

## LAWS

According to the Thai applicable law, the construction restrictions on land located in Tambol Kok Kloy, Amphur Takuatung, Phang Nga Province, are governed mainly by the application of the following laws and specific ministerial regulations enacted under such laws:

- (i) Building Construction Control Act B.E. 2522 (1979), Ministerial Regulation determining the condition of prohibiting construction, modification or use of certain buildings or types in some areas of Amphur Karuburi, Amphur Takuapa, Amphur Tai Muang, Amphur Muang, Amphur Takuatung and Amphur Kor Yao Phang Nga Province B.E. 2544, issued by virtue of the building Construction Control Act B.E. 2522 (“**Building Construction Control Act**”)
- (ii) Town and City Planning Act B.E. 2518 (1975) and the Ministerial Regulation of the common Town and City Planning for, Kok Kloy and Tai Muang, Phang Nga Province B.E. 2553 (2010), issued by virtue of the Town and City Planning Act B.E. 2518 (“**Town and City Planning Law**”)

## LEGAL ANALYSIS

### **1. Building Construction Control Law**

We have examined the record regarding the Lands and discussed the restrictions of construction for buildings under the Building Construction Control Act with the competent officers of Kok Kloy Sub-district Administrative Organization (“**OrBorTor**”).

According to the Building Construction Control Act, please be advised that the land can be classified into three (3) areas as follows:

- (1) **Area No. 1** is the area of 75 meters measured from the Phang Nga coast line to the land;
- (2) **Area No. 2** is the area of 150 meters measured from the boundary of Area No. 1 to the land;
- (3) **Area No. 3** is the area of 300 meters measured from the boundary of Area No. 2 to the land.

*Note: Coastline shall be based on the natural highest sea level.*

According to the Building Construction Control Act, we summarize the construction restrictions as follows:

#### **A) AREA NO. 1**

Any building is prohibited to construct except:

- (1) A single one level building which its height is not more than 7 meters with a space under building having height no less than 0.80 meters. The total building area is not more than 90 square meters. The building shall keep a space between each building not less than 4 meters and not less than 2 meters away from other people's lands. There must be an empty space around the building not less than 75% of the land. The building must be situated from the coastline at least 30 meters.
- (2) Swimming pool which its height is not more than 1 meter and must be situated from the coastline at least 30 meters.
- (3) A dam, path or drain pipe, fence or wall which its height is not more than 2 meter with a transparent material.

**B) AREA NO. 2**

The following constructions are not allowed:

- (1) Buildings taller than twelve (12) meters;
- (2) Factories;
- (3) Theater;
- (4) Terminal;
- (5) Large buildings which have the total area of each building exceeding 2,000 square meters;
- (6) Markets which have the total area of all buildings exceeding 300 square meters or has the distance away from another market of less than 50 meters;;
- (7) Petrol or gas stations;
- (8) Petrol or gas storages;
- (9) Clinics which have beds for patients to stay overnight;
- (10) All types of billboards except a billboard which shows the name of the place and has the height of not exceeding 12 meters;
- (11) Buildings that is mostly built from impermanent or flammable materials, except one-story houses which have a height not exceeding six (6) meters and of a distance away from the other buildings of no less than five (5) meters;
- (12) Row houses or commercial buildings;
- (13) Buildings which have an empty space with less than 60% of the total area of the land;
- (14) Building which has a distance away from the other buildings less than 2 meters;
- (15) Buildings or a part of buildings which are to be used as a warehouse for commercial or industrial purposes with a total area exceeding 100 meters;
- (16) Warehouses to store agricultural products;
- (17) Crematories or cemeteries;
- (18) Buildings or a part of buildings which are to be used as a warehouse for commercial or industrial purposes;
- (19) Building to store hazardous substance.

**C) AREA NO. 3**

The following constructions are not allowed:

- (1) Buildings with the height exceed 23 meters;
- (2) All type of factories, except factories that does not create annoyance;
- (3) Buildings or a part of buildings which are to be used as a warehouse for commercial or industrial purposes with a total area exceeding 200 meters; and
- (4) Buildings which have an empty space with less than 40% of the total area of the land.

Please be advised that the buildings in the above areas are not allowed to have the basement. Moreover, the building must have a roof with the deeply pitched roofs are required to be furnished according to Thai architecture, tropical architecture, vernacular architecture, or the local architecture. Roof space shall not be less than 80% of the space of the entire building, and roof colors shall be in harmony with natural surroundings, i.e. brick, baked clay, browns, greens, greys, etc.

**2. Town and City Planning Law**

To determine the application of Town and City Planning Law and related subordinate regulations, we discussed the location of the land with the competent Town and City Planning officer.

Based on the documentation at Phang Nga Provincial Town and City Planning Office together with verbal information given by the competent officers, we were advised that the lands are located in area of a “Rural and Agricultural Area: Green Zone” may only be used for the following purposes:

1. Agricultural purposes;
2. Government institutions; and
3. Public utility purposes.

Landowners are permitted to utilize land for “Other purposes”, provided that such utilization does not exceed 20% of the total area of the Green Zone.

Green Zone” may not be used for the following purposes:

1. All types of factory as determined by Factory Law, except the local factories being utilized for the purposes of waste disposal;
2. Fuel depots, fuel stations, and fuel storage facilities under Fuel Control Law, except fuel stations;
3. Gas storage facilities under Fuel Control Law;
4. Breeding and raising horses, cows, buffalos, pigs, geese, ducks, chickens, snakes, crocodiles or animals under the law regarding the preservation of wild animals and prevention of their use for commercial which are located at a distance of one thousand (1,000) meters from the sea.;
5. Theater;
6. All kinds of land allocation except for residential purpose where the single building shall have the land area not less than 100 square wah and shall have the vacant space not less than 40% of the land;
7. Residential or commercial purposes in buildings that are considered to be High-rise Buildings or Large Buildings;
8. Residential or commercial purposes such as row houses or commercial buildings;
9. Residential condominium buildings, units, or dormitories;
10. All residential purposes except the residential purpose where the total area of the project does not exceed 100 square meters;

### **QUERIES**

We refer to our meeting dated 12 March 2019 requesting our advice on the Land’s utilization potential:

#### **(i) Construction of the Plunge Pool and Related Structure**

According to the Building Construction Control Act, the constructions of followings are considered as the building and required to obtain a construction permit:

1. Containers with the capacity exceeds 100 cubic meters;
2. Outdoor swimming pool with a capacity exceeds 100 cubic meters;
3. Crib walls/ flood walls with the height exceeds 1.50 meters;
4. Structure for radio/television transmission with the height exceeds 10 meters and weight exceeds 40 kgs.; and
5. Structure with the height exceeds 10 meters.

Please be advised that it is not restricted to have the plunge pools outside the villa provided that such plunge pool is having a capacity less than 100 cubic and situated outside the building. However, in any case, Iniala shall maintain the vacant space as abovementioned rules.

We have conducted a discussion with the officer on a no-name basis in terms of plunge pool situated on the roof; however, we are waiting for the confirmation in this matter.

#### **(ii) Alluvion**

Alluvion can be defined as an imperceptible gradual increment in the area of land due to sediment, which is deposited on a shore or bank of river, by the force of water. According to Section 1308 of the Civil and Commercial Code, the owner of the land increased by alluvion is entitled to the addition.

Please be informed that, any building that is constructed or modified close to a public road which is less than six (6) meters wide shall be set back by at least three (3) meters from the center of the public road.

For any building that is greater than two (2) stories or eight (8) meters in height, or any row house, terraced building, townhouse, commercial building, factory, public building, signboard or structure for signboard attachments or installations, or warehouse that is constructed or modified close to a public road:

- (i) if the width of the public road is less than ten (10) meters, then the building shall be set back by at least six (6) meters from the center of the public road.
- (ii) if the width of the public road is greater than ten (10) meters but less than twenty (20) meters, then the building shall be set back by at least ten percent (10%) of the width of the public road.
- (iii) if the width of the public road is greater than 20 meters, then the building shall be set back by at least two (2) meters from the public road.

We have conducted a legal research on the law concerning restriction on the alluvion such as construction material, level of the building, we found silent on the restriction. However, we have also conducted a discussion with the officer on a no-name basis in terms of the construction on the alluvion, we are waiting for the confirmation in this matter as well.