

Commercial Property - Switzerland

Government to Increase Legal Certainty in Real Estate Sector

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Switzerland will be one of the first countries in the world to establish a cadastre in which a significant proportion of property restrictions under public law will be systematically documented and centrally published. Thus, in the field of real estate legal certainty will be strengthened and the acquisition of information simplified. The private sector will save time and costs since the relevant information regarding real estate will be more readily available.

Publicity of Public Law Property Restrictions

At present, all relevant information and restrictions regarding a specific real property deriving from private law such as mortgages, pre-emption rights and servitudes, can be obtained from the land register. On the other hand, public law information and restrictions regarding a real property may derive from a multiplicity of statutes, regulations and governmental restrictions at municipal, cantonal and federal level and are not centrally registered. Therefore, the acquisition of information regarding public law restrictions with regard to a specific real property is time consuming and requires inquiries with various administrative offices. Even after such inquiries, legal uncertainty with regard to the completeness of the acquired information remains.

During the last decade many studies and analyses have been carried out with regard to the political, technical and legal issues surrounding the publication of comprehensive information in relation to each plot of land, including property restrictions under public law. In September 2009 the Federal Council enacted a new ordinance for the introduction of a new cadastre. In the new cadastre, for each real property, the most important public law rules and restrictions will be integrated with binding effect and clearly presented for all interested parties.

Design of Cadastre

The cadastre will merge graphic elements and legal decrees and centrally publish the information in a comprehensible form. On the one hand, a plan will define for which area a specific public law property restriction (eg, a planning zone) applies. On the other, the applicable laws, decrees and regulations (eg, municipal building regulations) will be integrated into the plan, specifying the details of the restrictions and the impact on the respective area.

Thereby, an internet-based illustration service will be implemented, allowing a set of geodata to be displayed, enlarged, downsized, adjusted and overlaid with other information. In summary, the excerpt from the cadastre will comprise:

- general information about the property;
- an illustrated plan with a legend listing each public law restriction;
- links and references to the applicable legal provisions, orders and decrees; and
- the names and addresses of the competent authorities for requesting further information.

A legalized excerpt from the cadastre will be suitable as an official document in real estate transactions certifying the current status and content of the cadastre.

Outlook

In a first phase, of more than 150 possible public law restrictions, the cadastre will include the 17 most important public law property restrictions, including:

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- planning zones;
- building lines and project zones for national roads, railroads and airports;
- environmentally burdened sites;
- ground water protection zones;
- noise protection; and
- forest lines.

In an initial period until 2015, two to five of the 26 cantons will introduce the cadastre. Subsequently, it will gradually be introduced until 2019 when it will apply to the whole of Switzerland.

The introduction of the cadastre will benefit all stakeholders in the real estate market, such as landowners, potential buyers and real estate professionals. Furthermore, it will facilitate the public authorities' duty to inform the public. In particular, the private sector will have access to a single, central, official and reliable source of information regarding public law real property restrictions. The improved availability of information will save time and costs and reduce risks, which is expected to lead to a reduction in mortgage interest rates. In any case, the cadastre will facilitate real estate due diligence considerably and generally increase transparency and legal certainty in real estate transactions and construction projects to the benefit of the Swiss real estate market.

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