Global Corporate Real Estate Guide - Singapore

Real Estate Law

| Contents |
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| To generate table of contents, right-click here and select **Update Field.** |

# What is included in the term “real estate”?

The term “real estate” includes the following:

Land

Any buildings upon the land

All substances under the land

A column of airspace above the land as is reasonably necessary for the owner’s use and enjoyment

Clearly delineated airspace (enabling the ownership of flats)

Subterranean space

# What laws govern real estate transactions?

Property law in Singapore is governed by both common law and statutes. Depending on the nature of the transaction and the type of property, these include the following:

The Land Titles Act 1993 (relating to the registration of titles to land)

The Conveyancing and Law of Property Act 1886 (relating to conveyance of property)

The Residential Property Act 1976 (relating to the restriction of ownership of residential property by foreign persons)

The Sale of Commercial Properties Act 1979 (relating to the sale of non-residential properties)

The Land Titles (Strata) Act 1967 (relating to strata titles)

The Building Control Act 1989 (relating to building works)

The Housing Developers (Control and Licensing) Act 1965 (relating to the licensing and control of housing developers)

The Building Maintenance and Strata Management Act 2004

# What is the land registration system?

There are currently two land registration systems in Singapore – the older common law deeds registration system and the more relevant land titles system.

Under the deeds registration system, interest in land only passes when a deed is signed, sealed and delivered. Registration of deeds under this system is not mandatory, although there are benefits of registration.

In contrast, under the land titles system, registration is mandatory to effect the transfer of an estate or an interest in land. All registration documents must be lodged manually and/or electronically. As of 31 December 2002, almost all land in Singapore is registered under or has been converted to the land titles system. The central feature of the land titles system is the principle that the registered proprietor has “indefeasible title”. This means that any person who becomes the proprietor of registered land will hold that land free from all encumbrances, liens, estates and interests whatsoever except such as may be registered or notified in the land register. This is subject to certain limited exceptions such as fraud or forgery to which the proprietor or his/her agent was a party. Upon registration, the land register (with any manual folio duly authenticated under the hand and seal of the registrar of titles and print-out of any computer folio issued by the registrar bearing a facsimile of the registrar's seal) shall be regarded as conclusive evidence that the person named the proprietor therein is at the relevant time entitled to the estate or interest in the land therein specified and described (Section 36 of the Land Titles Act). Only recognized interests in land may be registered. These include transfers of freehold land, leases, mortgages and charges, easements and writs of execution against a registered proprietor’s land. It should also be noted that interests appearing in the land register shall have priority according to the order of their registration or notification, irrespective of the dates of the instruments by which those interests were created or are evidenced (Section 48 of the Land Titles Act).

# Which authority manages the registration of titles?

Title registration is managed by both the Registry of Deeds under the common law deeds registration and the Land Titles Registry in the land titles system. Both registries are under the purview of the Singapore Land Authority.

# What rights over real property are required to be registered?

Under the Land Titles Act, any transfer of interests and interests recognized by the Act can only be effected by registration.

Interests that may be registered under the Act include:

Transfers of land, mortgages and charges

Leases exceeding seven years

Easements

Restrictive covenants

Caveats

# What documents can landowners use to prove ownership over real property?

Ownership over real property in Singapore can be proven by title documents issued by the Singapore Land Authority. Title is usually issued within seven working days from the date of registration.

Records of ownership of all properties in Singapore are also maintained in the land register, which may be accessed by anyone upon the payment of a prescribed fee.

# Can a title search be conducted online?

Yes. The Integrated Land Information Service (the “INLIS”) offered by the Singapore Land Authority provides a variety of online information relating to the property, including ownership details and encumbrances. It is available upon payment of a prescribed fee.

# Can foreigners own real property? Are there nationality restrictions on land ownership?

Since 1973, the Singapore government has been imposing restrictions on foreign ownership of private residential property in Singapore. Foreigners may not acquire or purchase restricted residential property without obtaining approval from the Minister for Law. Under the Residential Property Act (the “RPA”), a foreign person means any person who is not:

A Singapore citizen

A Singapore company (defined under the RPA as a company incorporated in Singapore and all its director and members being citizens of Singapore)

A Singapore limited liability partnership

A Singapore society

The following comprises restricted residential property:

Vacant residential land

Landed houses with land titles (e.g., a detached house, semi-detached house, terrace house, etc.)

Landed houses with strata titles in a non-condominium development (e.g., strata terrace houses)

Shop houses that are not strata subdivided and are erected on land other than land that has been declared as non-residential property pursuant to the Residential Property Notification

Foreign individuals and entities may acquire non-restricted residential property (e.g., an apartment within a building or a unit in an approved condominium development) without the approval of the Controller of Residential Property or Minister for Law. In addition, there are no restrictions on the following:

Any land (whether vacant or not), house, building or other premises which is zoned or permitted to be used for industrial or commercial purposes or both such purposes

Any hotel registered under the Hotels Act 1954

Such other land or building as the Minister may, by notification in the Gazette, declare to be industrial, commercial or non-residential property

There are also no restrictions on the sale of commercial property in Singapore to foreigners.

# Can the government expropriate real property?

The Land Acquisition Act confers extensive powers on the government for the compulsory acquisition of land in exchange for compensation. The amount of compensation depends on numerous factors, including the market value of the property. For guidelines on determining the amount, refer also to ss 33 to 36 of the Land Acquisition Act.

In circumstances where land is leased from the government, the contractual terms for re-entry or termination of the lease will apply.

# How can real estate be held?

Land in Singapore is owned by either:

The state, or held through its statutory agencies (i.e., the Singapore Land Authority, the Urban Redevelopment Authority, Jurong Town Corporation and the Housing Development Board)

Private individuals or entities

Interest in land may be:

Estates in fee simple

Estates in perpetuity

Leasehold estates

Temporary occupation licenses

Tenancies

# What are the usual structures used in investing in real estate?

There are numerous structures available, depending on the purpose and form of the real estate investment.

Generally, the following can invest in real estate:

Corporations

Local and offshore entities

Joint venture companies

Single-purpose vehicles

Co-ownership (joint tenancy or tenancy in common)

Partnership

Private equity funds

Trusts, including Real Estate Investment Trusts (REITs)

# How are real estate transactions usually funded?

Most real estate transactions are financed via institutional lenders such as banks and finance companies. In exchange for funds, lending institutions may take primary and collateral security in real property and related assets.

In a bid to prevent the overheating of the Singapore property market, the Monetary Authority of Singapore laid down several guidelines pertaining to loan regulations, including:

For loans on residential properties where an option to purchase is granted on or after 6 July 2018 and where the loan tenure is less than 30 years (or 25 years for Housing Development Board flats), imposing a loan-to-value (LTV) limit of:

75% for housing loans to individuals with no outstanding housing loans;

45% for housing loans to individuals with one outstanding housing loan; and

35% to individuals with two or more outstanding housing loans.

Loans with longer tenure exceeding 30 years (or 25 years for Housing Development floor flats), or where the loan period extends beyond the borrower's age of 65 years, face even tighter LTV limits of 55%, 25% and 15% for the 3 respective categories above. The LTV limit for housing loans to non-individuals is 15%.

Imposing minimum cash payment of:

5% of the valuation limit, for buyers who have no outstanding housing loans at the time of applying for a housing loan for a new property purchase, where the loan-to-value limit is 75%;

10% of the valuation limit, for buyers who have no outstanding housing loans at the time of applying for a housing loan for a new property purchase, where the loan-to-value limit is 55%;

25% of the valuation limit for buyers who have one or more outstanding housing loans at the time of applying for a housing loan for a new property purchase

In addition, a total debt servicing ratio (TDSR) of 55% of the borrower's monthly income is imposed on property loans extended by institutional lenders where the option to purchase the property is granted on or after 16 December 2021. The method for computing the TDSR is standardized and institutional lenders are required to:

Take into account the monthly repayment for the property loan for which the borrower is applying plus the monthly repayments on all other outstanding property and non-property debt obligations of the borrower

Apply a specified medium-term interest rate to the property loan for which the borrower is applying when calculating the TDSR

Apply a haircut of at least 30% to all variable income (e.g., bonuses) and rental income

Apply haircuts to and amortize the value of any eligible financial assets taken into consideration in assessing the borrower’s debt servicing ability to convert them into “income streams” in computing the TDSR

TDSR rules apply to all loans applied on or after 29 June 2013 by individuals. It does not apply to loans for companies, as they are subject to a different set of credit assessment criteria. However, financial institutions are required to apply TDSR rules to the individual if the borrower is a sole proprietor or an individual setting up a company solely to purchase property.

# Who usually produces the documentation in real estate transactions?

Generally, the seller’s lawyer will prepare the initial draft of the purchase agreement and the landlord's lawyer will provide the initial draft of the lease agreement.

# Can an owner or occupier inherit liability for matters relating to the real estate even if they occurred before the real estate was bought or occupied?

Depending on the type of liability in question, the general rule is caveat emptor unless the contract otherwise provides. The contract may apportion the risk between the parties or require the vendor to disclose any inherent liabilities.

# Does a seller or occupier retain any liabilities relating to the real estate after they have disposed of it?

This would depend on the liability in question such as contractual liability in respect of an obligation that has not been performed.

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