3. Rental prices for worker accommodations in industrial zones**

According to the Law on Housing 2023, the rental price for worker accommodations in industrial zones is subject to negotiation between the lessor



and the lessee within the price framework set by the provincial People's Committee.

## VIII. HOUSING MANAGEMENT AND USAGE

In addition to developing housing to provide more opportunities for home ownership to a wider range of individuals, the Law on Housing 2023 also supplements and elaborates on regulations to ensure the modern and cohesive development of housing.

### **8.1. Individual houses in housing construction investment projects must be managed for their external architectural aspects**

a. In cases where the investor of a housing construction investment project manages the individual housing area after completion, the investor is responsible for managing the external architecture of the individual houses after handing them over to the owners according to the approved design documents. If the investor does not manage the individual housing area within the project, the provincial People's Committee is responsible for managing the external architecture of the houses according to the project's urban planning and architectural management regulations.

b. The project investor, homeowners, and occupants of the houses are allowed to establish a Self-Management Board for the housing area to oversee the maintenance of external architecture, care for greenery and gardens, and maintain utility facilities and technical infrastructure serving that housing area.

### **8.2. Housing can be converted for social and public purposes**

a. Conversion from resettlement housing to social housing.

b. Conversion from public or social housing, when no longer needed, to housing for resettlement.

c. Conversion of housing for lease to public housing or social housing.

d. Other cases according to the regulations.

### **8.3. The Law on Housing 2023 tightly regulates the management and usage of apartment buildings.**

a. The Law on Housing 2023 legalizes and details issues related to determining private ownership, shared ownership, the area of apartment use, and other areas within apartment buildings, as specified in Decree 99/2015/ND-CP.

b. It also specifies the location of electric charging areas for electric vehicles according to construction standards.

c. The Law on Housing 2023 supplements regulations on managing the maintenance funds of apartment buildings:

- Before signing a sales or lease-purchase contract for an apartment or other areas within an apartment building, the project investor must open a payment account at a credit institution or a foreign bank branch operating in the locality where the apartment building is located. This is for purchasers, lease-purchasers, and the project investor to deposit maintenance funds as required.

- Within 5 working days from the account opening date, the project investor must notify the provincial housing management authority of the account holder's name, the opened account number, the name of the credit institution, the foreign bank branch, and the deposit period. The project investor is not allowed



to use the funds deposited in the account for any purpose other than transferring maintenance funds to the Condominium Management Board before the turnover.

- When signing a sales or lease-purchase contract, the parties must clearly state the account information opened as required.

- If the project investor fails to transfer the maintenance funds as required, the Condominium Management Board can request the district-level People's Committee to require the project investor to transfer the funds. Within 10 days of receiving the request, if the project investor still fails to transfer the maintenance funds, the district-level People's Committee is responsible for issuing a coercive decision and organizing the collection of the maintenance funds for the Condominium Management Board according to the coercive decision.

These provisions in the Law on Housing 2023 were also partially addressed by ATA in the September 2023 Legal Articles on managing maintenance funds for "mini-apartments." According to ATA's evaluation, these regulations are suitable for real-life situations, establishing mechanisms to protect the rights of apartment buyers and helping resolve long-standing issues.

The above analysis, comments, and evaluations by ATA highlight the new points and noteworthy content in the Law on Housing 2023. It is hoped that this article will help readers update necessary information and gain a comprehensive, complete perspective on the appropriateness and potential impact of the regulations in the Law on Housing 2023 on daily life.

## ABOUT US

ATA Global Legal Limited Company (**ATA Legal Services**) is established and operated by acknowledged and experienced lawyers. Our operational goal is to become a law firm providing flexible and comprehensive legal services to both organizations and individuals, and both local and international clients. Of which, one of our core service is in-depth corporate consultancy.

All partners, lawyers, advisors, consultants, and even paralegals of ATA Legal Services are well-trained and have years of experience in the areas they are in charge of. In particular, the partners of ATA Legal Services have all consulted for and worked with renowned economic groups, banks or securities companies such as Vingroup, FLC, DNP, Tasco, Techcombank, SHB, SHS, VPS, etc.

With a serious and professional working attitude along with the dedication of the team always trying to put ourselves in the position of clients to understand their needs and aspirations, we are committed to bringing the most effective and appropriate services for Valued Clients.

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