

Department of Infrastructure and Planning Aruba

Option requirements for projects with commercial, touristic or industrial purposes

Option

The acquisition of the right of leasehold for a plot of domain land for commercial, touristic or industrial projects proceeds via an option procedure. The right of option gives the option holder the right to have first choice to a leasehold agreement with the government of Aruba with regards to a specified parcel of land for a specific project under certain conditions. This option is regulated in chapter IA of the National Ordinance issuance of property (AB 1989 No.GT 21) and is effected by a Ministerial Decree.

The granting of an option

Applicant is primarily required to direct his/her official request to the attention of the Minister in charge of Infrastructure via the Director of Infrastructure and Planning in order to obtain the right to the leasehold land. In the abovementioned request the following points have to be complied with:

1. A description of the project (on two A4 pages)
2. The type of project (for example lumber processing company, supermarket, condominium, hotel, etc.)
3. The specifications of the required parcel of land (in square meters)
4. Preference of location (two alternatives)
5. The intended investment in Aruban Florins
6. Type of Financing (Bank Guarantee)
7. If possible, architectural drawings

After the request has been submitted an evaluation and administrative assessment will take place according to the FIFO procedures (order of handling according to submission date of request) pertaining to the information provided in the request. Upon the evaluation and administrative assessment it will be determined if the request can be considered for the concession. Thereafter a Ministerial Decree conceding the option for the parcel of land will be drafted. The right to the option will lapse if the Ministerial Decree granting the option is not collected within one month of the date, as well as non-compliance with all the requested documents as stipulated in the option decree, and in case the submitted papers are rejected.

Duration of the option

The right to option is tied to or valid for a defined period in order to give the option holder the opportunity to work on his/her plans and make the necessary preparations. The Ministerial Decree granting the option details the duration of the option. In principle the option has a duration of 6 (six) months. An additional extension of the option period with a maximum of two times 6 (six) months is possible depending on the nature of the project and only in case the extension is requested before the expiration of the first and/or the second option period. In the event that the option holder does not request extension of the option then the option right will legally be void after lapse of the option period, with the result that the long lease right will not be granted.

Conditions pertaining to the granting of the long lease land by option holder

Under Article 25a of the State Decree Property Rights (LUE) AB 1989 no.GT21, the Minister in charge of Infrastructure, is authorized to grant option on the issuance of long lease land stipulated by

conditions the Minister deems necessary for each particular case. The right of option will void if these conditions/requirements are not met with or not adhered to, with the result that the long lease right will not be granted.

Required documentation

The following documents have to be submitted for approval by the Minister in charge of Infrastructure within the first option period:

- a. A layout of the project;
- b. A detailed construction drawing required for the request of a building permit; Which should prove that the project in question fits the surrounding , all this in consultation with the Department of Public Works (D.O.W.)(complying also with the other requirements);
- c. A feasibility study of the project;
- d. A specification of the investment pertaining to this project;
- e. A clearly defined description of the financing of this project providing authentic guaranteed proof of Financing¹;
- f. A construction schedule clearly describing startup and finalization of construction;
- g. An Environmental Impact Assessment report (MER rapport)²;
- h. A Social Economic Impact Assessment (SEIA);

Other requirements

The option holder is personally responsible for any other relevant permits which are required for the construction and exploitation of the project. The Building Permit requesting approval, and permit for the construction, has to be submitted to the Department of Public Works (D.O.W.) within the granted option period. The document confirming application for the building permit and a copy of the construction drawing required for the prospective building permit should also be submitted to the Director of the Department of Infrastructure and Planning within the stipulated option period.

The option holder is obliged to make a social contribution to a social group in the community of Aruba for a minimum of 5 0/00 (0.5 percent) of the investment amount pertaining to the project in question. The option holder cannot derive any rights from the aforementioned.

The preliminary ground works for the project, namely the designing and detailing of the building plans and the actual construction of the project, should be carried out by local companies. Construction plans and technical drawings should be certified by a local architect and /or engineer.

Bank guarantee

The right to the leasehold land will not be carried out even after all the conditions and requirements are complied with until the option holder has placed an irrevocable bank guarantee amounting to 10% (ten percent) of the investment for the construction of the project in the name of the legal entity of Aruba. This irrevocable bank guarantee should be placed with a local bank. The original copy of the guarantee should be presented to the Director of the Department of Infrastructure and Planning at the latest two week prior to execution of the notarial deed for long lease land.

¹ Foreign financing is not acceptable.

² Applicable to major projects such as Hotels, Condominiums, Treatment and Waste Processing Plants etc.

Costs

All (preliminary, measurement, administrative and other) costs pertaining to the right of option will be the responsibility of the option holder.

Option fee

The option fee pursuant to Art.25 C of the State Decree Property Rights (LUE), amounts to 3% of the land value on a yearly basis, which should be paid within a month after the decision to grant the petition.

For more information please contact:

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For the Law (in Dutch) you can refer to: “Landsverordening Uitgifte Eigendommen“ (AB 1989 no.GT21).