

Real Estate

Lawyer Monthly focuses on real estate, and the legal implications surrounding it, by speaking to Wolfgang Müller and Christian Eichenberger of Meyerlustenberger Lachenal.

Please tell me a little about your firm.

As one of Switzerland's leading law firms with offices in Zurich, Geneva, Zug and Lausanne, Meyerlustenberger Lachenal is present in the most important economic centers in Switzerland. In addition, we operate an office in Brussels to assist our clients with their needs as related to EU regulation. We are a full service law firm.

One of our key strengths is real estate. Our broad-based expertise in all fields of real estate law is cemented by our involvement in the boards of directors of major real estate companies and in professional organisations such as the Association of Business Tenants or the Royal Institution of Chartered Surveyors (RICS). The close collaboration of our experts in real estate, company and tax law when planning transactions and setting up real estate holding structures guarantees optimum results.

Our expertise is focused in the following areas:

- Purchase and sale of real estate and real estate portfolios held directly or via real estate companies, in particular by non-Swiss companies and real estate funds (we have recently advised on the sale of parts of a shopping center with a transaction value exceeding CHF 240 million)
- Advice on company law and tax law issues related to real estate holding structures
- Assistance in tender procedures
- Advice regarding subcontractor and general contractor agreements
- Representation in rental matters, in particular in complex and protracted cases and before the relevant courts and authorities
- Advice and representation in planning and zoning law matters
- Representation of clients (in particular, investors, contractors and buyers) in real estate dispute resolution

Dr Wolfgang Müller MBA is a partner and Dr Christian Eichenberger LL.M., MRICS, is senior associate in Meyerlustenberger Lachenal's real estate department. Both have in-depth experience in the above mentioned areas of real estate law.

Loans are becoming more and more difficult to find as banks are still reluctant to lend money, how has this impacted the real estate industry?

The situation in Switzerland was different than in other countries; in Switzerland, it was always possible to get a reasonable mortgage. However, some banks tended to lend money too easily. Consequently, concerns were raised (in particular by the Swiss National Bank) that the expansive mortgage credit policy of some banks could contribute to a bubble in the real estate market. For this reason and given the persistence of the low interest rate environment further measures were introduced in 2014. The countercyclical capital buffer for banks was increased as of 30 June 2014 from 1% to 2% of the risk-weighted positions secured by residential property situated in Switzerland. In addition, banks will have to adhere to harsher self-regulation rules regarding loans for residential property as from 1st September 2014. Hence, banks were in the recent past and are expected to be even more so in the future forced to be more reluctant to lend money. The anticipated and desired result of such reluctance – a slowdown – is at least for some areas of the residential property market widely considered to be a positive development.

Is investor appetite growing in your country, and if so, why do you think this is and can it continue?

Investor appetite continues to be strong in Switzerland. It may depend on the sector the investor focuses on and on the strategy the investor pursues. In the recent past, uncertainties around the so-called Lex Koller and the second home initiative, together with the regulatory measures described above, have certainly led some investors to be more reluctant. Although real estate markets in other European countries have taken up speed, demand for Swiss properties is expected to remain strong.

Do you foresee any changes in legislation for the real estate sector?

Yes, there have been many changes recently and we expect the activity of legislators to persist in the future. Recent changes in legislation were related to such important issues like environmental law, second homes and planning and zoning law.

As to second homes, for example, an amendment to the constitution was adopted on 11 March 2012 according to which no more than 20 per cent of all residential units and the gross residential floor area in any municipality may be used as second homes. On 9 February 2014, the Swiss Federal Council submitted a draft federal act providing details regarding the implementation of the constitutional amendment on second homes to the Swiss Parliament for debate and approval. The draft law was heavily criticised by the promoters of the constitutional amendment. Discussions and debates regarding the respective changes in legislation will therefore be going on for the next months to come.

What were the key trends with regards to the investment in commercial real estate in 2013, and how are they shaping up for the rest of 2014?

In Zurich the trend that significant companies moved their operations out of the city center persisted in 2013 and may continue to have an impact on the achievable rents for the rest of 2014. **LM**

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