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REAL ESTATE

THE 2018 COALITION AGREEMENT – REAL ESTATE LAW

With a budget of EUR 4.0 billion and an extensive chapter of its own on planned projects and legislative changes, construction and housing comprise one of the central issues in the coalition agreement.

House building

At the heart of the provisions on real estate is the planned “housing offensive” legislative package which is supposed to promote the creation of 1.5 million new apartments and privately owned homes. The exact structure is still unclear, but taken as a whole, the housing offensive should be good news for the construction and real estate industry.

In particular, financial incentives are planned for property ownership in the form of tax relief and premiums, such as “Baukindergeld”, which would provide tax allowances to promote home ownership for families with children. Additionally, the introduction of a tax allowance for real property tax is to be reviewed. For privately financed housing construction, tax incentives are also to be created in the form of a special depreciation which will be effective up to 2021.

The municipalities are to be empowered to levy a real property tax C, subjecting unused building land to higher taxes in order to achieve more rapid development. However, it remains to be seen whether this will actually prevent speculations or, on the contrary, actually benefit them; such a tax had already been introduced in the 1960’s but it was abolished very shortly thereafter.

Climate protection

Other positive aspects from the standpoint of the real estate sector are the streamlining and simplification of regulatory law, the planned balancing of CO2 reductions on the district level, as well as an improved tax incentive for energy-efficient building renovations, providing a right to choose between a subsidy and a reduction of the taxable income. Additionally, the provisions of the Energy Savings Ordinance (EnEV), the Energy Savings Ordinance Act (Energieeinsparungsgesetz) and the Renewable Energies Heat Act (Erneuerbare-Energien-Wärmegesetz) are to be consolidated into a Building Energy Act (Gebäudeenergiegesetz).

Rent

The coalition agreement also provides for changes in lease law. Specifically, in areas in which a cap applies, the modernisation surcharge is to be reduced from the current 11% to only 8%; moreover, the monthly rent there may not be increased by more than three euro per square metre of residential area within six years. It remains to be seen whether this will slow down investments; however, the planned regulation has already been criticised as disproportionate. Moreover, this could undermine the climate protection objectives.

As far as the perennial issue of rent control is concerned, a divided picture emerges. The suitability and effectiveness of rent control as a whole are supposed to be evaluated by the end of 2018, so there is hope for improvements in this regard, but at the same time the regulation is to be made more stringent in that lessors will be obliged to provide information on the previous rent, and the requirements for lodging a complaint regarding the amount of the rent are to be eased. It remains to be seen what position the Federal Constitutional Court will take on rent control.

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