REPUBLIC OF LEBANON

Ministry of Housing & Cooperatives

Public Corporation for Housing

NATIONAL HOUSING PLAN FOR LEBANON

Republic of Lebanon

Office of the Minister of State for Administrative Reform

Center for Public Sector Projects and Studies

(C.P.S.P.S.)

ECONOMIC STUDIES

Laws & Statutes on Building, Leasing & Real Estate

STAGE THREE

VOLUME 2

3

SPECTRUM ENGINEERING CONSULTANTS S.A.R.L.

شركة سبكتروم للاستشارات الهندسية ش.م.م.

VOLUME 2

LAWS & STATUS ON BUILDING, LEASING & REAL ESTATE

سيكتروم

MASTER INDEX

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HOUSING REGULATIONS

HOUSING REGULATIONS

In regard to the organisation of the housing market, and with respect to the right to decent lodging for all citizens the Government follows certain rules and compulsory regulations, such as:

- Providing legal status for occupation and access to all;
- Enforcement of the required health standards;
- Adopting measures to broaden the financing of lodgings;
- Increasing the supply of low cost housing;
- Emphasise over all, the importance of social development and environment.

These imperatives along with the principles of ownership have shaped the essential provisions that govern urban planning, zoning laws and building codes. They also set the framework of fiscal policies and the means protecting ownership and property.

URBAN PLANNING

1. URBAN PLANNING

The concept of real urban planning did not exist before the sixties; there were police and road regulations, gradually implemented by the administration concerned by safety, public health and circulation imperatives, and aimed at construction standards rather than inspired by urban planning. The main purpose was to improve fire protection measures as well as the illumination and ventilation of new dwellings.

Issues related to City planning and zoning in Lebanon started being regulated as of the 1930's. This awareness led to specific urban-plans (i.e., Echochard-plan), and to the decree n°4 dated November 30, 1954 that broadened the concept of public interest. Another law concerning urban-planning, issued in September 1962, was amended in 1977 to deal with the problems stemming from the destruction that occurred during the war.

Major changes were implemented in 1983, with a series of decrees regulating urban planning, construction permits, allotments and contravening constructions. In particular, the decree law n°69/83 concerning urbanisation, was the one to impose serious regulations, guidelines, and management of city planning; and designate authorities in charge of the implementation of urban policies. [1]

1.1 MANAGEMENT OF URBAN PLANNING

Managing city-planning is of crucial importance to the concept of urban policies, which requires accurate evaluation of social and economical realities, and proper administrative apparatus to implement approved plans, in order to fulfill the needs of the citizens.

This task is accomplished by the Higher Council of Urban Planning and the General Office of Urban-Planning, both reporting to the ministry of Public Works.

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[1] Decrees issued in 1977:

D/L n°69 dated June 25, 1977: amendment of art. 9 of the re-allocation law.
D/L n°8 dated 11 February 1977: amendment of art. 8 of urban law.
D/L n°106 dated June 30, 1977: amendment of the urban law.
D/L n°107 dated June 30, 1977: amendment of Beirut central district.
D/L n°126 dated June 30, 1977: ratification of the Convention de la sauvegarde de la mer Méditerranée contre la pollution.
D/L 151 dated December 31, 1977: amendment of the expropriation law.
D/L n°153 dated December 31, 1977: amendment of D/L n°107 concerning the urban plan of Beirut central district.

1.1.1 The Higher Council of Urban Planning

This Council is constituted by the following members:

- The General Director of Urbanism; President,
- The General Directors of the ministries of Justice, Environment, Municipalities and Rural Affairs, Interior, Roads and Buildings, and Housing
- The Chief-manager of programs at the Development and Reconstruction Council
- The President of the Beirut Order of Engineers and Architects
- A Sociologist
- An urban Planner
- An Architect.

All, appointed by decree adopted by the Council of Ministers at the suggestion of the Minister of Public Works.

The Council's main objectives is to plan towns and villages, to examine and review issues such as:

- Plans and regulations concerning different towns and villages,
- Zoning maps,
- Proposed decrees related to real-estate companies, or defining expropriation zones and proceeding of re-allocation and allotment,
- Appeals of decisions concerning building permits and allotments,
- Amendments of the legislation governing urban-planning and construction.

1.1.2 The general Office of Urban Planning

Within the Ministry of Public Works, the General Office of Urban Planning is regulated the by decree n°16314 of May 15, 1964, amended by the law of March 29, 1966. The above mentioned Council and Office have both the same chairman.

Beside the board, the Office includes two departments: one for urban planning surveys, and the other for municipal and regional projects.

1) The department of urban planning surveys, consists of three services:

   - The Service of urban plans: which collects all the required information and draws up master and detailed urban plans and designs.

   - The Service of tracing and plotting: Surveys and elaborates the layout of town plans in regard of the existing real estates and buildings, as well as the map of surfaces to be expropriated.

   - The Service of re-allocation and regrouping of lands: This department undertakes the re-allocation of land for public and private sectors, notifies approved plans to the real estate register, and suggests the layout of roads, public squares and gardens...

2) The Department of municipal projects and plans includes two services. One for roads, buildings and sanitary engineering - water treatment, sewage, wastes, etc.- and the second for expropriations' matters.

The guidelines established by these Departments indicate areas that can be developed and others that cannot, in view of granting building permits.

1.1.3 Recommendations

Although the current legislation had defined the prerogatives of the Higher Council and the General Office, some of their tasks have not been fulfilled while others have been partially undertaken. These services need better means to implement rational urban policies in towns and villages, and to meet the environmental requirements.

In addition, as a consequence of the war, implementation of construction laws weakened, urban laws that needed to be reviewed were poorly amended or notatall, while others have become obsolete, their provisions no longer complying with modern standards.

In that respect, judicial and administrative processes should be further strengthened and improved by reviewing many legal provisions.

Furthermore, a joint effort between governmental and private sectors is necessary to achieve a more suitable or appropriate equilibrium between environmental and development policies. Because, legislation in urban matters concerns collective cases, as well as individual ones in view of serving public interest.

1.2 DESCRIPTION OF THE ZONING PLAN

The zoning plan is a legal document that shows the guidelines and applicable regulations to localities, within the framework of land use.

1.2.1 Contents of a zoning law

- First, the *plan* itself carrying the actual operations of zoning and development for the said locality.

- Second, the *set of rules* defining the conditions for the land use and the construction of buildings (floor area ratio, zoning, land coverage, easements, aesthetics, environment).

1.2.2 Zoning classification

The principles of land zoning and national territory development are recognised by the Lebanese law. Since the zoning plan is partially incomplete, the legislator widened the terms of the law to accommodate and facilitate its implementation in unregulated areas.

But, in order to prevent undesirable situations, article 17 of D/L 148/83 stipulates a strict enforcement of the urban planning regulations and regulates construction in unclassified zones, not yet subject to a zoning plan, thus allowing owners to build under less restrictive requirements.

According to the afore-mentioned article, the Lebanese territory is divided into areas that are subject to zoning plan rules, and areas not yet classified, under which the criteria of summer resorts is well defined.

1.2.2.1 Unregulated summer resort areas

Construction is allowed according to a maximum floor area ratio of 30%, a land coverage ratio of 0,90, and a minimum three meters set back from bordering properties, roads or public property. The construction should not exceed three stores plus the ground floor.

1.2.2.2 Other unregulated areas

The maximum floor area ratio is 40%, and the land coverage ratio is 0,80. Three stores are also compulsory as well as the three meters setback from adjacent roads, public property and estates.

These ratios are increased for industrial zones to 60% for the floor area ratio, and to 0,90 for the land coverage ratio, providing previous approval of the Superior Council.

Recommendation

There is an urgent need to extend zoning planing to the whole Lebanese territory. This could allow regulated urbanisation while preserving the environment before it's to late.

1.2.2.4 Summer resort criterion for classification

The decree n°6012 of August 17, 1954 defined the conditions requested to classify summer resort areas:

Those conditions are the following:

1- The area or village should be at 500 meter's altitude at least.
2- The presence of a town-council.
3- The presence of a hotel of ten rooms at least, in compliance with the hostelry exploitation regulations.
4- The availability of summer homes.
5- The presence of a post-office, a phone booth, a hairdresser, a bakery, a grocery, a butchery, a warehouse for food products, a café or a public park.
6- A certain number of vehicles that allow commuting to and from the capital city.
7- The presence of a wide asphalt road.
8- An accessible interior roads network.
9- Availability of drinkable running-water system.
10- An adequate sewage system.
11- The availability of maintenance and garbage collection services .
12- The absence of rubble disfiguring the site.
13- The application of sanitary measures in public places such as butcheries, bakeries, or cafés.
14- The illumination of the area by the municipality.
15- A remote distance from the local cemeteries.
16- The availability of a modern abattoir.

The three last conditions are not immediately binding.

Recommendations

The conditions concerning summer resorts classification indicate how loose regulations are. They lack accuracy and are far behind scientific and modern standards. On the other hand, some criterion are very vague i.e.:

- Modern adequate sewage poses many questions for its applicability: The size of sewage piping? of septic tanks? ...
- The importance of the road network: what are the appropriate proportions in regard to the increase of population, buildings, cars, etc.
- Also, the conditions for classification are no longer appropriate to the changes that occurred since 1975. Some areas witnessed a heavy urban development while others were almost totally destroyed by the war.

1.2.2.4 The ratios

The floor area ratio is the proportion of the height or elevation of a building and the surface of the real estate. Floor area and land coverage ratios are calculated on the basis of the surface of the approved land plan. In Lebanon these ratios are the same as the French ground occupancy ratios (coefficient d'occupation des sols).

With a ratio of five (5) for instance, a one thousand square meter plot of land will be allowed five thousand square meters of built floor area, subjected to the percentage allowed in the specific zone, which is defined by factors such as street width and the building's outline or contour. In an area subjected to a zoning coefficient of 50%, the said five thousand square meters translate into a ten story building, whereas a lower coefficient would produce a taller and thinner building. Additional regulations allow increases of up to 25% in certain specific cases.

Land coverage ratios vary from 6 in the vicinity of the down-town, to 2 in rural areas.

The following areas are not taken into consideration in the calculation of ratios:

- Balconies, loggias, and pile supported floors.
- Underground floors, provided the ceiling does not exceed one meter above ground level, and used for parking facilities, or for building equipment's (i.e. heating, cooling equipment's).
- Staircases, elevators, water tanks on roofs.
- Ornamental ledges, cornices, open sheds.
- Attics used for technical fittings, not exceeding 1,80 meter height.
- 2,25 meters high-pitched tiled roof ...

Concerning the percentage of construction, the illustration of the legal loophole clearly appears in the following case:

In an area where the zoning laws allow constructions of two floors above the ground floor, according to the existing laws it is permitted to build on a slope:

1. Basement levels,
2. Habitable basement,

3. Ground floor,
4. The two initially allowed floors,
5. The Murr floor,
6. The pitched tiles roof.

The result is a five-story building and a roof, in a two-story zoning area. Thus, there is a need to decrease the percentage of construction all over the Lebanese territory and not only in major cities of the country. Although urban planing had somehow improved living standards in the country, those regulations are still lagging behind those of more civilised countries.

1.2.2.5 Impact

- The herein above classification means that unclassified areas are building land, considering that building zones should not only be delimited and delineated but strictly regulated.

- Actually, building permits can be obtained almost everywhere in Lebanon, thus, encouraging construction all over the territory, to the detriment of rational urban schemes.

- Lebanese firmly believe that every parcel of land can be a building area, and that the criterion of land value depends mainly on the construction factor: Hence, the value of the estate depends on the ratio of coverage. Other criterion include factors such as the proximity to the main roads, the down-town, or the climate, etc.

- There is a general tendency in the country to infringe and transgress urban legislation. This trend is encouraged by the leniency of the administration in implementing the strict laws. On the other hand, by allowing lawful settlements through compensatory fines, the Administration has brought on a situation in which it has become very difficult to behave in fairness towards all, especially in case of important investments. As a result, many urban and building legal dispositions are generally considered inapplicable.

MASTER PLAN OF THE ZONES OF BEIT-MERY- AINSAADE- ROUMIEH-BROUMANA-MAR CHAYA-BABDATE- MAR MOUSSA-

Decree, n.11795 dated Jan.13,1969

Codes of construction, allotment, reallotment and exploitation														
Zoning		Allotment			Existing plots			Setback			Floor area ratio	Ground area ratio	Floors outside the tiles roof	Maxi. height from the lowest point
		min. Surface sq.m	min. front meter	min. depth meter	min. surface after alignment sq/m	min. frontage after alignment meter	min. depth after alignment meter	from alignment and roads meter	lateral setback meter	rear setback meter				
Housing and commerce	A	600	18	18	250	12	10		3	3	50%	1.25	3	13.5
Existing housing area	B											1.2	3	
	B1	800	20	20	400	15	15		3	3	40%	0.8	2	13,5 10
Housing	C													
	C1	1000	25	25	500	18	18		4.5	4.5	30%	0.75	3	13.5
First extension area	D	1200	30	30	600	20	20		4.5	4.5	20%	0.4	2	10
	D1													
Second extension area	E	1500	30	30	750	22	22		6	6	20%	0.4	2	10
Industrial	F	1000	25	25	500	18	18		3	3	40%	0.6	-	-

1.2.3 Different types of town plans

Urban planning regulations are divided into master town-plans and detailed urban designs.

1.2.3.1 The master-plan

The urban planning laws and regulations depict the general development of an area and define the basic rules to comply with. In pursuance of article 7 of the decree-law n°69/83, the master town-plan mentions the following:

- The extension of residential zones

- Connections between housing developments and their surrounding areas
- Preserved balance between the development of residential areas and the protection of forests and agricultural sites
- The nature of the estate's exploitation in regard of public interest
- The delineation of the areas designated for to public use, and for regional commuting services
- Locations of sites for productive use
- Delineation of old districts and landmarks to be restored.

The master town-plan, also co-ordinates and orients the different projects initiated by public authorities (municipalities, ministries, etc.).

Currently, controlled land development tends towards more flexible methods by making regulations more responsive to essential objectives such as public health, public safety and environmental quality.

1.2.3.2 The urban design

The urban design defines essential elements concerning a specific geographical area as well as the promotion and renovation plans.

It carries the following indications:

- Limits of residential zones considering the agricultural value of the land and the existence of important agricultural equipment
- Initial use of the lands or the productive activity in each area
- Construction ratios, regarding the existing or potential public equipment in each region
- Built areas to be preserved when restored according to required standards and to new building permits regulations applying in such zones
- Limits and conditions of use of the existing roads to develop
- Limits of landmarks, buildings or sites to be preserved or promoted for environmental, historical or aesthetic reasons
- Delineation of agricultural areas to preserve
- Limits and plans of public places, gardens, stadiums, free and wooded spaces
- Zoning of areas designated for specific use or occupancy

- Designation of permanent or temporary *non aedificandi* zones

- Delineation of the areas used for officials premises and services and the equipment requested for social activities

- Delimitation of zones where industrial or commercial premises are restricted or authorised according to specific standards, as well as the development of existing premises

- Technical construction standards applying to real estate, and the terms of allotment of the properties in each area

- The designation of easements, such as the right of way, sanitary, or environmental servitude, and the definition of standards for the construction, and the orientation of buildings or groups of buildings, their elevation and volume, the number of floors, etc...

Since urban planning regulations are part of the general national development, they are compulsory in the chief towns of the Mohafazats and the cazas, in summer resort areas, or in any other zone indicated by decree issued by the Ministry of the Public Works subsequently to the opinion of the Higher Council of Urban Planning.

Planning and design standards that are followed by professionals in devising plans, master plans, urban designs or building designs may be implemented for any inhabited zone. Article 4 stipulates that urban plans can be drafted for any area or urban centre; while localities can be grouped under the same urban scheme provided they follow the same plan and its rules.

Recommendations

- At this stage, the Administration can improve the existing texts and fill the gaps where urban planning is still an urgent issue, after years of anarchy.

- Public authorities should intervene in the town's urban planning and in the development of localities according to economic, social and demographic data.

- Such intervention and reorientation in the planning process helps a better forecast of urban development and land use particularly when a group of localities is subject to the same urban plans regulations. Thus, improving the neighbouring space, providing thorough implementation of the legal dispositions, and quick dispute resolution mechanisms with coercive means without compromise.

ZONING OF BEIRUT CITY

Decree n:6285, 09/11/54
Amended by the following decrees:
n:4811, 06/24/66
n:2339, 12/08/71
n:5550, 06/08/73
n:9285, 10/12/74

Zoning		Height	Frontage Setback		Percentage of construction	Exploitation ratio	Existing plots			Allotted plots		
			from alignment	from borders			surf.	front	depth	surf.	front	depth
1		61/LE, amendments	4,5m Axis, aligned roads at 4,5m	-	100%	6	100	9 m	7 m	250	10 m	10 m
2		61/LE, amendments	4,5m Axis, aligned roads at 4,5m	4,5m on 30%	G-F100% floors 70% (+increase)	5 (see increase)	100	9 m	7 m	250	10 m	10 m
3		1 1/2xL 2xL or according to parkings	4,5m Axis, roads 4,5, 6m Axis roads<9m	4,5m on 40%	60% (+increase)	4 (see increase)	120	10 m	8 m	300	12 m	12 m
4		"	comices 4m, other roads 3m	4,5m on 50%	50% (+increase)	3,5 (see increase)	150	10 m	8m,frm align. setbak	300	15 m	15 m
5		"	4,5m Axis, roads 4,5, 6m Axis roads<10m2m align.roads>10 (see exception)	2,5m	40% (+increase)	2,5 (see increase)	250	12 m	14m, frm align. setbak	500	17 m	17 m
6		"	4,5m Axis, roads 4,5, 6m Axis roads<10m 2m align.	4,5m on 50%	50% (+increase)	2,5 (see increase)	200	12 m	8m after setbak by%of align.	400	15 m	15 m
7		61/LE, amendments	"	4,5m on 40%	70% (+increase)	3 (see increase)	100	9 m	7m,frm align. setbak	250	12 m	12 m

Zoning	Floors	Height /Floors	Setback		Percentage of construction	Exploitation ratio	Existing plots			Allotted plots		
8			from road and alignment	lateral and rear, from borders			surf.	front	depth	surf.	front	depth
A 1	4	17	see plan	6	30%	0.90	800	25	25	1200	30	35
A 1-4	4	17	see plan	4,5 - 6 m	40%	1.40	750	20	20	900	25	30
Zone S	-	-	see plan	5 - 8 m	30%	2	1200	30	35	1200	30	35
A II	GF 0.10		see plan	5 - 8 m	20%	1.25	1200	30	40	1200	30	40
	floor 1.00											
	roof 0.15											
B II	GF 0.10		see plan	5 - 8 m	25%	1.50	1200	30	40	1200	30	40
	floor 1.00											
	roof 0.15											
C II	GF 0.10		see plan	5 - 8 m	25%	1.75	1200	30	40	1200	30	40
	floor 1.00											
	roof 0.15											

9	Non Edificandi Zoning

10	Use of areas	Percentage of construction	Exploitation ratio	Number of floors	Maximum Height
Zone I	housing- offices- hotels- restaurants	16%	1	7	
Zone II	sports- leisure resorts- beaches restaurants	15%	0.20	-	9 m
Zone III	Complete Non Edificandi Area				
Zone IV	sports- leisure resorts- beaches restaurants	15%	0.20	-	9 m
Zone V	Complete Non Edificandi Area				
Zone VI	private housing, hotels-touristic resorts	30%	1	-	5.25

1.3 ELABORATION OF THE URBAN PLANNING

Articles 9 and following stipulate that the elaboration of urban planning and regulations are within the prerogatives of the General Direction for Urban planning, which takes all the necessary dispositions to elaborate plans for the different towns and districts, as well as the zoning of areas, and oversees the application of these regulations.

The elaboration of urban plans and regulations are at the State's expense. However municipalities can undertake such surveys at their own expense, in co-ordination with the General Office (art.10).

The zones that are subject to the herein above purposes are put under study by decree issued by the Council of Ministers at the suggestion of the Minister of Public Works following the opinion of the Higher Council of Urban Planning. The same regulation applies to the zones subject to classification for specific uses in different regions.

Yet every urban plan and regulation must be submitted to the regional town council, to be studied in regard of the real local needs. An opinion must be issued within a period of one month of the notification of the projects and plans. The lack of reply is considered as a tacit approval of the urban plan.

Recommendations

- Municipal officers can at this stage provide assistance in identifying individual borders and resolving property and boundary disputes.
- Also, they can provide technical assistance on building technology and public health, safety, and environmental issues. This allows them to focus their enforcement efforts on a selected range of violations with direct impact on the above issues.
- There is an urgent need to organise municipal elections so that town-councils may express their opinion in regard of the urban planning designed by the Administration for their towns, thus, bringing regional projects into better focus.

1.4 PROMULGATION OF THE PLAN

After their approval by the Higher Council of Urban Planning, designs are transferred to the Council of Ministers which approves them by decree, to be then promulgated by the President of the Republic thus rendering them enforceable as of their publication in the Official Gazette, and notification to the Land register.

Issued as such, they produce the same effects as the drafts and declarations of public interests.

In that regard, no formal proceedings can be completed at the Land register without mandatory enclosures such as the certificate of alignment and easements, and the municipality's receipt.

Following the destruction incurred in several neighbourhoods and villages, the decree-law n°69/83 stipulates, that "the administration can declare an area subject to survey under the dispositions of article 9, ten years after the previous period of survey, or for exceptional circumstances at the Cabinet's discretion".

1.5 CONSEQUENCES OF URBAN PLANNING

Two types of measures result from the urban planning :

1) Conservatory provisions, issued with the survey. Thus, each landowner is forbidden the use for construction, timber collecting and modification of the natural sites and areas under study, for a one year renewable period.

   The law however, allows some derogations for exceptional reasons following approval by the Superior Council. The legal terms are once again vague and lack of precision allowing a large interpretation of the law that sometimes defeats the purpose of urban planning regulations. Besides, derogation is always possible for those who have influence and use briberies.

2) Enforcement provisions in three areas :

   - Application of administrative easements, restraining the right of property for public's interest reasons, as the alignment, the salubrity, the safety regarding geographic location.

   - Expropriation, re-allocation, allotment and urban restoration and refitting operations.

   - Establishment of the real estate reserve.

Recommendations

Disregarding these rules should be penalised by demolition of the illegal constructions and their refitting by the contravening party according to the legal prescriptions. The contravening party is also penalised by either a fine or a prison term of up to fifteen days. Lebanese Courts have been very strict regarding the constructions transgressing the plans, constantly ruling that they be demolished.

1.6 LEGAL DEROGATION

Generally referred to as the *Murr floor*, law n°6/80 dated May 17, 1980, is linked to the "Autonomous Housing Fund" whose purpose is to provide long term loans at low interest rates, to finance construction or purchase of over twenty thousand residential units all over the Lebanese territory.

Construction loans may be granted to persons of middle or limited income, according to conditions decided by the Council of Ministers. Low income households include households with a monthly income not exceeding six times the legal minimum salary which is currently LL 250,000.

The financing of the Autonomous Housing Fund is based on Treasury loans, grants, and the fees and taxes originating from the settlement of illegal constructions. These taxes are paid by owners wishing to increase the land coverage ratio of their real estates up to a maximum corresponding to the floor area ratio.

According to the *Murr law*, the increase cannot be more than one extra floor over the normal zoning requirements in all regions, and cannot be more than 3,5% of the estate's land coverage ratio.

In the case of existing buildings, these must abide by the building codes in force at the time of the request or at least have regularised any breaches or infractions regarding the said laws.

During the law's first year of implementation, the amounts paid by owners submitting requests were :

- 25% of the value of the planned construction, if the increase in the land coverage ratio is one per cent (1%)
- 30%, if it is more than one per cent and less than two per cent
- 35%, if it is over two per cent and under 3,5%

These amounts will be increased by 50% if the request is made the second year. However, the law n°23, dated October 30, 1990 extended the time limit to three more years from its publication in the Official Gazette. Then another law, n°380, enacted in August the 1st, 1994 (published in August 11, 1994), extended the deadline for three other years, ending in August 11, 1997.

Pending approval by the Superior Council of Town-Planning, certain wooded areas and agricultural zones, or archaeological and historic sites may be exempted from the enforcement of this law. Moreover, municipalities may refuse increases of ratio within their zones.

Consequences

- Many owners took advantage of these provisions either to regularise existing construction, or to gain one more floor.

- The lack of a general policy lead to the implementing of erratic regulations in order to collect financing. Unfortunately, the increase of land coverage ratio does not take into consideration the environmental fallout. It distorted the regulations of Urban laws. Although the administration has the right to deny the owner's request for increased ratios, the Higher Council of Urban Planning underlined the difficulty of applying such provision.

- The Council of Development and Reconstruction as well as the Order of Engineers and Architects, criticised this law and denounced its threat to zoning and national development, by increasing the density of ground occupancy and increasing public equipment costs.

- On the other hand, financing is impeded by some disadvantages:
  - It is exceptional, depending on legal deadlines,
  - It is precarious, for the decrease in economic activities reduces its income,
  - It's percentage is very low being comprised between 15% and 35% of the increased value, thus, encouraging speculation, whereas two third of the increased value profit is not taxable.

THE MASTER PLAN OF BEIRUT SUBURBS

DECREE n:16948, July 23,1964- amended by decree n:14313, April 21,1970

ZONING	minimum net surface after alignment				setback from adjacent roads, estates and alignment	floor area ratio	ground area ratio	floors	max.height
	alloted plots		existing plots						
	sq.m,	front/depth	sq.m,	front/depth					
Housing & Comm.A1	1000	20x20	500	15x15	4	30% - 40%indust.	0.90	3	13,5
Housing & Comm.A1.1	1000	20x20	500	15x15	4	30%	1.05	4	17
Housing & Comm.A1.2	1000	20x20	500	15x15	4	30%	1.20	-	-
Housing & Comm.A2	2000	30x30	1000	20x20	-	20% - 30%indust.	0.80	4	17
Housing & Comm.B1	500	15x15	250	10x10	-	50% - 60%indust.	1.65	4	17
Housing & Comm.B2	600	16x16	250	10x10	-	40% - 50%indust.	2	-	-
Housing & Comm.B1	600	16x16	250	10x10	-	40%	2.20	-	-
Housing & Comm.B2.2	600	16x16	250	10x10	-	40%	2.40	-	-
Industrial C	1000	20x20	500	15x15	3	75%	1.75	-	-
Housing & Comm. D	400	15x15	200	8x8	-	50%	2	-	-
Touristic and Hostelry E restaurants or housing	1500	35x35	1500	35x35	10	15%	0.30	-	-
Touristic and Hostelry E restaurants and beaches	3000	50x40	3000	50x40	10	15%	0.30	-	-
Hostelry and Touristic resorts	7000	80x60	7000	80x60	10	15%	0.30	-	-

BUILDING CODES

2. BUILDING CODES

Historical overview D-L n°61/LE August 30, 1940

The general provisions regulating the building permit were enacted by the third title of the urban law dated September 24, 1962, and the law n°59/71, which amended the construction laws, and introduced the same standards for building's construction. Until that date, building permits were granted in compliance with the decree law n°61/LE dated August 30, 1940 and its amendments, particularly the law of January 20, 1954, and the decree n°15838 dated March 20, 1964.

The law n°59/71, applied to all new constructions as of its implementation; however, it kept some provisions of the decree law n°61/LE in force concerning the existing buildings. Owners seeking to add extra floors to their building could either comply with the provisions of the new law n°59/71 by following the new regulations. But, if prevented by the condition of the building, the owners could comply with the decree law n°61 and its amendments.

According to the decree n°61/LE regulating construction in Lebanon before the independence, and its amendment in 1954, the building permit was already mandatory for construction works, restoration and refitting of buildings. The permit was issued by the President of the municipality. The procedure applied to all persons as well as to legal entities.

The delivery of the building permit was subject to the respect of the administrative provisions, particularly in the regard of municipal easements, public health and housing imperatives. The permit was granted after the payment of the fees.

When the construction was planned on the fringe or edge of public roads or squares subject to alignment and approved layout, the administration had to reply within a period of 30 days starting from the date of the request. Otherwise the delay was extended to four months.

The decree enclosed also all the dispositions concerning the outlines of the buildings. The Municipal Councils were in charge of issuing regulations pertaining to the following:

- Elevation of the constructions;
- Non-eadificandi areas;
- Materials used for frontages;
- Setback of frontages from adjacent parcels of land and alignment;
- Definition of the construction's ratio;

The afore mentioned Councils carried out such regulations after a general development plan of the area had been approved by the Chief of the Government.

The law of 1954, maintained the prerogatives of the Municipal Councils, along with new ones, such as:

- The zoning conception, regarding the use of the parcels of land, and the delineation of housing areas;
- The delimitation of areas where new constructions should provide parking facilities according to the buildings outlines.

Today, construction in Lebanon is regulated by the following regulations :

- Zoning law n°69/83,
- Decree-law n°148 dated September 16, 1983, and its amendments:
- Decree-law n°45, March 23, 1985, decree n°2791 October 15, 1992, law n°523 June 6, 1996,
- Decree 9663 of December 30, 1996.

Under the current Lebanese regulations, constructions are legally subject to the obtention of a building permit and later of a certificate of occupancy once the works are completed.

Yet, because of the war and the increasing number of infractions, the legislator permitted some irregularities by issuing rules for the regularisation of breaches and infringements of the construction laws.

2.1 THE BUILDING PERMIT

The building permit is considered to be a prior verification of the constructor's respect to urban planning rules, regarding the architectural aspect of the building, its height, location and perspectives, as enacted by the detailed drafts and regulations in accordance to the soil occupation ratio.

Any construction, transformation, rehabilitation whatsoever, of any kind of buildings, even for public administrations and legal entities is subject to prior building permit.

2.1.1 Procedure to apply for a building permit

Legally, the building permit is granted upon request, necessarily before any undertaking of the works. Article 25 of the urban law n°69/83, stipulates that the building permit is granted for constructions complying with the construction law, the zoning plans and specific regulations concerning air easements, classified areas, environmental provisions and natural sites.

In case of contradiction between the dispositions of the construction law and the urban planning regulations, the permit shall be granted if the projected building fulfills the latter's standards.

1. However, some construction works need only a written declaration such as :

a) Regular repairing, maintenance and ornamental works, not related to the structures of the building
b) Construction of fences, supporting walls, land's terracing and demolition works Procedures to apply for a building permit, an application should be presented at the regional Town Planning Technical Office, and a declaration should also be filed at the municipality where the building stands or at the *Kaem-Makam*'s office, in absence of a municipality.

The hereinafter documents shall be required:

1. A certificate of easement and alignment delivered by the technical services including an approved cadastral map of the area where the land is situated
2. A Property title
3. A certified estimate of the price of the land per square meter issued by the town council
4. Five copies of the plot plan and the construction drafts, signed and vouched for by the engineer in charge and filed before the Order of Engineers describing: orientation, boundaries, implantation, profiles, blue-prints, complementary equipment
5. The agreement of the co-owners in a joint ownership

6. In case of refitting, structural modification or addition of new floors to an existing building, the following are also required: the building permit and the certificate of occupancy hereto attached.

2.1.2 Conditions for granting a building permit

- Approval by the regional technical bureau
- Payment of the fees
- Approval by the Civil Defence department
- Approval by each concerned Ministry such as: Health, in the case of a hospital, Education whenever it's an educational institution,..etc.

Following the request, the administrative authorities are held by different time schedules concerning refusal or granting of the permit:

- Two months period whenever the estate is located at the edge of an existing road or the edges of an approved plan.

- Six months delay whenever the estate is adjacent to a surveyed project, or a not yet approved general development plan, or if application requests a specific public administration's opinion.

2.1.3 Derogation

Special provisions are edicted by article 16 of the D/L n°148/83, concerning large developments built on a parcel of land of a surface ten times the minimum surface required by the zoning regulations in each area; with a minimum of 3000 sq.m in the chief towns of the *mohafazats* and 15000 sq.m. elsewhere.

By their nature these large developments are a potential threat to environment, and public health and safety; they also require added public services and equipments. For these reasons, the said article stipulates special requirements from the developer in order to grant the permit, since the zoning laws do not apply to such buildings.

The decree n°2791 of October 15, 1992 has regulated the particular conditions applying to the construction of large projects, developers are compelled by decree issued by the Council of Ministers on motion by the Minister of Public Works, to allow for gardens and recreation areas, sewage, road network, lighting, water supply and parking spaces etc. Large touristic developments, including seaside resorts have benefited from these provisions.

Recommendations

Practice shows that often when a residential or commercial compound is planned in an area where construction is subject to urban plans and mandatory requirements,

special derogations can be granted following a positive opinion of the Superior Council and other authorities in charge. In such cases the zoning is distorted and the law evaded. Thus, zoning, urban planning, servitudes etc., are not necessary impediments to building permits, and therefore to construction. In fact, derogations are often the occasion to breach urban regulations. For this reason, derogations should not be authorised for they be justify illegal constructions.

On the other hand, the administrative control of the newly constructed buildings is rather a control of conformity of the planned construction, blue-prints, and other attached legal documents, than a qualitative control. The administration is swamped with work, particularly because a field inspection is performed on the site of construction, in accordance with legal provisions. Nevertheless around 17000 applications for construction permits were handled in 1996.

The main suggestion is to have the field control extended to quality and materials in order to comply with modern building and safety standards. Also, there is an urgent need to increase the number of government employees working in the different urban planning departments.. Moreover, The Order of Engineers and Architects can play an important role as to the enforcement of urban rules. Its control can be carried on technical and aesthetic issues.

2.1.4 Issuing of the permit

Once the request is made, the engineer in charge in the competent Urban technical services studies it and verifies its conformity, three situations may occur :

a) Approval of the request: The file is then transmitted to the municipality or the Kaem-Makam's offices where the permit will be granted after the payment of taxes and fees.

b) Refusal of the request: The file is transferred to the concerned municipality along with the refusal notice for notification to the interested party.

c) No reply : After the expiry of the periods hereupon mentioned, the permit is considered as granted and work can resume, under the conditions of conformity to the submitted plans and the regulations in place, and payment of the taxes and fees.

In the case of refusal three options are open for appeal:

A) An administrative appeal before the issuing authority within two months following notification of the refusal.

B) A judicial appeal before the Council of State within two months of the notification of refusal, which can follow the administrative appeal (again within two months).

C) An administrative appeal before the Minister of the Public Works within two months of the notification of the refusal.

Interested parties seldom go to court for such matters, because a settlement with the administration and the officials concerned is usually possible.

2.1.5 Validity of the building permit

The building permit has a four years validity, and can only be renewed once for this same period. The renewal request should be filed three months preceding the date of expiry.

2.2 THE CERTIFICATE OF OCCUPANCY

As for the building permit, the certificate of occupancy requires roughly the same conditions. That are mainly, the regional Technical Office approval and the payments of the legal taxes.

This permit is delivered by the same authorities on behalf of the interested party after the completion of construction works.

2.2.1 Documents attached to the request

- The request itself.
- A certificate provided by the engineer attesting that the construction works have been completed in conformity to the building permit and under his own responsibility.
- A certified true copy of the building permit.
- A minute of the municipality inspection.
- The registration of the execution plans at the Order of Engineers.

2.2.2 Issuing period of the permit

According to article six of the D/L n°148/83 the Administration has a period of one month to decide upon the request. However the in case of refusal, the competent technical services must precise the nature of the transgression.

Three appeals are also possible under the same herein above conditions. The delivered permit is a license to inhabit or a license to exploitation for industrial premises. It allows the landowner to subscribe to different services such as electricity, telephone, and water.

This permit can however be replaced by either, a legal certificate attesting that the construction had been authorised before September 2,1961, or a certificate attesting that the building was completed before march 26,1964.

Recommendations

The certificate of occupancy should attest to the standard of life in the construction and to safety measures. For those reasons, the government authorisation allowing owners to subscribe to different public services such as water or electricity before obtaining the certificate of occupancy should be redefined.

2.3 THE PARKING

Parking facilities are compulsory everywhere in Lebanon, exemption only applies for unsolvable technical difficulties or clear impossibility.

In such cases, buildings are taxed on the basis of the real cost of parking facility defined by the Superior Council of Urban Planning every year in December. According to the law, collected taxes are used by the municipalities for public parking.

The parking surfaces must appear clearly on the blue prints submitted with the application for a building permit, confirming the required number of places and their access. In case information related to parkings is lacking, the construction plans may be subject to review.

Incentive measures were issued to encourage those who plan building more than the required number of parking lots. To that effect, article 19 of the building code D/L n°148/83, amended by law n°523, June 1996, grants an exemption of the building permit taxes for the surface used as extra parking and for an equivalent surface from required parking. Moreover, these surfaces are deductible from the land coverage ratio providing compliance with zoning laws.

The afore-mentioned law, also included a policy of encouragement of public parking developments through: tax exemption, increase of land coverage and floor area ratios, and the opportunity for developers to transfer part of these ratios to one or more real estate plots in compliance with zoning regulations.

However the widespread practice of paying taxes and fines as compensation, has lead to a shortage of parking areas, clogging streets and sidewalks. Furthermore owners benefit by renting out parking space for commercial purposes at rates by far covering any loss incurred by the above mentioned fines. For all those reasons, no derogations should be allowed to the providing of at least one parking per housing unit.

2.4 REGULARIZATION OF CONTRAVENING CONSTRUCTIONS

The law promulgated by decree n°15838 of March 20, 1964, allowed contraveners to regularise their illegal constructions either by demolition or by payment of a tax and a fine. Since that date, a series of decrees was issued to extend the delays for regularisation.

Thus, article 30 of law 59/71 offered six months delay starting September 13, 1971, to demolish the illegal parts of a construction or to pay a fine of ten times the amount of the legal taxes due per square meter of construction.

Other decrees relative to regularisation are: Decree-law n°13 dated February 25, 1983.

Amended by : D/L n°130 of September 16, 1983, D/L n°42 of march 23, 1985 and law n°324 of march 24, 1994, decrees : n°5603, of august 31, 1994 and decrees n°6540 of march 21, 1995 decree n°7052 of July 21,1995 and decree n°7444 of October 26, 1995; which apply to the regularisation of the contravening constructions.

These regulations distinguish between infringements of public or private properties.

2.4.1 Breach of rules on public property

Such breaches are either demolished or regularised.

- Demolition without compensation at the contravener's expense:

1. Whenever the construction is on a third party's estate without his written authorisation,
2. On public property,
3. On non-aedificandi zones for archaeological reasons, air traffic or public safety,
4. Inside the recession limits of rivers,
5. On the State's private domain, as well as that of public departments or municipalities,
6. On the rights of way designated in the cadastral plans.

Furthermore, starting from the date of issuing of the D/L n°130/83 until the effective demolition, contraveners should pay an annual fee equal to 10 times the amount of the building permit taxes. These duties cannot be considered in any case as a regularisation of the infringement.

- Regularisation of constructions on public property without demolition: They only apply to underground levels and upper floors. Special mention was made

for buildings infringing on the maritime public domain that cannot be regularised until the promulgation of a specific law concerning them.

2.4.2 Breach of rules on private properties

The contravener may either eliminate the irregularity at his expense within six months as of March 24, 1994 (art. 4 law 324/94), or be allowed to legalise it in return of the payment of a fine varying according to the kind of infraction.

2.4.3 Consequences of the breaches

The consequences of the breaches of construction laws are:

1- Contravening constructions cannot be sold.
2- Infringements occurring after the implementation of the law 324/94 cannot be regularised after January 1st, 1994 and thus, they should be demolished. However exceptions can be made by decision of the Council of Ministers at the suggestion of the Ministries of Public Works, Municipal and Rural Affairs, and Finance.
3- Contraveners are forbidden to complete construction works until regularisation.
4- The administration can undertake all necessary steps for regularisation at the contravener's expenses if he failed to file his request on time.

Finally, other sanctions have been foreseen in cases of environmental infractions.

Recommendations

- The constant versatility of the administration and the lack of credibility of the public authorities, made every contravener confident that the legal dispositions concerning the demolition of irregular constructions shall be amended or the time delays for regularisation shall be extended and renewed.

- No more regularisation should be allowed, demolition must be the logical issue to irregular constructions.

- A project of law concerning the breaches of the laws on the public properties, most particularly on the maritime public domain, has been considered for a certain time, and is still under discussion in the Parliament before an *ad hoc* Commission. The purpose is to penalise infringements of the urban and building codes, either by regularisation through the payment of fines or by demolition.

- In case of regularisation, the fines should be of an amount substantial enough to compensate the State's loss of use of public properties, relinquished in favour of certain individuals at the detriment of the rest of the population.

RENTAL LAWS

3. RENTAL LAWS

During the past decades, housing regulations had exercised a lasting impact on the housing sector in Lebanon. Thus, the different rent laws played a negative role leading to a housing crisis for apartments were no longer available for rent because rent legislation's did not protect investors but tenants. Recently, the rent law of 1992 had tried to re-establish a housing rent market in the country.

3.1 THE DIFFERENT RENT LAWS (1938-1992)

In order to remedy the housing crisis, the government, more interested in social harmony than in the respect of the right of ownership, began elaborating, certain legal constrains through the law of lease.

The rent law of March 11, 1938

Hence, a first law of exception was issued on the March 11th 1938, followed by many others, thus transforming the right to legal prorogation of rents into a vested right.

The major innovation of that law was to allow the renewal of commercial and industrial leases on a three year's basis and to allow the intervention of the Courts in cases of disagreements thereupon. These measures were extended to housing leases by the law no191/ LR of January 26, 1940, allowing rents renewal at the same rates.

In 1941, a new intervention of the state was necessary in order to readjust the balance in favour of the owners through a certain ratio of rent increase, which was more important for commercial and industrial leases.

Another new restriction was imposed on the owners in December 1942, whereby the notion of family imperatives was no longer sufficient to justify the eviction of leases.

Impact of the 1938's rent law:

The major impacts of that rent law were:

- The introduction of the concept of laws of exception that ended up prevailing until today.
- The legislation introduced the first restrictions to the contractual freedom between tenants and landlords thus provoking distortions to the construction for rent market.

The rent law of 1944

Important changes occurred after the Independence. Hence, on February 29, 1944, a rent law applying to all leases all over the Lebanese territory was enacted. It remained in effect for ten years, and carried mainly the following provisions:

- The prorogation of the lease was extended to the partner and the heirs of the commercial lessee.
- The loss of the right to prorogation was subjected to new considerations: unpaid rent, unlawful use of the premises....
- The compensation to the lessee was imposed on the lessor in cases of repossession without the effective use of the dwelling within six months.
- The rent increase ratios varied according to the different categories of leases.
- The right of the lessor to repossess if the lessee owns a similar dwelling, or if he failed to occupy the leased premises for a period of one year.

Impact of the 1944 rent law

- The continuous adoption of laws of exception
- The important focus on occupancy, underlines the importance of the legal protection awarded to the lessee.
- The legislator's effort to increase the availability of dwellings in order to curb the housing crisis resulting from the following events:

1) The rural exodus creating a large housing demand exceeding the supply available in the cities, particularly in Beirut, leading to a shortage on the rent market.
2) The flow of Arab nationals investors in Lebanon's stable political and economic environment at the time, raised the demand for luxury apartments and triggered the speculative tendencies of this market.
3) The Palestinian presence created two types of demand: The first, stemmed from middle to upper class population and concerns average to "de Luxe" dwellings; the second stemming from low income categories which increased the slum areas around the capital.

The rent laws of 1954 and 1956

The laws of May 7, 1954, and June 21, 1956, aimed at protecting the lessor's interests through:

- The freeing of the leases of luxury category apartments, i.e., equipped with central heating, elevator, hot water, janitors...
- The right to repossess was strengthened. The cases leading to the loss of the right to renewal were increased, and the right of the lessee to reside once again in a reconstructed building disappeared.
- Housing rents were increased, and commercial and industrial leases were subject to a fair rent. Moreover, the eviction of the principal tenant lead to the eviction of the subtenant.

Originally, expiring on December 31, 1958, the law of June 21, 1956, was prorogued until 1962, when a new law issued on July 31, prorogued all leases until December 31, 1966.

Impact of the 1954 and 1956 rent laws

- The prorogation of rent laws after their expiry dates discouraged real estate investors due to lack of trust in the government rent policy.
- The freezing of the rent of some apartments had a negative impact on the housing rent market. As a result of those rent laws, demand for housing continually increased but the supply did not fill the needs.

The rent law of May, 1967

The rent law of May 9, 1967, prorogued for the first time the leases concluded during the period of its application, i.e, until December 31, 1969.

Impact of the rent law of 1967

The law of May 9, 1967 carried provisions concerning the right of the tenant to renovate the premises used for housing purposes.

Villas and "de Luxe" premises remained outside the application of the law of exception for the income of their tenants excluded them from the need of legal protection.

This law was regularly prorogued until December 31, 1973. In 1972 however, the State repealed the decree concerning luxury apartments and froze all leases.

Moreover, another amended adopted by the Parliament regulated all categories of leases until 1977.

- This unbalanced situation of the housing market persisted due to the government's inconsistent rent policy, once freeing certain leases and suddenly freezing them on all housing categories

- The prevalence of a law of exception was once more proving the lack of a long term housing policy. We notice during that period

The impact of the Lebanese War (1975-1982)

In principle, the common law of the Code of Obligations and Contracts ruled the contractual relationships between lessors and lessees, between the end of 1977 and September 9, 1982. In fact, with the beginning of the clashes this regulation was not applied.

After the first two years of trouble (1975-1977), the decree-law no7/77 of February 22, 1977, regulated relationships between the owners and tenants of destroyed or damaged buildings.

- In an attempt to solve the social problems arising from the strict rent legal provisions in force the Parliament approved in May 1982, a new law of exception regulating the contractual relation between owners and tenants. Thus, rent was increased, reduced or maintained depending on the case, and lessees were entitled the right to renew or cancel their contracts through a two months notice.

  This law blocked all eviction requests, except in the following cases:

- When the owner wants to append the rented space to his own residence or give it on one of his children or enlarge it.

- When a section of the owner's real estate is used for social purposes such as school, orphanage or hospital, and he intends to use the remainder for the same purposes.

- When the owner wishes to destroy the building and rebuild a new one.

- When the apartment is situated on the last floor and the owner wishes to add another floor if permitted by construction regulations.

These evictions should take place after the payment of financial compensations. But during the war, the few operating courts refused to allow forced evictions and in any case would not have been able to carry them out.

With the return of peace in 1990, the rent law was re-examined.

Due to the difficulty in formulating a united rent law, the legislator issued two new laws in 1992, regulating the contractual relations between lessors and lessees.

In a desperate attempt to solve the problem and to remedy the disadvantages of both the rules of exception and the common law, the legislator issued law n°159/92 for new leases, and law n°160/92 for existing ones. Both were an effort to return to the general rules of the Code of Obligations and Contracts and a restriction to the principle of the right to legal prorogation, in order to solve the housing crisis.

It failed for two reasons:

A) The lack of credibility in the legislator after his repealing of the law relative to the freedom of lease for apartments rated "de luxe" in 1954. Indeed, the then legislator had freed these leases, and soon afterwards he subjected them to the rule of legal prorogation and thus, significantly restraining investments in the real estate market for rent.

B) The legal errors in the special rent law n°160/92 and its lack of clarity exhibited the legislator's lack of the seriousness required to solve such a critical problem. These gaps led to the modification of the special law no 160/92 in 1994.

3.2 THE CURRENT RENT LEGISLATION

Currently, Law no159/92 relative to new leases and law no 160/92 relative to leases concluded before July 23, 1992 govern the real estate rent market in Lebanon.

3.2.1 The Code of obligations and contracts (C.O.C) common rent law

Law n° 159/92 applies to all real estate leases concluded after July 22, 1992 . Before this compulsory regulation, the lease was ruled by C.O.C. articles 533 and following, which balanced owner-tenant relations. According to C.O.C. legal provisions, the hiring out of things or lease is a contract by which a person undertakes to provide to another, for a certain time, the enjoyment of a thing immovable or movable or of a right in consideration of a price which the other binds himself to pay.

Like all agreements the contract of lease is dominated by the principle of contractual freedom, thus, the term of lease and the rent are freely discussed at each renewal.

The lease is perfect by the consent of the parties on the thing, on the price and all the other clauses on which they could agree in the contract.

The real property lease which is not made in writing may not be proved, when it has not come under execution, except by the confession or the oath of the person to whom it is opposed. But if the execution has been initiated, this shall be taken as evidence of the existence of the lease.

3.2.2 Obligations of the lessor

The lessor is subject to three main obligations:

1. That of delivering to the lessee the thing let;
2. That of maintaining it;
3. That of guaranteeing if.

3.2.2.1 Delivery of the thing let

The delivery is governed by the provisions established for the delivery of the thing sold. Charges for deeds are borne by each of the two parties for the title which is delivered to him. Delivery charges are borne by the lessor, those of receipt by the lessee.

3.2.2.3 Maintenance of the thing let

The lessor is required not only to deliver the thing and its accessories in a state fit for service, but to maintain them in such a state.

The lessee is bound to undertake repairs incumbent upon the tenant or of minor maintenance, such as: paving-stones and floors of the rooms, when only few are broken, window panes, doors, locks..

The repairs occasioned by decrepitude or force majeure or faulty construction, are not chargeable on the lessee.

3.2.2.3 Warranty due to the lessee

The warranty which the lessor owes to the lessee, has a twin object:

1. The enjoyment and quiet possession of the thing let;
2. The defects of the thing.

The warranty of possession, enjoyment and against eviction, imply for the lessor forbearance from anything which would tend to disturb the lessee's possession or to deprive him of the advantages which he was entitled to.

The lessor is equally required to guaranty the lessee against the eviction he suffers as a result of action concerning either ownership or a real right on the thing.

The lessor's good faith does not exonerate him from the obligation of warranty.

3.2.2.4 Guarantee against vitiation's of the thing

The lessor is held towards the lessee for all the vitiations and defects of the thing let which substantially diminish the enjoyment of it, or renders it unfit for the use for which it was intended due to its nature or because of the contract. He equally answers for the lack of qualities expressly promised by him or required for the purpose of the thing.

The lessor is not held for any warranty:

- If the vitiations have been declared to the lessee;
- If the lessee knew, at the time of the contract, the vitiations of the thing let or the lack of qualities required;
- When the lessor has declared that he would be held for no warranty.

When through no fault of any of the contracting parties, the thing let perishes, is damaged, modified or is abstracted from the tenure of the lessee, wholly or partially,

so that it is no longer fit for the purpose for which it was hired, the lease is terminated without indemnity from any quarter, and the lessee must pay the price only in proportion to his enjoyment. Any clause to the contrary is without effect.

If the thing let is damaged only partially so it is not unfit for the purpose for which it was hired, the lessee is entitled solely to a proportional abatement of the price.

The lessee answers for fire, unless he proves that the disaster is due to force majeure or faulty construction or that the fire has spread from a neighbouring house.

3.2.3 The lessee's obligations

The lessee is under two main obligations:

1. To pay the price of the hiring
2. To maintain the thing let and use it appropriately and without excess in conformity with its purpose or that which has been stated in the contract.

3.2.3.1 Payment of the price

The lessee is required to pay the price on the pay-day set in the contract, or, failing which, on the day fixed by local usage: in the absence of usage the rent is to be paid at the end of tenure. Stipulation that the price has to be paid in advance is permissible.

3.2.3.2 Conservation and restitution of the thing let

The lessee is required to notify the proprietor of all facts which demand his intervention. He is required to give back the thing at the expiry of the term set. If he withholds it beyond the term, in spite of a notice to quit, he shall be compelled to indemnify the latter. Such indemnity shall be assessed on the rental value taking into account, additionally, the prejudice caused to the lessor.

The lessee is presumed to have received the thing in good condition and is to return it as such, he is answerable for the loss or the dilapidation caused by his fact.

However he does not answer for the loss or damage resulting from:

1. The normal and ordinary use of the thing, except for repairs incumbent upon the tenant;

2. The Force majeure not ascribable to his fault;

3. The state of decrepitude, faulty construction or faulty repairs which were incumbent on the tenant.

If the lessee has made constructions, plantations or other improvements which have raised the value of the real property let, the lessor shall be required to repay at the expiry of the lease either the amount of the expenditure or that of the appreciation, provided that such improvements have been effected with his knowledge and without objection from his part.

The lessee is entitled to sublet wholly or partially, and even to assign his lease to another, unless prohibition to sublet or cede has been expressed.

The lessee may not in any case assign or sublet for a use different than what is determined in the covenant.

3.2.4 Extinction of the hiring

According to the provisions of the Code of Obligations and Contracts, the hiring of thing ceases as of right, the expiry of the term established by the parties, no notice to quit being necessary.

Termination occurs in favour of the lessor, without prejudice to the allocation of damages, if the case so requires:

1. When the lessee employs the thing let for another use than the purpose for which it is fit by the covenant;
2. When he neglects it so that the thing suffers notable damage;
3. When he fails to pay the price of the rent.

The contract is not terminated through the alienation of the thing let, the new proprietor is substituted to all the rights and obligations of its author, resulting from the hiring and leases in progress, if they have been made without fraud and have been registered before alienation.

The lease is not terminated by the death of the lessee nor by that of the lessor.

The law n°159/92 asserts the contractual freedom of the parties but regulates the duration of the lease to three years minimum which can be cancelled at the taker's whim, modifying C.O.C article 543, which stipulates that real property lease exceeding three years carries effect in relation to third parties only if it is recorded on the register of deeds. This interventionism, concerning the duration of the contract, is justified by the need for social stability but does not apply to rent's price.

The rent law n° 159/92 applies to all real estate leases concluded after July 22, 1992. Before compulsory regulations, the lease was ruled by articles 533 and

following of the Code of Obligations and Contracts, which governed owner-tenant relationships. The rent price and duration were freely agreed upon by the tenant and the landlord at the date of the renewal of the lease.

Concerning building leases however, such total liberalism as asserted by law n°159/92 questions the very concept of business concern premises (fonds de commerce). It is expected that courts jurisprudence will fill the regulation's gaps.

3.3 THE RULE OF EXCEPTION (LAW NO 160/92)

The special rent law n°160/92 dated July 22, 1992, was amended by the law n°336 dated May 24, 1994:

3.3.1 Application

The rule of exception concerns only the contracts concluded before July 23,1992. Involving the building leases used for housing and commercial or professional purposes, and does not apply to the following situations:

- Land leases of rural estates and their dependencies,
- Seasonal leases in winter or in summer resorts,
- Leases offered by employers, commercial and industrial corporations for the housing of their employees,
- Leases of villas built after March 25, 1974, providing they comply to specific conditions such as: having one floor or more, being rented by one lessee, and equipped with a parking, a garden, central heating, hot water...
- Public and municipal properties,
- Furnished apartment in tourist regions.

On the other hand, the law n°160/92, controls the price of the rent as well as the duration and termination of the contract.

3.3.2 Value of the rent

The special law no160/92 subjected the rent to a controlled scale. The rent's value was frozen, reduced or increased in accordance with the prevailing economic and social conditions . To start with, the amended law 160/92 increased the rents with regard to the date of the initial contract, then, established a scale of raise linked to the increase of the minimum wage.

Article 6 of the law indicates the rent's increase, as of 23/7/1992 as follows:

a)- Leases concluded before 1/1/1987 whose first contractual period ended before 1/1/1988 are increased as follows:

Leases concluded before 1/1/1954 are increased 156 times.
Leases concluded between 1/1/1954 and 31/12/1961, 130 times.
Leases concluded between 1/1/1967 and 31/12/1972, 83 times.

Leases concluded between 1/1/1973 and 31/12/1978, 59 times.
Leases concluded between 1/1/1979 and 31/12/1982, 42 times.
Leases concluded between 1/1/1983 and 31/12/1984, 24 times.
Leases concluded between 1/1/1985 and 31/12/1985, 18 times.
Leases concluded between 1/1/1986 and 31/12/1986, 12 times.

b)- Leases concluded after 1/1/1987 whose first contractual period ended after 31/12/1987 are increased as follows:

Leases which ended before 1/1/1988, four times.
Leases whose first contractual period ended between 1/1/1988 and 19/12/1988, three times.
Leases whose the first contractual period ended between 20/12/1988 and 29/6/1989:
2,3 times and 30%.
Leases whose first contractual period ended between 30/6/1989 and 31/12/1990:
1,7 times and 70%.
Leases whose first contractual period ended between 1/1/1990 and 31/12/1991:
1,3 times and 30%.

The basis of calculation is the rent due on 31/12/1986 for the leases concerned by the paragraph (a). For the others it is the rent due at the end of the first period.

After these legal increases, and in an effort to align the rent to the market value every time the minimum wage is raised the rent is automatically increased by half the proportion of the increase.

3.3.3 Duration of contract and termination

1- Repossession due to family imperatives, provided that the lessor submits a convincing evidence of such imperatives, and that he does not own a similar house within the same or near by municipal district.

2- Repossession in order to expand institutions servicing for the public such as hospitals, provided that the reclaimed contiguous rented property is used for the same purpose.

3- Reclaim for demolition with the purpose of reconstruction.

The hereinafter mentioned cases entitle the tenant to compensation which can vary according to the nature of the building and the purpose of reclaim. The amount of the indemnity ranges between twenty five percent and a maximum of fifty percent value of the present value of the estate.

- In case of reclaim due to family imperatives, the amount of the indemnity ranges between seven and eight times the difference between the fair rent and the one paid by the tenant.

- In case of reclaim for public use purposes, the indemnity is the same, with an additional indemnity equal to the loss incurred by the tenant if the reclaimed premise is rented out for other purposes.

- In case of reclaim for demolition and reconstruction, the indemnity varies between ten and twelve times the difference between the fair rent and the one paid by the tenant.

For all three cases the indemnity is calculated on the basis of the building's current value at the time of the final judgement.

3.3.4 Extinction of the rent

Termination of the rent occurs in favour of the lessor, without an obligation to pay damages in the following cases:

1. When the rented facility is used by the lessee for another purpose than the one for which it is fit by its nature or by the rent contract, without the written consent of the lessor.

2. When the lessee neglects it so that the rented facility suffers a notable damage.

3. When the lessee fails to pay the price of the rent within two months of his notification to pay.

4. When the lessee sublets the facility without the written approval of the lessor.

5. When the lessee occupies another house in a range of seven kilometres. In this case he has to choose one out of the two houses within a period of six months after the enactment of the present law.

6. When the lessee buys or becomes owner of a house (or 75% of it), provided that it is similar to the house he rents within a seven kilometres radius. The spouse and minor infants living with the tenant are considered to be one same person.

7. If the tenant leaves the house for one whole year, for reasons other than security, even if he had paid the rent.

8 If the tenant leaves the house for six months, and owes the lessor a part of the amount of the rent.

9. If the tenant is a foreigner and leaves the house for six months.

3.4 CONSEQUENCES OF THE DIFFERENT RENT LAWS

Initially adopted as temporary and intended to end with the housing crisis, the Rent Laws appear long lived. Thus, the legislator had replaced the contracting parties in order to assert the stability of occupancy through the provisions regarding duration and the amount of rents.

On the short term, the consequence of the special rent laws was of beneficial interest especially in regard of the prices of rents. Unfortunately, on long term it had a negative impact on the housing market, because with the rent prices and duration brought under control, the number of dwellings offered for lease dwindled.

In fact, the construction of luxury buildings was booming and the high demand for such apartments exceeded the supply due to a favourable legislation. This expansion came to a halt when the rent legislation was no longer favourable to the landlord. On the contrary, the expansion of the construction of luxury housing was beneficiary to areas such as summer resorts due to seasonal rent contracts for they did not fall under the mandatory but were decided freely by contractors.

3.4.1 Ineffective adjustments

The financial adjustments promised by the Government following the law n°160/92, were very late to come, and their value dropped before they were even implemented. Also, the increases of the minimum wage were annihilated due to the galloping inflation and the raised rents were superseded before reaching the lessors.

3.4.2 Tense lessor - tenant relations

The lessor's legal right of eviction, and the lessee's right to repeal the rent contract in certain cases, created many tensions between the interested parties.

Courts are swamped with disputes concerning such relations. Furthermore, the extreme slowness of judicial proceedings and the trading of influence exacerbated the problem so that even the courts favoured amicable arrangements.

3.4.3 Two types of lessors

The two laws, n°159/92 and 160/92, created two types of lessors: the former ones and the new ones. Although they both offer the same service to the tenant, they are submitted to different regulations. During the thirty years of rules of exception and up until now, old lessors were less privileged than the new ones for the following reasons:

- The freezing of rents is still in force in regard to old leases.
- The right of eviction is granted only for new lessors after a period of three years.

- The price of new leases is much higher than the old ones, even after their increase.

3.4.4 Lack of supply

The situation is resulting from the refusal of most landlords to rent apartments and houses according to the present rental law. Indeed landlords complain that tenants eventually become permanent residents of the rented properties rejecting increases that are not justified by law, and demanding large sums as compensation for evacuating the leased properties

Thus, the incitement of the private sector to invest on the lease market has completely dwindled.

3.4.5 Decay of premises to rent

The maintenance and the restoration of housing units have long been neglected due to their lack of profit earning. The rent's amounts does not cover the restoration's expenses. For that reason, buildings are falling into decay because of a lack of maintenance.

3.4.6 Incongruity of income

The rental income of private owners was eroded because of the freezing of rents in 1982. Since then, all rents adjustment were insufficient and could not align on the practised market prices.

Indeed, a house rented in 1972 for 3.800 LL per year, the equivalent of 1.246 US$, yielded 118 US$ in 1986, 20,29 US$ in 1987, and only 4,91 US$ in 1991.

After the raise, such rent brought in to the owner 221 US$ in 1992, 217 US$ in 1993 and 230 US$ in 1994.

Year	*Annual Rent in LP*	*Increase in LP*	*Annual Rent in US$*
1972	3 800		1.246
1977	3 800		1.237
1983		(+20%) 4 560	1.008
1986	4 560		118,81
1987	4 560		20,29
1991	4 560		4,91
1992	4 560	(x83) 378 480	221
1993	378 480		217
1994	378 480		230

Finally, the adjustment of the actual lease law is impeded by many considerations such as:

- The social agitation and persisting tensions between syndicates and government,
- The weak increase in wages and mainly of the minimum wage,
- The decline of growth rates and the general economic recession,
- The political situation, particularly in South Lebanon.

3.4.7 Importance of a balanced rent law

On short term, the effect of the laws of exception was of beneficial interest especially in regard of the prices of rents. Unfortunately, on long term it had a negative impact on the housing market, because with the rent controlled, the dwellings offered for lease dwindled.

The construction of luxury buildings was boosted when the high demand for such apartments exceeded the supply. Conversely, the poor quality of the materials used and the sloppy construction of buildings supposed to be in the luxury category, has led to a situation in which a vast majority of tenants of low and medium income are subjected to the same rules that apply to high income tenants living in really luxurious buildings.

3.5 RECOMMENDATIONS

In times of crisis, the shortage of housing units leads the owners to try and benefit by raising the rents, therefore increasing the value of their goods which become a rarity. As a result, demand continually increases but the supply does not fill the needs.

Ambiguously the crisis confirms of the tenant's right to his dwelling, since it makes housing units unaffordable. The contractual relation is therefore disrupted, failing to regulate the market imperatives.

The legislator's intervention becomes crucial to prevent unrealistic increases and or unfair eviction of the tenants.

New regulations may answer the purpose by carrying the following principles:

- Broadening the framework of agreements between lessors and lessees, both in ways of restitution and repurchase of premises, which means to give the tenant also the option to repurchase.
- Encouraging the release of rental restraints.
- Favouring bank loans for housing purchases .
- The main categories of affordable dwellings may be surveyed, and credits covering part of the price of the rent granted at favourable rates by the Housing Ministry.
- Introducing taxes on unoccupied apartments for sale, in order to encourage a shift towards the rental market.
- On the other hand, it is imperative to enact fair legal provisions regulating distribution and sharing of restoration expenses between landlords and tenants, as it is a major cause of court disputes.
- The efficiency of the judicial authorities is of utmost importance to restore lost confidence in regulations and to guaranty a better enforcement of the laws.
- Simple, quick and effective mechanisms to resolve disputes.
- Considering that commercial and industrial premises are ruled by the same laws that apply to the housing issues, but that the problems plaguing each of them are of a different nature, separate laws should be enacted.

In recent years, it was practically impossible for many low and middle income households to find suitable housing for rent, since landlords preferred selling their developments. Indeed, the legal renewal of leases was not the only solution to the housing crisis, the experience of the last forty years has proven it. Part of the solution lies in helping the needy and or displaced persons with limited means to find housing at affordable prices.

Moreover, the limited availability of medium and long-term credit strongly restricted demand for housing.

The State also has a responsibility to increase the funds available to the Housing Bank in order for it to provide the medium income individuals and working classes, households and co-operatives with long-term loans at favourable rates, for the purchase or construction of housing units.

3.6 THE NEW RENT PROJECT LAW

The current trend aims to readjust old rents to their real market value as well as freeing new leases. There is also an effort to alleviate the judiciary burdens by hastening the decision procedures with the help of real estate experts sitting in on the courts.

The current law of lease n°160/92 which expires at the end of 1997. The new project relative to the rent law is intended to be temporary, expiring at the end of the year 2001. It is a prorogation of the law of exception that regulates the leases concluded before July 23, 1992.

The main provisions of the new project of rent law are the following:

1. Easing the restrictions on leases of villas, even those built after March 25, 1974.
2. A twenty per cent increase of the leases concluded before January 1st, 1987.
3. The annual reappraisal of the rent price on the basis of the inflation index published by the Central Bank, instead of the increase calculated according to the minimum wages.
4. The landlord's right to claim the payment of the rent even in case of dispute, until the judicial decision.
5. The calculation of the indemnity of eviction on the basis of the difference between the price of the rent paid by the lessee and the equivalent rent according to the actual market price, with a maximum of 30% of the value of the premises in case of eviction for family imperatives, and 50% in the other cases of eviction.
6. Special committees presided by a judge and formed by an expert and an engineer would be in charge of such matters in the first instance, to accelerate the procedures of restitution.
7. The owner may at his choice, for one time only, determine the value of his building, and give the lessee three choices:

   - to receive 40% of the price of the rented premises and leave;
   - to buy the premises he rents for 60% of its price;
   - to conclude a new lease equivalent to 3% of the price of the premises but not exceeding two times the price of the rent paid before the renewal.

8. The proposed law regulates also the relations between lessors and lessees concerning the maintenance expenses, to avoid disputes and to help restore the frontages of buildings either by owner or administrative decisions. It places 20% of the cost upon the owner, provided it does not exceed an amount equivalent to 5% of the total perceived rent.

HOUSING REGULATIONS

4. HOUSING AND REAL ESTATE INSTITUTIONS

The right to own a dwelling is guaranteed by the Lebanese Constitution and is organised by Law. Thus, the Property Law organises the rights linked to ownership like the right to use, possess and dispose of a property. Real estate companies, co-operatives, associations, religious institutions have undertaken housing project in order to help curbing the housing crisis. In this regard, the State is called upon to dedicate some of its real estate properties to build social housing and also to use some of real estate taxes in this purpose. We shall explain the property laws that are binding to all real estate companies, the role played by housing institutions in providing dwellings and the fiscal policy applied by the government in this area.

4.1 ORGANIZATION OF OWNERSHIP

4.1.1 Basis and type of ownership

Article 15 of the Lebanese Constitution guarantee property in Lebanon stipulating that it is "protected by law" and forbids any obstructing, apart the exception of expropriation against previous and fair compensation for reasons of public interests.

As such, property is protected by law. Ownership of property is the recognised right for a specific person to exert his legitimate rights of user, possessor and to dispose of it..

This rule is formulated in article one of the Property law enacted by decree n°3339/LR dated November 12, 1930, which stipulates that: "Ownership of real estate property is the right to use, possess and dispose of a building within the limits of laws decrees and rules."

According to article one of the Property law, property is divided into three parts following its purpose:

- *Usus* : Is the right to use a property.
- *Fructus* : The right to possess and enjoy a property.
- *Abusus* : The right to dispose, transfer or destroy a property.

The use and possession form up the usufruct; the right of disposal constitutes the bare-property.

The law of Property applies to chattels that come within the provisions of article one of the law, such as: the tangible real properties, the landlord's fixtures and the intangible real properties:

- The tangible real property, is the physical entity registered at the real estate register.

- The landlord's fixtures, are destined by their nature to a tangible real estate, and would lose their purpose if used otherwise.

- The intangible real property, is considered real by regard to the subject to which it applies.

The Lebanese real property law, divides estates in five different types:

1. *Mulk* property: Is a property located within the urban build-up districts and is subject to full possession. All the areas of Beirut and the Mount Lebanon are *mulk* estates.

2 *Amirié* property: Is the one in which bare-property goes to the State and it can be subjected to a right of *tasarrouf* in favour of the interested party. The *amirié* estates are mainly rural and suburban properties.

3. *Machaa* properties: They belong to the State but are subject to a right of use on behalf of communities.

4. *Metrouké-Mehmiyé* properties: They are the public property and municipalities estates.

5. *Khalia-Mubaha* (dead estates) properties: This is *amirié* lands that have not been formally incorporated to public property, and as a result are subject to vivification by the first inhabitant.

Only *Mulk* properties are subject to the right of property, *Amirié* are the subject of a *tasarrouf* right. The *tasarrouf* is a right to use and possess *amirié* estate according to the terms and conditions of the Property law and regulations.

The difference between the right of property and the tasarouf, is that the latter implies the obligation of cultivation of the land. Indeed, the rights of the possessor are forfeited if he leaves the land without cultivation for five years. He also cannot entrusted it as a *wakf*

Recommendations

- Government real estate properties i.e., *Amirié* and *Metrouke Mahmiyé,* are to be used in helping to solve the housing crisis. In fact, government properties are either to be sold to housing co-operatives or non-profit organisations at low cost or to be used to built social housing by the State itself..

- Municipalities should also be encouraged to use their large *Machaa* to built low-cost housings for their constituents specially that land price increase sharply construction's cost mainly in the suburbs of big cities.

- The State is also to enact legislation to protect government and municipalities' properties for they belong to the community and to plan their future use.

4.1.2 The dismemberment of property

The principal property dismemberment classifications are: the wakf, the usufruct, the long lease and the easements or servitude.

4.1.2.1 Wakf

The *wakf* is born out of the religious principles of charity of Islam. The original *wakf khairi*, means the perpetual immobilisation of a *mulk* estate whose income and revenues are distributed among the poor or religious institutions. The wakf is managed by a trustee (*nazir* or *metwalli*), on behalf of the beneficiaries.

Another kind of *wakf*, called *wakf ahli* or *wakf zirri*, was born from the distortion of the initial principle. It was introduced in favour of persons that were not necessarily needy, but related to the grantor. Thus, estates remained in the possession of families, but this practice lead to evading the law of inheritance.

Besides, the trustee often takes unfair advantages of the *Wakf* for his own interest, for example, he leases the estate for a higher rent than he had declared and keeps the difference, or increases costs of repair for the same purpose.

The Wakf property is non-transferable, neither as a gift nor by sale, imprescriptible and cannot be mortgaged, because the *Wakf* is a non-negotiable property.

The entrustment of the *wakf* is carried out by judicial declaration or by will, and is subject to publicity at the real estate register.

Since the enactment of the law in March 10, 1947, the condition of immobilization of the estate for perpetuity is no more required. Furthermore, it is prohibited for the *wakf ahli.* The immobilization takes place for only two generations; and the beneficiaries designated by the donor are considered as first generation.

The right of the beneficiary is a right of usufruct. As such it must be seen as a right to use and possess, thus, he may live in the *wakf* property for example, or benefit from its lease.

Wakf is an impediment to free circulation of real property, and hampers economical and social progress. The immobilization of land assets decreases the means required to cover its expenses. Furthermore as the beneficiaries become more numerous, the income generated by the *wakf* becomes insufficient.

4.1.2.2 Usufruct

The usufruct is a real right of use and possession for life, of a property owned by another person. . The characteristics of this institution are inspired from the French legal system.

Only *Mulk* and *tasarrouf* properties are subject to usufruct which is mortgageable and transferable.

In case of destruction of the property, the bare owner is not bound to reconstruct what is decayed and decrepit, or what has been destroyed by fortuitous event. The right of usufruct is extinct by the loss of the property, unless it results from the bare owner's fault, such as his refusal to undertake necessary major repairs. According to the law, the beneficiary of the usufruct has the right to advance money, on behalf of the bare owner, for major repairs. He is also liable for damages due to lack of maintenance.

Even though, the owner or the beneficiary of the usufruct is not bound to rebuilt the property, its reconstruction may take place if the destruction is caused by a disaster. Moreover, if in such case, the property is insured, the insurance money is used to restore the property.

4.1.2.3 Long lease

The long lease is a real right of possession and enjoyment over other's property by a long time lease. Long time lease contract is for valuable consideration, and should be published at the Land Register.

Such leases allow owners of large properties of little value, to contract farming leases for low rent. The lessee's obligation is to improve and raise the value of the real property.

He undertakes all works necessary for the maintaining of the thing, such as the opening of discharge ditches, flushing of canals, maintenance of roads, lanes and hedges, repairs to rural buildings, etc. Like usufruct, long lease is an impediment to the circulation of estates.

Difference with the usufruct: Although it is concluded for a long period of time, the long lease is not for life, it is for valuable consideration, and for economical

purpose, whereas usufruct can be free of charge and for sentimental reasons in favour of relatives.

Difference with the lease: The lessee's obligation to improve the land, the low amount of the rent, and particularity, the freedom of use and enjoyment of the lessee, who can secure the estate by mortgage or sublet it, and undertake any kind of works for the needs of his exploitation.

4.1.2.4 The easements (servitude)

Easements were constituted to co-ordinate fairly the neighbours rights. There are three type of easements: charges inherent to a site, legal curtailments of ownership, or agreed easements. They are all subject to registration in the Land Register.

- Charges inherent to the site are established without man's intervention and do not give right to compensation (easement of drainage and outflow of water ..)
- Legal curtailments result from particular and physical conditions of the estates, that are arranged for the utility and the use of one or more of them (right of way, or acquae-ductus etc..)
- Agreed easements that are derived from contracts between adjacent owners of estates for the utility and the interest of one or more.

Recommendations

- As a first step of an efficient housing policy the government ought to survey the properties it owns all over the national territory.
- Then, the State may dedicate some of these properties to building housing units through long term lease -- ninety nine years real estate leases- for a symbolic amount of money.
- Servitudes aiming at protecting neighbours as well as community rights are to be protected and preserved without any possible derogation to the law

4.2 THE REAL ESTATE REGISTRY

The Property legislation is considered to be the cornerstone of the economic and social life that is secured whenever the property is protected.

Economic development depends on such legislation's whether concerning agrarian matters, real-estate, financial or fiscal issues. In this regard, the protection of ownership is a prime necessity to promote and secure real estate credits, to assess taxes and to encourage agricultural, tourist and real-estate projects.

4.2.1 Ottoman period

During the Ottoman Empire, the publicity of real rights was carried on by the *Defter Khané* and the *Sened Tabo*. This system was defective and incomplete, and it had a fiscal purpose. In fact, it lacked accuracy, because it did not define property's rights or other real rights. Indeed, properties were not delimited and marked by meters and bounds. The *Defter*, on the other hand, lacked security and guarantee, for matter such as real rights, easements, praedial encumbrance, secured debts, restrictions, etc.. were not registered in its records.

At that time, the real estates census was not based on contradictory delimitation and demarcation of lands, but mostly achieved on the basis of the bordering owners declarations, without any publicity protecting third parties rights.

Furthermore, transfers of properties were not filed in the records of the real estate census, or Sened, but in special chronological records, making search for successive deeds concerning an estate almost impossible.

The titles, *Sened Tabo* were in many cases difficult to materialise on the sites, because their descriptions could apply to several matching estates.
The *Sened Tabo*, dispositions were valid until evidence of the contrary.

4.2.2 Property laws

During the French mandate, the survey department of the High-Commissary of the French Republic in Syria and Lebanon, undertook a serious reform of the real property's legislation, and the reorganising of real estate administrative and cadastral services to ameliorate the accuracy and safety of it records, which lacked during the previous period.

The technical department established the cadastral surveys, the surface of the estates, their boundaries, their allotments and all kind of geodesic operations and calculations such as, triangulation measures.

The Property law, (Code de la Propriété Foncière), was enacted by decree n°3339/LR dated November 12, 1930, which is still in force.

Under the penalty of non-opposability to third parties, real estate property is subjected to registration in the Real Estate Registry, which was introduced in Lebanon in 1926 by the decrees n°188/26 and 189/26 and their amendments enforced in March 15, 1926. It was preceded by surveys and recording of real estates.

According to the legal provisions, the registration of ownership at the Real estate register gives an absolute proof pertaining to real property through the public faith attached to its records.

Real estate administration and cadastral services are located in eight towns as follows:
- Mohafazat of Beirut: Beirut
- Mohafazat of the North: Tripoli
- Mohafazat of the South: Saida
- Mohafazat of Nabatiyeh: Nabatiyeh
- Mohafazat of the Bekaa: Zahle
- Mohafazat of Mount Lebanon: Baabda, (for the cazas of Chouf-Aley and Baabda), Jdeidet (for the Metn caza), and Jounieh (for the cazas of Kesrouan and Jbeil).

Each real estate circumscription organises and keeps different books which concern property. They are: The Book of Property, the Dairy Record or Journal and the Complementary Books.

- The Book of Property encompasses the real sheets, titles, of all real estates pertaining to the circumscription. Each estate is numbered and pointed at by a sheet providing all the details concerning the estate, such as the names of the present and former owners, the surface, easements obligations, notices, legal transactions, etc.. This document individualises the estate, and is comparable to an identity card.

- The Dairy or Journal, used to record all the transactions by chronological order, it establishes and certifies the date of the registration requests. The Journal comprises mandatory references - date and time of request, identity and address of applicants, kind of formality, specifications -.

  - The Complementary Books are:
  - The alphabetical register of owners.
  - The alphabetical register of mortgagees and distraining parties.
  - The sequential record of requests filed at the executive real estates office.
  - The Daily Register of Oppositions.

- The registrar's record holding rectification of the sheets, the cadastral surveys and the decisions of rejection of formalities.
- The Register of Notifications.
- The Register of the Topographical Surveys Requests.
- The Correspondence Register
- The Record of Mortgage Registrations.

Recommendations

Although the Lebanese real estate register offers the best legal protection to ownership, it urgently needs a reorganising of its structure, on both levels of technical equipment - which must be modernised and computerised - and qualified personnel.

This is imperative to enhance the rapidity of different real estate proceedings such as registration of property, exchange of real property, credits and housing loans applications, mortgage deeds, organisation of co-ownership, etc.

Major problems of the Lebanese Real Estate Register are:

- The small number of personnel in light of the increasing number of applications since independence.
- The outdated material and equipment's.
- The mishandling of citizens files and the destruction or disappearance of some real estate documents.
- Corruption and briberies.

There is an urgent need to:

- Update old real estate files.
- Computerise equipment's.
- Increase personnel numbers.
- Extend the Land register to the whole Lebanese territory.

Delimitation and recording aim to single out each parcel and allot it a specific number which is then reported in the real estate register, and on the title of property enclosing indications identifying the real estate.

However, a large portion of the Lebanese territory is still not surveyed and delimited, mainly in North Lebanon and the Bekaa valley areas. In such cases, proof of property is provided through certificates delivered by the Mukhtar, the municipality or the Kaem-Makam, who keeps property registers according to the Tabo system in use under the Ottoman Empire. The following is noticeable:

- Until 1995 cadastral surveyed (recorded) surfaces were about 5160 square kms, thus forming around 49% of the Lebanese territory.
- Delineated surfaces with drawn plans, but uncompleted cadastral maps: about 1310 square kms, around 12% of the territory.
- Marked out areas only: 1970 square kms, about 19% of Lebanon.
- Non-delimited areas, where any cadastral survey has been undertaken: 2000 square kms, about 20% of Lebanon, mainly in mountainous areas.

4.3 JOINT OWNERSHIP

Any building or group of buildings built on the same plot of real estate on Lebanese territory can be subdivided according to the decree-law 88/83.

The established principle is that title-deed holder of a floor or an apartment is the sole owner and as such his rights are absolute with respect of the other co-owners in the building.

According to article one of the decree-law 88/83, each real estate owner is held to report to the Land Register, in details the constructions built on his estate. Once the building is divided into floors and apartments, certain areas are assigned to the private use of each of the co-owners, while other areas remain for common use.

The Private areas are assigned to the private use of co-owners. They are allotted a specific sequential number on the other hand, the Common areas are the tangible real estate properties: such as the land, exterior or carrying walls, entrances, stairwells, elevators, etc. and the fixtures, which are the unbuilt grounds and underground, garages, janitor's lodge, roads, gardens etc. Common areas are necessary allotted the number one.

Ownership of common areas is part of the ownership of private areas, but cannot be divided or disposed of independently of the latter. A separate title is not issued for number one.

In case of the presence of more than three private owners, management rules and regulations should be established, and certified before a Notary Public and published in the real estate register. These rules include a description of the building, a listing of the common areas and the type of management incumbent to the board of co-owners who designate a manager or a committee to whom they delegate all or part of their powers.

The law regulates subdivisions of a building or of buildings located on the same plot of real estate through the undertaking of the following procedures:

1) The request is submitted by the party owning at least 2/3 of the shares along with:
   - The certificate of occupancy,
   - The subdivision plan on scale (1/200°),
   - The real estate taxes receipt,
   - The co-ownership management rules,
   - The listing of co-owners identities.

2) After the registration of the request in the land register the file is transferred to the cadastral office for study, survey and approval or rejection.

3) If approved the subdivision plan must be published at the real estate registry, which then issues a title for each lot.

Recommendations

The adoption of decree-law 88/83 was beneficial because it reduced hazards stemming from the rule of real estate's indivisibility. However, it was noticed that the renovation of decaying buildings was almost always blocked, due to several factors among which figure:

- The absence of qualified management syndicates
- The absence of objective maintenance standards
- The inefficiency and dilatoriness of judicial authorities
- The war and economic recession.
- People's reluctance to pay their financial dues

It is hoped, that adequate measures will be taken to create and promote management companies, acting according to a code of conduct and objective standards pre-established by the government and aiming to the preservation of what can be considered as national patrimony.

Real estate management increases the value of estates, and enhances their development for it has a threefold purpose:

- First, a commercial target by promoting apartments, offices and business premises for potential buyers, thus encouraging transfers.

- Second, providing technical maintenance for buildings, in order to preserve their value.

- Third, managers may undertake administrative action for debt's recollection, settlement of disputes, insurance policies, etc.

4.4 MIXED REAL ESTATE COMPANIES

Following the widespread destruction that occurred during the war, and the important economic, social and juridical problems that resulted, it was almost impossible to proceed with urban planning, rehabilitation and reconstruction without exceptional measures and new mechanisms.

To carry out the implementation of imperative urban planning regulations in certain areas, zoning law n°69/83, considered the possibility of forming joint real estate companies enacted by decree issued by the Council of Ministers.

Furthermore, the D/L n°5/77 concerning the Council of Development and Reconstruction, was amended by law n°117/91 which broadened its purpose and allowed it to undertake rehabilitation of heavily damaged areas through public or mixed companies whose articles of incorporation would be issued by decree adopted by the Council of Ministers at the suggestion of the President's Council.

4.4.1 Object of the real estate company

The object of the real estate company is:

- To develop and rebuilt one or more destroyed areas in the area placed under its supervision in accordance with the provisions of a plan. The guiding layout duly approved includes the restoration of the existing buildings and selling them, and selling, as well, the replanned lands and properties; construct buildings thereon and sell, lease, exploit, or manage and maintain them.

- To finance and ensure the execution of infrastructure works in the areas where the real estate properties are located.

- To bank up part of the seaside at the locations which will be agreed upon with the Lebanese Government by virtue of an agreement to be drawn up by the C.D.R and ratified by a decree adopted by the Council of Ministers pursuant to a proposal presented by the Minister of Public Works and Transport and the Minister of Finance in accordance with a plan and guiding layout duly approved. The said agreement shall indicate the preparation of the lands reclaimed by the banking up operation, the financing and execution of the infrastructure work pertaining to them, the acquisition by the company of its share in these lands by virtue of the above mentioned agreement and their selling, as well as the construction of buildings thereon, the selling, leasing, exploiting managing or maintaining these buildings, and generally exercising all proprietorship rights thereon.

4.4.2 Capital of the company

The capital shall be fixed either in Lebanese Pounds or in foreign currency.

The capital shall consist of the contributions in kind represented by the ownership of the real estate properties, the sections of the real estates properties and all the rights pertaining thereto, and of the cash subscriptions, the value of which shall be determined by the Council of Development and Reconstruction, provided that the cash subscriptions shall not exceed in value the contributions in kind.

4.4.3 Priority rights

Priority rights are twofold, priority of subscription to the cash capital when called, and priority of the shareholder within the corporate.

Once opened, subscription to the cash capital shall be made available to the largest number of shareholders.

The right of subscription in the cash the capital shall be limited and priority shall be given, to the subscribers according to the following order:

. The owners of the real estate properties and the section of real estate properties provided to the company as contribution in kind, as well as the owners of rights therein.

2. Lebanese citizens and purely Lebanese corporate as specified by the Law on the Acquisition by non-Lebanese citizens of real estates in Lebanon.

3. The State, public institutions and municipalities concerned.

4. Persons of Lebanese origin, official and semi-official Arab institutions and nationals of Arab countries.

The shareholders benefit of a priority right in case of increase of capital within a three months period. However extraordinary general meeting can totally or partially abrogate this rule to include new shareholders in the corporation.

Lately a decision was implemented authorising non-Lebanese citizens to subscribe to the cash capital of the Lebanese Company for the Development and Reconstruction of Beirut Central District.

The shares are registered, immediately and directly negotiable at the Beirut stock exchange.

4.4.4 Appraisal of real estates and rights

This critical issue, regarding the interests involved and the amounts of money at stake, was regulated by the law n°117/91 and the publication by decree issued by the Council of Ministers, at the suggestion of the Minister of Public Works and the Minister of Finance, of an exhaustive list of the real estate properties and all the rights recorded thereon or pertaining thereto. These decrees shall be published in the Official Gazette and the local daily newspapers.

The estimation of properties and rights is conducted by two commissions one of first instance, and the second of appeal, called High Committee of Appraisal. Both commissions are created by decree and presided by a judge.

Upon completion of subscription to the company's shares, the ownership of real estate properties, the sections of real estate properties, the Business Concerns (Fonds de Commerce), the rights of lease and all other rights shall be ipso facto transferred to the company, at the value determined for them by the High Appraisal Committee.

The meetings of the Committees shall be attended by all their members. Although the decisions are pronounced unanimously or by majority of members, they should relate in details the elements counted for the sake of estimation. According to legal provisions, the presidents of the Commissions, before undertaking estimation, set its rules and basis with the help of experts. The appeal decisions are final without any ordinary or extraordinary recourse even in case of abuse of discretion.

4.4.5 Task of the Commissions

After the final estimation, files are conveyed to committees constituted according to the expropriation law, in order to distribute the estimated value of each estate among: owners, lessees and other interested parties.

In case of dispute, the procedure is the same followed for appeals against the decisions of expropriation commissions.

4.4.6 Rights and obligations of the company

1) The company shall be exempted from the provisions of the first article of the Law concerning the Acquisition by non-Lebanese of real estate rights in Lebanon and relieved from the authorisation to acquire real estate property provided that two third of the Board of Directors are Lebanese and that the articles of incorporation forbid any shareholder from holding directly or indirectly more than 10 percent of the capital. The spouse and minor descendants of the shareholder are considered as one person.

Any contract or act, contrary to these provisions shall be null, void and non-existing, even between the contracting parties. Sanctions are very strict, and contraveners are liable to a fine and to arrest.

2) The company shall benefit from fiscal exemptions such as:

- Duties of Notary Public pertaining to the State.
- Stamp duty on the capital.
- Contributions in kind shall be exempted from all duties of transfer from original owners to the company.
- Direct income taxes for a period of 10 years starting from the date of formation
- Shareholders only in their capacity as shareholders in the company, are exempted from the tax provided for in Section three of the Income Tax Law for the same period.
- The company shall finance and ensure the execution of the construction of roads, public squares and gardens, at the expense of and for the account of the State by virtue of binding agreements with the C.D.R in accordance with the laws and regulations in force and in compliance with the master plan and detailed urban layout duly approved for the area concerned.
- The afore-mentioned areas shall become public domain and shall be replacing counterpart of unbuilt public domain in the area concerned and which will be automatically excluded from the public domain.
- In accordance with an agreement concluded with the Council of Development and Reconstruction and in conformity with the laws and regulations in force, the company may for the account and at the expense of the State, finance and ensure the execution of the infrastructure works, such as the water system, the electricity, telecommunications network, sewage and drainage systems, roads, sidewalks, lighting poles, garages and all other public facilities and installations in the area falling within the boundaries of the company's domain.

Finally, by virtue of an agreement to be concluded between the company and the C.D.R and after approval of the Council of Ministers, the company may be compensated in cash and/or in ownership of parcels and/or their exploitation.

4.4.7 Application

Actually three real estate corporations have been formed:

1. Solidere, approved by decree n°2537 dated July 22, 1992 is in charge of the reconstruction of down-town Beirut.
2. Linord, approved by decree n°7840 dated November 6, 1995 is in charge of the reconstruction of the southern suburbs of Beirut.
3. Sidon, approved by decree n°7593 dated December 4, 1995 is in charge of the planning and reconstruction of the Sidon area..

Almost the same provisions apply to the three companies with some different characteristics and specific priorities for each one.

Recommendations

While advocates maintain that mixed real estate companies are the only viable solution to such an intricate problem such as the destroyed down-town of Beirut for example, critics of the Solidere Plan perceive it as a land grabbing scheme dispossessing legal owners without properly compensating them, and thus tampering with the very principles of ownership. Linord and Sidon have generated their share of controversial discussions as well.

Recommendations concerning mixed real estate companies as approved by the law are:

- The need to respect of the right of ownership. We wonder to which extent the replacement of real estate right by shares is constitutional for shares specially when given mandatory may loose their value on the stock's market.

- The adoption of a master plan that protects historical sites and environment and avoid land speculation.

- The need to pay a fair compensation in case of expropriation of legal owners (considering the vast sums paid by SOLIDERE to evacuate illegally occupied buidings)

- The right to real estate owners to reclaim their properties when the rehabilitation is over at preferential conditions.

- The need to levy tax from those real estate companies for there is no justification from exempting them from taxation specially the income tax and taxes on shares' dividends.

At another level, the financing of low-cost housing can be helped by the mobilisation of capital and family savings, the formation of real estate companies and partnership between interested parties such as the inheritors, co-owners of the same real estate properties, when these properties have been damaged during the war.

4.5 ASSOCIATIONS

The professional associations created by virtue of specific laws that regulate their formation and statutes, such as the Order of Lawyers, Doctors, Architects, Pharmacists, and others, may undertake the construction of housing units in favour of their members. However such constructions are completed on behalf and for the account of the associations

Also, worthwhile mentioning are the housing projects initiated by some religious orders aiming at providing low-cost dwellings for their members. It is important that such housing projects provide also socio-cultural equipment as well as recreational areas for the beneficiaries.

4.5.1 Cooperatives

The inadequacy of public financial resources to meet the level of demand for housing loans for low income groups is the main factor contributing to the inability of public agencies to cope with the housing crisis.

However, informal financial sources through private and semi public institutions such as credit cooperatives and associations, or real estate companies, may offer some solutions to fill the existing gap. The adoption of incentives helping these institutions to fulfill their aim is of utmost importance.

4.5.2 Housing cooperatives

The housing cooperatives in Lebanon are governed by the law dated September 17, 1962, decree n°17199 dated August 18, 1964, and decree n°2989 dated March 17, 1972.

A cooperative is a non-profit partnership of individuals with undetermined capital, aiming to improve its members well-being. It is considered to be a legal person and as such, is allowed to own property, to deal and receive donations.

The object of cooperatives is the construction of housing premises according to in force legislation, that shall be exempted from charges such as:

- Stamp duty on contracts purporting to the sale or rent of built apartments,
- Income tax on profits earned by the sale or the rent of apartments,
- Tax on the interest of mortgage claims.

The capital of the cooperative shall be divided into indivisible shares in unrestricted number which may be increased or reduced. The shares are in registered

form and cannot be transferred or sold without the approval of the board. No shareholder may own more than one fifth (1/5) of the cooperative capital.

A cooperative is ruled by its charter, and is subject to book-keeping. It must be registered at the Ministry of Housing and Cooperatives.

4.5.2.1 Categories of cooperatives

Co-operatives are either of limited or unlimited liability.

a) Limited liability cooperatives, in which the shareholder's liability is limited to the shares owned by him.

b) Unlimited liability cooperatives, in which the shareholders are personally and jointly responsible for the financial and commercial obligations, even after the liquidation of the co-operative.

4.5.2.2 Formation of cooperatives

The formation is subject to the obtaining of a license. It must have a minimum of ten members. The request for a license is filed at the ministry of Housing and Co-operatives.

The request should bear the following mentions:

- A list of the names of applicants and of their chosen mandatory, signed by all.
- The name of the co-operative, its object, address, location of activity and the date of the statutory meeting of founders which must be held two months away from the application.
- The names, forenames, ages, addresses and occupations of the founders.
- The number and value of shares.

The administration has a two month delay to answer. Three situations may occur:

a) Approval of the request:

The founders must submit a receipt ascertaining the deposit of the entire value of the shares at a bank or at the ministry of Finance in the name of one of the founders, for later transfer to the co-operative after its formation.

b) Refusal of the request: In this case, applicants have two options:

- Objection within a delay of two months after notification.
- Recourse before the State Council within a delay of two months after notification, or appeal following the objection within the same delay.

c) No reply: after the two month delay:

The request is considered as approved *de plano*; the founders may then proceed with the formation.

The formation of the co-operative is subject to publication in the Official Gazette, and to registration at the Ministry of Housing and Co-operatives.

Anyone wishing to form or join a co-operative must meet the following conditions:

- Geographical and professional link to the co-operative's object.
- Not to be a member of a cooperative with identical objects (chiefly credit).
- Be over 18 years of age.
- Be accepted by the board within a month of application.

Legal persons fulfilling these requirements are entitled to membership.

4.5.2.3 Fiscal dispositions

Cooperatives are exempt from the following taxes:

A) *Municipal taxes*:
- On publicity
- On building permits
- On technical survey statement
- On rental value
- On water and electricity.

B) *Various expenses*:
- Official Gazette publication fees
- Laboratory exam fees in public institutions.

C) *Indirect taxes*:
- Stamp duties on loan contracts and annexed documents.
- Court fees and stamp duties on law suits brought by or on co-operatives.

- Transfer and mortgage taxes, stamp duties.
- Road taxes on vehicles owned by the co-operative.

D) *Direct taxes*:
- Land taxes on buildings owned and used by the co-operatives.
- Transfer taxes on donations, aids and wills.
- Income tax, including the interest on loans, (co-operatives are not held to declare their income).

4.6 RECOMMENDATIONS

- Encouragement and stimulation of housing co-operatives as a cornerstone for providing of housing for low-income groups.

- Encouragement of saving trends among low-income groups, in order to enhance their ability to own and maintain their own houses.

- Targeting government and public-sector personal, as a limited income group that forms a major part of the society, when channelling low-cost housing finance.

- Enhancement of co-operation between organisations and agencies active in urban development on the one hand and low income groups on the other, in order to facilitate administrative procedures involved in securing loans for the acquisition, maintenance and upgrading of houses.

THE FISCAL POLICY

5. THE FISCAL POLICY

The fiscal system is the tool that allows the Government to weigh on the construction sector.

Fiscal regulations intervene into the most important elements of construction, such as the land-price, which is relatively high in Lebanon, and the cost of labour and material.

Major taxes levied on housing are:

5.1 BUILT PROPERTY TAXES

The built property taxes are levied on:

1- All kinds of buildings all over the Lebanese territory.
2- Annexes to building and additions
3- Landlord's fixtures and land considered as such according to the law provisions

5.1.1 Temporary exemptions

1- Residential units built for destitute and low income people are exempted from taxes for a period of ten years.
2- Buildings with red bricks roofs, under certain terms and conditions, are exempted from 50% of the taxes, for a period of 10 years starting the date of completion of works, providing the exemption for each unit does not exceed 500,000 LP.

5.1.2 Chargeable income

Tax on built property is based on rental income. Thus, the evolution of the two sectors is connected, the higher are the rents, the higher are the taxes. However, the collectorship of taxes decreased because of:

1. the Government policy to block the rents,
2. The destruction of many villages and constructions,
3. The squatting of houses following the war, and the illegal constructions built without permit.

The taxes shall be levied on the total net revenues, real or assessed, pertaining to the year preceding the year of assessment whether the building is vacant or inhabited with or without consideration of money.

The real net income is the difference between gross revenues and the deductible items as specified pursuant to the registered lease contracts and other documents presented by the owner or the investor.

5.1.3 Deductible charges

They are:

1- Telephone, water, and electricity subscriptions.
2- Governmental and municipal taxes levied on the lessee.
3- Common service, charges and expenses such as the lift maintenance, the central heating, the hot water, the central air-conditioning and the watchman.

5.1.4 Non deductible expenditures:

- Interests on funds used for the construction of any kind of building.
- Expenses used to improve the building or its exploitation.
- Compensation paid to leaving tenants.
- The built property taxes or any other tax or duty on buildings.
- Any expenses outside the services provided to the tenants.

5.1.5 Special deductions

- A sum of two million LP shall be deducted from taxable incomes, for each housing unit occupied by its owner or any of the co-owners.
- 50% of the net incomes which exceed 2m LP. The total deductions in the two above mentioned items my not exceed four million LP.
- Shall benefit from reduction the occupant owner proportional to his share in two housing units only, irrespective of the number of housing units he occupies.

5.1.6 Calculation of tax rate

The tax levied on the total of net annual income accruing to individual taxpayer from all built properties or shares or sections in each Mohafazat separately, at the following rates:

- 4% for the portion of income not exceeding 20,000,000 LP.
- 6% between 20,000,000 LP and 40,000,000 LP.
- 8% between 40,000,000 LP and 60,000,000 LP.
- 10% for the portion exceeding 60,000,000 LP.

No surtax is added.

5.2 TRANSFER TAXES ON PROPERTY

Transfers of real estate are duly registered in the Land register whether the transfer is by death, donation or sale.

Transfer taxes are ad valorem duties, proportional to the value of changes of ownership deeds, of constituting chattel mortgage and garnishment, partitions, registration or removal of mortgages, sales etc.

Rates are calculated on the basis of the declared value of the acts, they vary between 0,5 % and 6 %, depending of the kind, purpose and gratuity of the deed.

A voucher with three copies is issued by the qualified Chief of Real Publicity. The interested party has a three days delay to pay the fees, under penalty of loosing the right of priority granted by the registration in the Journal record at the Land register.

For the built properties, taxes are computable with regard to the rental value. The charges are calculated by multiplying 20 times the rental value, when this figure is superior to the price mentioned in the contracts.

Along with the afore-said formality, other documents are necessary for the performance of the transfer of built properties:

- A municipal quietus
- A tax quietus on the property
- A certificate of servitude and alignment
- A certificate of occupancy

These documents are provided by the seller.

The registration duties paid by the buyer are the following:

6 % registration fees on the basis of the value of the contract
5 % municipal tax based on the value of the registration fees, i.e. 3 per thousand of the transaction value
3 per thousand stamp duties also based on the value of the transaction.

5.3 LOCAL HOUSING TAXES

The local taxation is stipulated by article 2 of D/L n°68 dated August 5, 1967, and is additional to the other charges levied by the State on behalf of the municipalities.

The main local taxes are:
- The taxes on rental value,
- The building permit taxes,
- The taxes on public meeting places and clubs,
- The taxes on fuel stations
- The taxes of sewage and pavement (footpath, kerb)

5.3.1 Rental value taxes

These taxes are levied on buildings and their outlying accessories, on an annual basis, according to a scale that varies whether for housing or business premises, from 6% to 10% of the net annual income of built properties.

The net income is either obtained by the declared income in the lease, or determined directly by the fiscal administration. It involves determining the gross income then deducting all expenses for services to the lessees within the limits allowed by the tax laws.

This tax is paid by the occupant, whether he is the owner or the tenant. The occupant is considered to be each person who exploits a building by owning it, hiring it, furnished or not, renting it to others, etc. It is calculated on the basis of the real or estimated rental value. The rental value includes:

All the rents, of buildings, frontages, terraces and all their equipment. The rent of the services the owner provides the lessee, such as the heating, the air cooling, the hot water, etc.

The basis of assessment is the amount of the rent agreed upon in the contract concluded between the lessor and the lessee, when it can be ascertained, otherwise, the municipality proceeds to estimate the rent, usually in cases that appear suspicious or have abnormally low declared rent with regard to its market value.

The owner should notify the municipality about the occupancy status of the building and any modification, within a period of one month. This statement mentions for example, the number of the plot, the addresses of the owner and the occupant, the use, and the amount of the rent.

Exemptions of rental value taxes are granted to charity and relief committees, orphanages, hospitals, homes, diplomatic and consular offices and houses, and non governmental organisations.

5.3.2 Taxes on building permits

These taxes are levied at the delivery of the permit of construction of any kind of building. It is a proportional tax, varying from 1,5% to 2% of the selling price of the square meter. Surfaces such as elevators, machinery rooms, water tanks are not computed within the constructed surfaces, unlike balconies, terraces or stairways.

Work such as restoration and refitting of buildings without addition of new structures, and fence construction, are subject to a lump sum tax.

Other work as the renewal of tiling, the change of electrical and sanitary systems are exempted of this tax.

5.3.3 Taxes on public houses and games clubs

Clubs and meeting places are subject to a license tax and an operating tax. Public houses are, hotels, casinos, bars, restaurants, tea saloons, cinemas, theatres, beaches, etc. Games clubs are mainly, hippodromes, shooting clubs, etc.

The license tax is paid only one time at the occasion of the beginning of the business, whereas operating tax is due annually. Taxes are also paid on entry tickets.

5.3.4 Taxes on fuel distribution

Gas stations are also subject to a license tax and to an operating tax on each petrol pump.

5.3.5 Sewage and pavement taxes

Buildings that must be connected to the sewage system are submitted to these taxes, for the construction and maintenance of sewers and side-walks.

These taxes are paid at the delivery of the permit of construction, (of refitting). The tax rate is actually, 1,5%.

Built or unfinished (under construction) buildings are chargeable for the construction and the maintenance of sewage and side-walks.
Buildings which were not subject to these taxes under previous laws, will become chargeable.

Recommendations

The real estate sector is considered to be a major source of public income. Thus, property transfer and real estate dealings, building permits taxes, and taxes on rental values to name a few are providing billions of Lebanese Pounds to the Treasury. Moreover, real estate owners or concerned parties usually comply with all the required formalities in spite of administrative hassles, in order to protect their patrimony and properties.

The provisions of taxation laws have always been compelling, but nowadays the administration is enforcing the collectorship in parallel with the reckoning of tax penalties when delays imparted by the laws are overrun. Unlike, income tax on companies, it is almost impossible to escape real estate taxes because they form tangible of which control is easier. Added to that, the quietus requirement's forces owners to pay their overdue taxes as well as the current ones.

Enforcement of tax collecting is noticeable, where the basis of the taxes are tangible assets.

Although, authorities have undertaken serious efforts to modernise their services, by reorganising and computerising the real estate administration suffers from enormous corruption.

Fiscal incentives to encourage the payments of duties are mainly:

- The prolongation and renewal of deadlines for the payment of taxes and duties.
- The adoption of tax reduction for people who were forced to leave their houses during the events,
- Providing a 10% tax reduction for those who pay their dues, as well as the exemption of overdue fine, etc. Especially, that some of those tax exemptions are not applied. Exempla: The exemption of tiled roof's buildings was never applied since its inception.
- The main residence is to be exempt permanently from the property tax.
- Resorts and leisure housing are to be taxed more heavily.
- Deductible charges are to be updated regularly in terms of percentage and nature.
- Some expenditures should be deductible.
- A certain percentage of real estate taxes is to be dedicated to building social housing.

REAL ESTATE LOANS GUARANTEES AND DEBTS COLLECTION

6. REAL ESTATE LOANS GUARANTEES AND DEBTS COLLECTION

The legislation related to the sale or transfer of property is of the utmost importance to any policy encouraging access to housing ownership for there is a need to guarantee private as well as public loans through registration in the Land register. The different regulations stipulate the means of mortgage registration as well debts collection.

Collection of debts depends upon the kind of collateral that guaranties it. Thus, recovery is easier when the debt is secured by self enforced and direct collateral, otherwise it is necessary to go to court to carry out distraint proceedings, cost and duration of which depend on the sort of safety. As such there are two sorts of collateral: directly enforceable and those which require judicial recourse.

6.1 SELF-ENFORCED COLLATERAL

6.1.1 The guaranty upon first request

This guaranty is issued by a bank, that binds itself to pay whenever an event occurs, or a term is fulfilled, independently of the initial debenture. The bankers commitment to pay is direct with the creditor. The creditor reclaims the payment following a formal procedure approved by the interested parties.

6.1.2 The cash deposit

Deposited money is paid by the bank whenever the debtor fails to pay.

6.1.3 The sale with privilege of repurchase

Article 473 C.O.C, stipulates that the sale with privilege of repurchase or with right of redemption is that by which the buyer undertakes, after the perfect sale, to return the thing to the vendor against repayment of the price. The privilege of repurchase may not be stipulated for a term exceeding three years, dating from the sale. If a longer time limit has been stipulated it shall be reduced to three years.

The thing sold becomes by the fact of the sale, the buyer's property on condition of repurchase, if the vendor does not meet the conditions stipulated for the restitution of the thing the buyer remains its owner. If on the contrary, these conditions are met, the thing is supposed never to have ceased from belonging to the vendor.

In any case throughout the period of this time limit, or until the exercise by the vendor of the privilege of redemption, the buyer enjoys the thing as proprietor. The vendor may exercise his action against a new buyer. The privilege to repurchase is exercised by notification from the vendor to the buyer.

When the object of the sale is real property, although a transfer tax of 6% is due at each transfer of property, the advantage remains that the proceedings is immediate and extra-judicial.

6.2 DIRECT ENFORCEABLE COLLATERAL

6.2.1 The mortgage

- ***Definition***

Mortgage is a real right on a property, assigned to secure a debt. Being indivisible it remains over the secured estate and over each of its portions following it in any transfer. Mortgage's noticeable characteristic is the non-dispossession of the debtor, thus allowing him to pay his debt.

The preferential and indefeasible rights of a mortgagee pertaining to mortgaged estate, replace the interdiction to dispose and the possessor lien.

The purpose of the mortgage should be defined as well as the claim it guarantees; it is published upon registration at the Land register. The right is substantiated by the issuing of an enforceable title calling for enforceable payment, which may be endorsed.

- ***Mechanism***

In case the mortgage debtor fails to pay on term, mortgagee can directly distrain upon the debtor before the Executive Bureau where the property is located, without judicial recourse. The debt collection then proceeds through several stages:

- First, a request is applied before the Chief of the Executive Bureau, attached with the enforceable title and claim of seizure of the real property.

- On receipt of the request the judge orders the distraint of the realty and notifies his order to the Land register and the debtor. In the meantime he summons the latter, through the clerk of the court, to pay within five days. At the time of notification the clerk draws up a descriptive report of the real estate.

- Within five days of its notification the Land register notifies the Executive Bureau about any entries and obligations burdening the estate, including details of the actual distraint.

- At the expiry of the five day delay, and the notification of the Land register, the Chief of the Executive Bureau may proceed with the seizure, unless the debtor pays.

- The clerk, prepares the articles and conditions of the auction within eight days of the afore-mentioned descriptive report.

- Three days later, the clerk sends notifications to the debtor and all interested parties to allow them to put their observations and comments by request or to present their objections on the form and substance, within five days of their notification.

- Ten days following the last notification the Chief of the Executive Bureau will hand down his decision on the case and take the adequate measures for the proceedings.

- The sale by auction takes place during a special session of the court that can fix the minimum bid. Adjudication goes to the highest bidder.

- Afterwards, the court distributes the price among mortgage creditors according to their priority, within ten days of the auction.

- Finally, every interested party has a delay of five days to give notice of appeal against the distribution made by the court.

• Application and mortgage loans

This summary description shows the important role mortgage deeds can play regarding housing loans. Since real property is protected by registration and publicity, and the proceedings directly carried out before the Chief of the Real Estate Registry, the risk for the creditor is worth taking.

Fees and taxes of distraint proceedings are relatively high, around 5% of the claim, added to the expenses of specifications of the auction and cadastral duties; however the debtor bears these expenses.

The task of the mortgage is to enable the loaner to collect his claim, in that regard, the guaranty must not only be real but also undisputed, by registration at the land register.

The collateral which is the guaranty itself, serves the purpose of ownership by being the instrument for credit, the goal of said credit being ownership. Thus, enacted to property, credit must not undermine it.

Therefore what credit and collateral should preserve are the owner's rights to use, possess and dispose. Credit undermines property when it leads to expropriation. This happens when the rewarding of credit added to the capital, absorbs all that property can give, and when the refunding of the loan is difficult. Expropriation is a serious breach of the right of disposal. It should remain a threat, and not a purpose, otherwise credit would miss its social target to help property by preserving it.

Payment is connected to the measures of enforcement that secure it. Along with encouraging the credit, one must not forget that the debtor is as concerned by refunding the loan as the creditor, it allows him to pay less interests without being expropriated. Repayment is the willing execution of the debtor's engagement, therefore, it should be assorted with easy terms and spread over a long period for amortisation of the loan.

For that purpose, a collaboration is necessary between the State and loan societies or banks to help in the payment of secured debts. Loan banks were implemented by decree n°3290 dated September 23, 1930, which was only applied for a short period. There was another attempt through the agreement with the Agricultural and Industrial Credit Bank dated November 5, 1942, to help farmers obtain loans.

The market lacks important elements such as long term credit at reasonable interest rates, and developers operating throughout the country with modern methods.

Until recently, the only credit available to home-buyers was from developers. Buyers signed sales contracts on properties still under construction, they would deposit a down payment and pay the balance in instalments by the time the construction was completed. Facilities ranged from six months to several years, or until the completion of construction. The buyer received little or no guarantee from the developer in return.

Courts are littered with disputes over deferred payments, delayed transfers, delayed completion of works and cheating.

Actually the housing loan market is developing with private banks offering long term consumer loans, with relatively low monthly payments. Beside the interest payments determined by banks, borrowers are facing a number of unexpected transaction costs. Such as, application fee which also vary from bank to bank; commission on the loan; appraisal cost, since the applicant must pay the cost of the visit of appraisal of the property by a specialist; fiscal stamps of 0.3 per cent; life and housing insurance; penalties in case of delayed or missed monthly payment; and mortgage fee.

6.2.2 *The bei-bil-wafa*

The *Bei-bil-wafa* is the sale of a property with the condition that at any time or fixed term the vendor can take back the thing against return of the price, and the buyer requires the refunding of the payment by the restitution of the thing.

Although this mechanism looks like the sale with right of redemption, and the living pledge, there are some differences:

A) Tax's rate for the publicity of the BBW at the real estate registry is 1%, instead of 6% for the sale with right of redemption.

B) In the contract of BBW the vendor can occupy the building as a lessee according the terms of the contract, whereas in the afore-said sale, the vendor keeps the *fructus*.

C) The right of repurchase is limited to three years whereas the BBW, exists for an unlimited period of time.

D) In a BBW, the creditor may require the property of the building only if it is specifically stipulated in the covenant's terms and providing the debtor had given him an irrevocable proxy at the time of the contract.

Even though it is rarely used, the BBW is an excellent measure of guarantee, because the creditor has a right of retention stemming from the repayments due to him, unless the parties agree that the debtor keeps on occupying the house as a tenant. In such case the contract is called *the bei-bil-istighlal.*

When the debtor fails to pay on term, and if he did not agree at the time of the contract, to release the thing to the creditor, the latter may proceed to the sale by auction, following the same herein above proceedings.

6.2.3 *The living pledge (antichrèse)*

The living pledge is a contract by which the debtor gives possession of his property to the creditor or to a third agreed party. This covenant gives the creditor a right of retention until the wiping out of the debt, or the right to proceed to legal expropriation.

This pledge leads to the dispossession of the debtor, and to the sale by auction in case he fails to pay on time.

6.3 SECONDARY COLLATERAL

6.3.1 *The surety or personal guarantee*

The surety is a contract by which a person binds himself towards a creditor to perform the obligation of the debtor, if the latter does not discharge it. Surety may exist solely for a valid obligation, it is not presumed; intent to stand surety must be the clear outcome of the deed.

Surety must be formally accepted by the creditor. Surety may be a term surety, that is to say for a certain time, or for a certain date. It may be contracted for part of the debt only, or on less onerous conditions.

The difference with the guarantee upon first request is that the commitment to pay of the person who stands surety is fulfilled only if the debtor fails to pay, whereas the guarantee upon first request is independent from this obligation.

Court proceedings to enforce the contract are fastidious and can take many years (art. 1072-1075 C.O.C). Because the surety is entitled to exception of discussion, and division of its commitment. The surety may demand at the start of the instance and before any meritorious defence, that the creditor discusses beforehand the main debtor on his estate, movable and immovable.

6.3.2 *The Joint guarantee*

It the same as the afore-mentioned, except the surety does not benefit from the exceptions of division and discussion.

6.3.3 *The promise to sell*

The promise to sell is a contract under which a person undertakes to sell a property at a certain price. It should be registered at the real estate register for opposability. The promise is opposable to third parties for fifteen years.

When the debtor fails to pay on term, the creditor has to declare an option. A 6% tax is then due; however the procedure is not automatic, a judicial recourse is necessary if the promisor does not proceed to the final registration.

It is possible to change the promise into a self enforceable collateral by establishing an irrevocable mandate to a third person with the obligation to sign and proceed to the transfer on behalf of the debtor, whenever he does not meet the condition of payment.

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