

Practical Guide to Buying Residential Real Estate in Japan



ARE THERE RESTRICTIONS ON THE PURCHASE OF PROPERTY IN JAPAN BY FOREIGNERS?

No. However, under foreign exchange rules, the buyer's lawyer must report the transaction to the Japanese government after-the-fact.

HOW IS TITLE REGISTERED IN JAPAN?

Title is registered with the Legal Affairs Bureau ("LAB") having jurisdiction over the property. There are approximately 500 LABs throughout Japan. Because almost all land (by parcel) and buildings (by building) in Japan are already registered with the LAB, title searches are very simple and extensive review of historical documents relating to property is not required.

ARE TITLE DISPUTES COMMON IN JAPAN?

No, because the title registration system in Japan is very accurate, comprehensive and reliable (although it is not 100% complete). Title insurance does not exist in Japan. The most frequent sources of dispute involve inherited property where heirs are not located or disagreement among multiple heirs arises.

IF I BUY AN APARTMENT IN A LARGE BUILDING, WHAT AM I ACTUALLY BUYING?

Under Japanese law, the land and any building on the land are treated independently. Therefore, the owner of the land and the owner of any building on the land could be different entities. However, in the case of a large apartment building, each owner of a unit will often own a pro rata share of the land on which the building sits.

WHAT IS THE ROLE OF BROKERS/AGENTS; WHAT IS THE STANDARD COMMISSION RATE?

While purchase and sale documentation is relatively simple in Japan compared to some jurisdictions, Japanese law requires that a registered real estate agent act as an intermediary for a buyer and prepare the statutory documents explaining all important information regarding the property, including the legal title and the status of the property. Commissions are paid by the buyer and seller each, and the maximum statutory rate is approximately 3% of the sales price plus consumption tax rate (which is currently 5% but will rise to 8% in April 2014).

WHAT IS THE NORMAL PROCESS?

First, submit an Application to Purchase. This is a non-legally binding written expression of your interest to buy.

Second, instruct your lawyer to negotiate a Sales Contract.

Third, sign the Sales Contract and pay a Deposit (usually 10%).

Fourth, close the deal by paying the balance of 90%. Final settlement usually takes place at the Buyer's bank so that the Seller can be confident that the funds have been transferred before signing the final documents.

WHAT ARE THE DOCUMENTARY/EXECUTION REQUIREMENTS (NOTARIZATION, EXECUTION UNDER POWER OF ATTORNEY, COUNTERPARTS, DEEDS, ETC.)?

In general, official documents must be signed with a registered chop. A chop registration certificate is also necessary (for example, for filing an official registration). For foreigners not resident in Japan, a simple signature, together with a signature certificate, is allowed when buying property. However, a chop will be required for a sale. Your lawyers can arrange for a chop to be prepared for you.

WHAT IS THE ROLE OF THE LEGAL SCRIVENER?

A legal scrivener works with your lawyers to check the necessary documents for title registration and files the actual registration with the LAB.

WHAT ARE THE NOTARIZATION, REGISTRATION, STAMP DUTY AND OTHER FEES ASSOCIATED WITH TO PURCHASING A PROPERTY?

Registration taxes are imposed on both the value of the land and the value of the building on that land. This “value” is not the actual sales price, but an assessed value calculated by the local government in order to assess the property maintenance tax.

Real estate acquisition tax is also payable. There are a number of tax exemptions available for residential houses and apartments.

Stamp duty will be charged on the purchase and sale agreement.

The aggregate of these taxes is less than 5% but varies on a case-by-case basis (so, specific details will be provided on request).

MUST I APPEAR AT THE CLOSING?

No. You may appoint your lawyer to complete the transaction under a power of attorney.