



Dr. Michael Hule.



Dr. Christian Nordberg.

Serviced apartments and student housing: What to look out for as an investor

Real estate law is an integral part of the Vienna-based law firm Hule Bachmayr-Heyda Nordberg. Partners Dr. Michael Hule and Dr. Christian Nordberg outline the important aspects of the increasingly popular investments in student housing and serviced apartment projects.

TEXT: MARILENA STRACKE | PHOTOS: HULE BACHMAYR-HEYDA NORDBERG

Dr. Hule and Dr. Nordberg give an insight into why these types of real estate investments are becoming more popular amongst investors.

“The increasing popularity is due to the higher returns such properties generate. Tenants pay monthly rents starting from 600 euros for units no larger than 20 to 25 square metres, fully furnished, with Wi-Fi and TV, lounge, laundry service and sauna. However, in order to secure the higher returns, the property has to comply with a variety of legal requirements,” the partners explain.

They continue: “It is of great importance, whether the Austrian Tenancy Act (‘Mietrechtsgesetz’) applies to the tenancies or

not. If it applies, the landlord’s freedom to determine the relevant aspects of the rental contract is significantly restricted. That includes a limitation of the maximum permitted rent, the possibility to pass over operating costs to the tenant or to limit the duration of the contract. Moreover, the right to terminate the tenancy agreement is bound to material grounds. The Austrian Tenancy Act exempts student and serviced apartments from the scope of its application, provided however that certain conditions are met. In addition to the letting of the flat, the landlord has to offer services to the tenants, such as cleaning services, catering, bedding, amenities, etc. The courts take a strict approach when ruling on exceptions to the tenancy act. Offers of cleaning services, provision of bedding or some

form of catering are indicators for such an exception according to the Supreme Court. It does not matter if the tenant actually uses those additional services. Moreover, a fixed all-inclusive rent (including all operating and service costs) is an important criterion for a serviced apartment – without replacing the other requirements! In addition, the landlord has to hold a pertinent business licence, which leads to various commercial law obligations.”

The partners summarise: “This is in fact a highly attractive but also regulated business, which needs to fulfil the legal requirements. Therefore serviced apartments can only be let outside the tenancy law and achieve those higher returns if the mentioned conditions are met.”

Hule Bachmayr-Heyda Nordberg helps investors to comply with the law and develop a successful real estate business with this new investment trend.

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