

TAX AND LEGAL ADVICE

Framework for renting your home to tourists

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The Canary Islands have long been established as one of the most relevant holiday destinations in Europe due to the weather and because of the wide range of accommodation services available in the archipelago.

It is well known that the main economic activity of the Canary Islands is focused on tourism, and that there is a notorious increasing demand of real estate investment made by foreign people with the purpose of having a second home in the Canaries and, in addition, to intend such real estate to be used for tourism accommodation.

Thus, the possibility to carry out the activity of 'Holiday Rental' is one of the main goals pursued by many investors in the Islands. The Holiday Home meets the growing need of family-orientated tourism, those who prefer to stay in private housing units, away from hotels and holiday resorts with a predefined service, and even helping to stimulate diverse areas of rural tourism.

With regard to the normative regulation applied to the so-called 'Holiday Rental' it is worth mentioning that a large number of regions in Spain have regulated this accommodation modality, although in the Canary Islands this regulation has been suffering amendments and some of them of major relevance.

In the eighties, a 'Holiday Home' was considered by law as any housing that, regardless of its furniture condition, equipment, facilities and services, is offered for rent for holiday and tourism purposes. In order to perform this activity, it was only necessary to communicate it to the corresponding Island Council.

In 2010, the Government of the Canary Islands specifically excluded 'Holiday Homes' from the accommodation modalities permitted in the Islands, leading to the initiation of numerous sanction procedures. However, the activity continued its development.

In the light of this reality, the Government of the Canary Islands approved on May 28, 2015, the 113/2015 Decree by which the Regulation for Holiday Homes in the Autonomous Community of the Canary Islands is approved. A fact that is not exempt from controversy. The Body in charge of granting the authorisation for the development of the rental of holiday homes corresponds to the Island Councils.

The application of said Decree was paralysed by the Government on September 9 of 2015 due to the pressure established by the National Commission for Markets and Competition, among others, since the rules included in the Decree were absolutely restrictive and disproportionate concerning the requirements demanded of the owners of the properties and the areas in which the activity would be permitted.

Later, the abovementioned Commission filed an administrative appeal before the High Court of Justice of the Canary Islands against several articles

of the Vacation Decree, which has been recently admitted for processing.

Among those restrictions we can find the express exclusion from the scope of the Decree to those houses located in tourist zones, areas

eral requirements which set limits to free competition and the development of the tourist accommodation offer in the Archipelago.

However, this paralysis status of the Decree does not imply in any case its derogation, it is

ism of the Canary Islands, and the complaint forms, the poster and the inspection book will be given to the responsible person.

Moreover, prior to the occupation of the house, it is necessary for the user and

trative procedure, requiring in all cases a large number of documents, such as a certificate from the Town Hall to locate the property in order to determine whether the same is in the permitted territorial area (outside the tourist area) without having issued under any circumstances the express resolution for the Rental of Holiday Housing. Thus, the competent authority would be ignoring the express regulation that imposes the obligation of the Island Council to proceed with the registration of the holiday home within fifteen days from the submission of the declaration of responsibility, regardless of the later inspection or verification.

For all of the said above, there is no doubt that the situation clearly reflects the legal uncertainty established with the 'paralysis' of the Holiday Decree, without an effective solution in the short term due to the passivity of the competent authority, generating insecurity in the owners of the homes destined for this activity.

Cabrera Rodríguez Lawyers and Tax Advisers is working on the legal status of vacation homes, receiving and analysing all the new developments in the field with the purpose of adequately informing our customers of everything that might happen, in view of the relevance of this issue in the Canary Islands.

We are available for any consultation, in which case you can kindly contact us on the email address: info@cabrerarodriguez.com or visit our website: www.cabrerarodriguez.com. ■



↑ Cabrera Rodríguez has offices in Santa Cruz and Adeje

or urbanisations that, due to their nature, are a usual location of holiday housing. This shows the disadvantage of the holiday rental against the traditional hotel accommodations. In addition, the possibility of renting individual rooms is also excluded. Finally, regarding the minimum equipment for the rental of the holiday home, the Decree requires certain equipment completely unnecessary and out of proportion, compared to traditional tourist accommodation.

For this reason, the regulation contained in the Decree is considered to impose sev-

eral requirements which set limits to free competition and the development of the tourist accommodation offer in the Archipelago.

However, this paralysis status of the Decree does not imply in any case its derogation, it is still in force and under application so that, currently, the requests submitted before that paralysis time are still being processed by the different Island Councils. As a preliminary step to the start of the activity, the owner of the house, or the entity responsible for its operation, must formalise a declaration addressed to the relevant Island Council which reveals compliance with the requirements of the law. The Island Council will enter automatically, within a maximum period of fifteen working days, the information on the operation of the holiday home, in the General Registry of Tour-

ism of the Canary Islands, and the complaint forms, the poster and the inspection book will be given to the responsible person. Moreover, prior to the occupation of the house, it is necessary for the user and

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Legal certainty and tax efficiency are our patterns



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