

# INFORMATION

## PROPERTY INVESTMENT BY FOREIGNERS IN MALAYSIA

A GENERAL GUIDELINE

Compiled By

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P R O P E R T I E S**

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# TYPES OF PROPERTY

## 1) Developments In Progress

Common for developer sell properties before building.

- **Residential Properties**

- Governed under the **Housing Development (Control & Licensing) Act 2005 (“HDA”)**.
- Mandatory to use standardized Sale and Purchase Agreement (“SPA”) from HDA.
- Payment of purchase price is periodic and by installments based on stages of work done and
- Completion of SPA is within 24 months (houses) or 36 months (apartment / condominium) from date of SPA.
- Memorandum of Transfer will be executed upon issuance of title to the property.

# TYPES OF PROPERTY

## 1) Developments In Progress (continues...)

- **Commercial Properties**

- A standardized format of SPA is adopted but not a mandatory form like the Residential Properties.
- Payment of purchase price is periodic and by installments based on stages of work done and
- Completion of SPA is usually within 36 months from date of SPA.
- Memorandum of Transfer will be executed upon issuance of the title for the property.

# TYPES OF PROPERTIES

## **2) Completed Properties**

Houses or commercial properties buildings that are completed.

- Terms are usually “as is where is basis”
- Residential properties not governed under HDA.
- Commercial properties are also not governed under HDA.
- Payment of purchase price is usually within 3 months from date of SPA.
- Completion of SPA is usually upon full payment and then ownership of property is transferred.
- Memorandum of Transfer will be executed simultaneously upon execution of SPA if title is available.

## LOCAL TERMINOLOGY TO DESCRIBE SOME TYPES OF RESIDENTIAL PROPERTIES

- 1) **Bungalow.** A detached house on its own land.
- 2) **Semi-D.** Short for semi-detached house and refers to a house joined to another. Two houses make up one building.
- 3) **Terraced.** Several units of houses that adjoined on both sides with each other where the end or corner unit connected on one side with usually some land space.

## LOCAL TERMINOLOGY TO DESCRIBE TYPES OF RESIDENTIAL PROPERTIES

- 4) **Apartments / Condominiums.** Multi-storey building or buildings comprising accommodation parcels within a land with shared services and facilities.
- 5) **Gated & Guarded Community.** Generally refers to houses guarded with security system and perimeter fencing for the surrounding development and usually with some shared services or facilities.

# CATEGORY OF LAND

Properties can be:

- 1) **Freehold** – held in perpetuity; or
- (2) **Leasehold** – land owned by the state and leases are for a term of usually for 60 or 90 years. Renewal of leases is fairly easy for further equivalent term with payment of premium to the State.

Foreigners can acquire both freehold and leasehold Properties.

# Documents of Title

Freehold or leasehold Properties are either issued with:

- 1) **Individual Title** – issued under the **National Land Code 1965 (“NLC”)** for land, houses, commercial properties that are commonly not multi-storey; or
- 2) **Strata Title** – issued under the **Strata Titles Act 1985 (“STA”)** Commonly issued for multi-storey buildings eg. apartments, condominiums, commercial properties and now even for houses in gated and guarded communities.

Both types of titles have same legal status and rights and are protected equally under the NLC.

# WHAT PROPERTIES CAN FOREIGNERS ACQUIRE?

- All residential and commercial properties EXCEPT these types which are **restricted**:
  - 1) Low and medium cost properties as determined by the State Authority;
  - 2) All properties built on Malay reserve land;
  - 3) Properties allocated to Bumiputera (Bumiputera quota) in any property development project as determined by the State Authority;
  - 4) Stall and service workshop; and
  - 5) Agricultural land developed on the basis of the homestead concept.

# Approvals To Be Obtained

## 1A) Foreign Investment Committee (“FIC”).

- a) Any acquisition by Foreigners requires FIC approval.
- b) Requirement of FIC approval is **EXEMPTED** if property is residential accommodation and the price is above RM250,000 each. There is no restriction to the number of acquisitions made.
- c) All other types of property (eg. commercial unit, agricultural land, industrial property, property through public auction) **REQUIRES** FIC approval for each unit acquired regardless of price and FIC may impose some conditions on the applicants.

# APPROVALS TO BE OBTAINED

## !B) **Application for FIC Approval**

- a) Submission of standard forms, copies of agreements, copies of passports, titles and declaration letters.
- b) Solicitors will provide services in the applications and submission to FIC.
- c) Decision of FIC will usually be known within 1 month from application.

## 2A) **State Authority (Section 433B NLC)**

All property acquisitions by foreigners **requires** approval from State Authority.

# APPROVALS TO BE OBTAINED

## 2B) **Application for State Authority Consent**

- a) Land rules varies from state to state in Malaysia.
- b) Standard forms, payment of registration fees (about RM150 to RM500) and consent approval fees (from RM1,000 to RM10,000 depending on state).  
Payable to the State.
- c) Solicitors will usually provide services in application for State Authority consent.
- d) Decision of State Authority will usually be known within 2 to 3 months from application.
- e) If consent not obtained, SPA will be terminated and moneys usually refunded without interests.

# BANK FINANCING FOR FOREIGN PURCHASER

- Local or foreign based Banks offer loan packages.
- Currently, loan are available between 60% and up to a maximum of 90% of the purchase price of the property.
- Loan approvals subject to the foreign purchaser's financial standing.
- Loan will be disbursed to Developer or owner of property upon satisfaction of all documentation, payment of the difference between the purchase price and loan amount granted and commonly upon payment of fees (legal, bank's processing fees, registration fees and property taxes).

# FEES AND PROPERTY TAXES

Purchasers will pay the solicitors for the following upon acquisition of any property:

1) **Legal Fees** for:

- Sale / Transfer Documents
- Security / Loan Documents

Value of Property / Loan	Scale of Fees
1 <sup>st</sup> RM150,000	1% (min. of RM300)
Next RM850,000	0.7%
Next RM2,000,000	0.6%
Next 2,000,000	0.5%
Next RM2,500,000	0.4%
If excess of RM7,500,000	Negotiable but not exceeding 0.4% of such excess

# Fees and Property Taxes

*(Continuation...)*

## 1) **Legal Fees** for:

- Sale / Transfer Documents
- Security / Loan Documents

(If property purchased from Developer / Loan granted to purchase property from Developer)

Value of Property / Loan	Scale of Fees
RM450,000 or below	RM250
Between RM45,001 to RM100,000	75% of scale fee (i.e. less 25%)
Between RM100,001 to RM500,000	70% of applicable scale fee (i.e. less 30%)
Excess of RM500,000	65% of scale fee (i.e. less 35%)

# Fees and Property Taxes

## 2) Stamp Duty

The following are payable to the relevant authorities:

### a) SPA

RM10 per SPA

### b)

<b>On Transfer of Property - Value</b>	<b>Rate</b>
Up to RM100,000	1.0%
RM100,000 to RM500,000	2.0%
RM500,000 upwards	3.0%
<b>On Principal Loan Sum - Value</b>	<b>Rate</b>
Any sum	0.5%

# Fees and Property Taxes

## 3) Real Property Gains Tax

Any disposal of chargeable assets by Foreigner or Malaysian Citizen has been exempted from Real Property Gains Tax as from 1<sup>st</sup> April 2007.

# THANK YOU

*The information contained has been compiled to be used as a general guideline and reference of the conditions for acquisition of properties in Malaysia by foreigners.*

*It is advisable to seek the advice from solicitors about each individual's circumstances, special requirements and the governing laws and regulations in relation to the acquisition of any property in Malaysia.*