

Guidance on buying property in the Cayman Islands

Service area / [Real Estate](#)

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Buying property in the Cayman Islands is relatively simple and straightforward. The government guarantees the right of ownership of each parcel of land, there are no restrictions on foreign ownership of a single property and there is no income, capital gains or property tax. This briefing provides a general overview of the process.

Stamp duty

Stamp duty is 7.5% of the market value of the property being transferred and is payable on transfer of a property (usually by the buyer). Caymanian first-time buyers, however, are entitled to certain reliefs and exemptions.

Stamp duty does not extend to furnishings and other items that are readily and easily removable such as carpets, curtains and blinds and white goods so it is important to ensure that the purchase price is correctly apportioned between the land and the building or structures on it and these furnishings and other items as this will result in a reduced payment.

Stamp duty is calculated on the land value at the time the sale and purchase agreement is submitted for stamping and so a reduction is available on the purchase of houses or apartments that are either yet to be built or are only partially built. In such cases, it would be advisable to instruct an attorney. The following scenarios demonstrate the difference in the stamp duty:

Scenario 1

- A house is sold off plan or incomplete for CI\$500,000
- The land is valued at CI\$20,000
- Stamp duty is only CI\$1,500

Scenario 2

- The same house is sold once complete for CI\$500,000
- The land with the building on it is valued at CI\$500,000
- Stamp duty is CI\$37,500

Strata property

Where a property is in a condominium or part of an apartment complex, it is sold as part of a strata plan. The lot owners are all members of the strata corporation, which looks after the insurance of the condominium along with the repair and upkeep of the common parts. This extends to the outer walls, roof and foundations of the property and means that the owner of the property only has to maintain the interior. It is important to check the accounts of the strata corporation before a purchase is made to ensure that it is financially sound and to check that the reserves cover future maintenance costs and the deductible/excess amounts in the event of an insurance claim.

Your attorney will need to check the by-laws of the strata corporation to make sure that the developer of the condominium has not retained voting control of the strata

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corporation, which could be used, for example, to impose unreasonably large management charges.

If the property has its own parking allocation, your attorney will need to check whether the space or spaces have their own title separate from the property or whether the strata corporation's by-laws contain the exclusive right to use the space or spaces.

Insurance

For a property that is not a strata property, you should check what level of insurance is required. It may be that the insured sum required is more than the price paid for the property but it is worth noting that insurance companies will not pay out fully on a claim if the property is considered to be under-insured. A chartered surveyor can advise on the cost of rebuilding.

If the property is a strata property, you will need to check the insurance taken out by the strata corporation on the condominium, including the exact property insured, the level of cover and the amount of the deductible/excess payable in the event of a claim. The strata insurance will extend to the fixtures and fittings inside the property but only to a basic standard and you will need to consider taking out top up insurance to cover damage to those fixtures and fittings. For example, if the strata corporation insures the property with other properties in the strata for a sum that assumes a standard kitchen but the kitchen has in fact been substantially improved, then top up insurance can be taken out for the difference.

Rights and restrictions

Whilst the registered title to many properties in Cayman will be straightforward, your attorney should check to make sure there are no restrictions on how the property can be used and whether the necessary rights of access exist. In addition, your attorney should check that the house on the property is actually within the boundaries of the property as they are registered at the Land Registry.

Pre-contract checks

Whether you are using an Offer to Purchase in the form used by the Cayman Islands Real Estate Brokers Association (CIREBA) or a formal sale and purchase agreement, it is advisable before committing to the purchase of the property to take the following actions:

- Air conditioning services – find out whether the seller has had the air conditioning units regularly serviced and obtain a report on their condition and when they are likely to require replacing.
- Water and electricity costs – find out the average cost of water and electricity in both the winter and summer months so that you have an idea of the cost of living in the property.
- Survey – have a survey of the property carried out to make sure there are no hidden defects in the property and that the electrics and plumbing in the property are satisfactory and working properly.

- Future costs – if you are buying a strata property find out from the strata corporation whether any major work is anticipated on the condominium or the apartment complex and the likely cost. If the cost is large, then the seller should be invited to contribute towards the cost via a reduction in the purchase price. A well-run strata corporation should be making provision for projects that require major expenditure.

Buying a property with a mortgage

Most banks who lend money to prospective buyers will require an attorney to act for them. The attorney will oversee the completion of the mortgage, its registration and the registration of the transfer of the property at the Land Registry.

It is advisable to find out from your prospective lender which firm of attorneys it will be instructing so that you can ask them to deal with some of the points in this article prior to committing to the purchase of the property. It should, however, be noted, first, that the attorneys instructed by the lender will not be acting for you and, secondly, that in many cases the lender will not make a mortgage offer and instruct attorneys until after the buyer is committed to the purchase of the property.

Your lender will expect you to pay the fees of its attorneys, which will range from 0.25% and 1% of the purchase price of the property.

Please note: stamp duty is charged at 1% on loans below CI\$300,000 and at 1.5% on loans above this figure.

What if I sell before the mortgage is paid off?

The price of property in Cayman may be on an upward curve in some areas but the stamp duty and the other costs of buying the property (between 10% and 12% of the property's purchase price) and the cost of selling the property (mostly the selling broker's fee of up to 7% of the selling price) should be taken into account. You may find that the price of the property will have had to go up by around 20% for you to break even on the early sale of the property.

It is therefore advisable to obtain advice on what you could rent the property for if you were unable to sell it quickly and whether the rent would cover your ongoing costs, including mortgage payments, insurance and strata fees (if applicable).

Working with an attorney

It is generally advisable to instruct an attorney before you have to enter into a CIREBA Offer to Purchase or to exchange contracts for the purchase of the property.

Whilst both the above documents can be made subject to conditions (such as obtaining a mortgage offer or a satisfactory survey) if a condition is not satisfied, your only real option is to rescind the contract. If an Offer to Purchase has not

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been made or contracts not exchanged, you will be able to negotiate with the seller on any points that are unacceptable to you.

An attorney can advise you on the points that should be clarified and agreed before you commit to the property. Once you are committed, it will be too late raise a point with the seller unless it arises from one of the particular conditions in the contract.

Further information

For further information on buying and selling property in the Cayman Islands, please contact our real estate team via cayman@careyolsen.com



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