

Real Estate: Hot Topics For Residential Properties

Our legal advice for your project



YOUR PERSPECTIVE
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360° advice throughout the entire life cycle of residential real estate

GSK Stockmann is the leading **one-stop law firm** for advice on all aspects of real estate law. With our **360° approach**, we provide comprehensive support in all kinds of commercially and legally challenging business endeavours in connection with residential real estate. Our well-connected and perfectly coordinated team of lawyers in this sector covers all relevant areas of law, from the **planning and construction phase**, to **asset management and transactions**, as well as **financing and tax issues**.



Transactions



The focus of our advice is based on an accurate understanding of the core commercial aspects of your transactions and the pragmatic legal implementation. With the **largest team of real estate lawyers in Germany**, sufficient capacity and an in-depth expertise, we are also well equipped to support high-volume, complex and time-sensitive transactions.

In addition, many of our lawyers are recognised as **leading advisors in the real estate and transaction sector**, and many of them have specific expertise and an outstanding track record in residential real estate. At all times, you can therefore rely on our comprehensive **expertise and experience**.

Special Housing Concepts

Micro living (boarding houses, PBSA, serviced apartments) and **senior living** (assisted living) are both examples of special housing concepts in a highly regulated environment. Due to our extensive and thorough specialisation, GSK Stockmann is regarded as Germany's leading law firm in these areas. Our experts have a keen understanding of the ways in which you can **optimise** your projects from both a **legal and commercial** perspective. For this reason, we support investors and project developers in the development, acquisition and sale of their properties. In addition, we also advise on various legal issues relating to ongoing asset management for these special housing concepts.





Rent Adjustments

The German Civil Code (BGB) provides a variety of options for rent adjustments:

- **Graduated rent** (Sec. 557a BGB) or **indexed rent** (Sec. 557b BGB) agreed in the lease contract,
- **Individual addendum** to the lease agreement
- Rent increase due to **modernisation measures** (Sec. 559 BGB)
- Adjustment of the rent to the **local comparative rent** (Sec. 558 BGB).

Any restrictions, such as rent controls, as well as any statutory exceptions must be taken into account when adjusting the rent.

Graduated and indexed rent



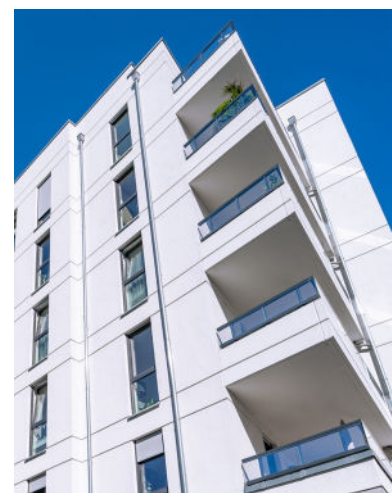
With a **graduated rent** (Sec. 557a BGB), rent increases are agreed as fixed monetary amounts at specific intervals in the future. These increases may only be made once a year.

If an **indexed rent** (Sec. 557b BGB) is agreed, the rent is adjusted depending on the consumer price index (CPI). To be effective, such indexation clauses must comply with certain legal requirements, in particular shall be agreed in writing. Furthermore, **upwards-only clauses**, which only allow for rent increases but not reductions, are not permitted. The rent may also only be increased once a year and the landlord is obliged to inform the tenant of the increase at least in text form.

Adjustment in line with reference rent customary in the locality

The landlord is entitled to request the tenant's consent to a rent increase to adjust with the **local comparative rent** for equivalent housing in the municipality or comparable municipalities, provided that the agreed rent has remained unchanged for **15 months** (Sec. 558 BGB). The **rent cap**, which generally prevents rents from being increased by more than **20%** or even **15%** within three years, must be respected.

Any demand for a rent increase must be declared and justified to the tenant in text form. The landlord has the right to sue for the tenant's consent to the rent increase, provided that the legal requirements are met.



Modernisation measures

If modernisation measures have been carried out, the landlord may increase the **annual rent by up to 8%** of the costs incurred for the rented premises (Sec. 559 BGB). This includes, for example, energy-related modernisation measures, the sustainable reduction of water consumption, the installation of fibre optic connections, as well as lasting improvements to living conditions and the creation of new residential space.

Costs for any **conservation measures** (maintenance and repair) must be deducted from this amount. An increase in the monthly rent by a **maximum of EUR 3 per sqm** is generally permitted within six years.



Rent control



The German federal state governments are authorised to designate certain areas as “**tight housing markets**” where rents must be kept in line with the **local comparative rent** (Sec. 556d BGB). Where the rent control provisions apply, rents that exceed local comparative rent **by more than 10%** are not permissible unless one of the following exemptions applies:

- new-build apartments within the meaning of Sec. 556f BGB,
- the apartment is being let for the first time after **extensive modernisation**,
- the **previous rent** was higher,
- **modernisation measures** within the meaning of Sec. 555b BGB were carried out within three years prior to the start of the tenancy.

The landlord is obliged to **inform** the tenant if one of these exemptions applies before the contract is concluded and provide **information** upon request during the tenancy.

Environmental, Social, Governance (ESG)



Identifying, evaluating and taking into account the extensive European and national **ESG regulations** is an increasingly complex challenge. We regularly advise our clients on all legal and tax issues in this regard, such as

- planning and construction of **green buildings**, implementation of **green lease clauses** in lease agreements and **ESG clauses** in service and work contracts,
- planning and installation of **PV systems** and **e-mobility charging infrastructure**,
- **smart metering**, monitoring of **stranding risks**,
- planning and implementation of **neighbourhood and mobility concepts**,
- development of **social housing**,
- **CSRD** and **EU taxonomy requirements**.

State Subsidies

Creating affordable housing in cities is one of the key socio-political challenges facing the real estate sector. In light of rising financing and construction costs, developers and buyers are showing an increased interest in **subsidised housing** as an attractive form of investment.

There are numerous different (state-specific) legal and technical requirements for subsidised housing. It is therefore important to carefully analyse the eligibility for subsidies before starting construction or concluding a purchase agreement to avoid **concluding contracts that are detrimental to such subsidy**. When purchasing subsidised properties, various obligations towards the **subsidy authority** shall also be observed and the economic effects of this need to be understood and priced in.



Data Protection



Significant amounts of **personal data** of tenants and other persons (e.g. other residents or visitors) are processed in the course of residential letting, particularly if **contracts are concluded digitally**.

In addition, more and more data is being processed, especially in connection with **modern housing concepts** (e.g. as part of digital locking systems, camera systems or tenant apps).

This results in numerous **data protection requirements**, for example in relation to information and documentation obligations or with regard to the specific organisation of data flows or the contractual involvement of (technical) service providers.

Persuasive Competences



Largest real estate team in Germany



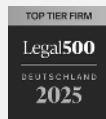
Notarial services



360° real estate advice in all relevant areas of law



Awards



- **LEGAL 500:** “Top law firm”
- **Juve Top 50:** “Commercial Law Firm in Germany”
- **Winner of the European Real Estate Brand Award 2024 and 2025**



Leading law firm for real estate law

Law firm of choice for real estate law, project development, private and public construction law as well as real estate finance with around 250 lawyers, 120 of whom practice in the real estate sector.



Seven locations

GSK Stockmann has seven offices located in Germany, Luxembourg and the United Kingdom.



Local know-how

We have an excellent network in the residential real estate sector and in the key real estate hubs. Thanks to our local presence, our expertise is always within easy reach of all project participants.



Real estate transactions, development and asset management

We support clients with real estate developments and transactions of any kind, size and complexity, as well as asset management, to the highest quality standards with our pragmatic legal advice.



Part of the residential real estate sector

We are involved in expert forums, interdisciplinary platforms as well as industry associations and contribute our expertise to discussions and legislative initiatives.



Notarial services

In addition to our legal advice, we also have our own notary's offices in Frankfurt and Berlin.

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