

Kindly advise us on the following please.

We are in the process of rezoning and subdividing land in one District with the intention of building a retail component and a housing complex. We have earmarked a separate portion of this land for a resort to accommodate various activities like swimming pools, putt-putt courses, train accommodation and a conference centre. The idea of the resort and conference centre is to create greater job opportunities in a town where the unemployment rate is about 70%. The whole development approval would be subject to how many jobs will be created, hence the idea of the resort.

This whole piece of land has currently a liquor restriction registered in the Title Deeds dating back to the year 1896 ("The sale of intoxicating liquor on the said property is prohibited") This clause was registered in the Title Deeds by the then owner of the farm to prevent anybody else from selling liquor as he had opened up a hotel and needed to maintain a monopoly.

Because we do not

- (1) wish do be involved with any liquor whatsoever and
- (2) we lack the expertise to operate and run a resort and conference centre and
- (3) we have sought opinion on the viability of a resort and conference centre where no liquor is served or sold and was advised that it would not be viable to market it as a "halaal" resort as the non muslims would not support it as they require liquor to "bond" for meetings and conferences.

Because of the above, we have decided to sell off the land earmarked for the resort and conference centre. It is unlikely that we will find a buyer to purchase the land if there is a liquor restriction registered on it.

We would like to know from a Shariah perspective if we can apply for the **lifting of the liquor restriction only** registered in the Title Deeds. **We wish to make it very clear that we are not applying for a liquor license and will in no way motivate or support the application to the granting of a liquor license** by the purchaser of the land.

Reply

Bismillahir Rahmaan-ir Rahim

Alhamdulillah, I read your question which comprehensively established your noble intentions and reason to sell the land.

Firstly, your motive was justifiable since you were convinced that prohibiting the consumption of Haraam in the proposed development would not allow it to be financially viable within the segment of the market and economy concerned.

Secondly, the sale of land itself is Halaal, and may be required to compensate shareholders and other partners who have ventured to purchase it for investment or other reasons.

Thirdly, the elimination of the liquor prohibition on the land in terms of the title deeds is not something that you or any Muslim is happy about but has become an

essentiality to enable the sale of the land. Neither any Muslim would be intending by such an act to promote the consumption of any intoxicants or Haraam activity.

Fourthly, the elimination of any restrictions in terms of alcohol would not necessarily imply that the next investor or the prospective purchaser of the land would definitely use the land for any development that would encourage or definitely allow for the consumption of alcohol. Even, if this was definite, then also the sale of the mentioned land within the economy concerned as an essential market and investment necessity that has to be allowed otherwise no Muslim would be allowed to sell his home or business to any non-Muslim since the latter category will most definitely consume Haraam meat or other Haraam products on the same premises even if they do not consume alcohol.

Fifthly, most land in the country is sold without the imposition of such legal restrictions on the land. This does not imply that we, as Muslims, are encouraging Haraam since we did not attempt to gain the imposition of such restrictions on the land or property before selling it.

Sixthly, living in a non-Muslim state, does not allow us to impose Islamic preferences in an area of public domain. There requires to be a level of consideration of the rights of others immaterial whether we reject or differ with their activities.

Imam Abu Hanifah sanctioned the sale of grapes to a wine producer since the sale of grapes is by itself a Halaal contract. He viewed that what the wine producer subsequently did was the latter's own problem and affair. Other Imams viewed such a contract impermissible on the basis that Allah prohibits us from assisting in evil "Ta aawanoo alal birri wat taqwa wa laa ta aawanoo alal ithmi wal udwaan". This was a case where the wine producer would definitely use the grapes to produce a Haraam product.

In the case at hand, you in no way whatsoever are encouraging wrong.

It is thus my considered opinion that it is allowable and permitted to eliminate such a restriction for the purpose of gaining the ability to market the land that may otherwise become a financial burden in terms of taxation and maintenance. You also have the need to re-imburse investors.

Jazakallah

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Presently doing Shariah Research for Channel Islam International - A satellite based Radio Station.

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