

Buying property in the Cayman Islands

Service area / [Real Estate](#)

Legal jurisdiction / [Cayman Islands](#)

Date / [May 2021](#)

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.

Types of property tenure

Title to property can either be freehold, which means that the owner owns the land and any buildings on it forever, or leasehold where the owner of a freehold property grants a temporary right to occupy the property for a fixed period at annual rent.

Strata property

Freehold property can become a strata plan. Where a property is in a condominium or part of an apartment complex, it is sold as leasehold but more commonly 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. When buying a strata lot it is important to check the accounts of the strata corporation 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.

A buyer's 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 corporation, which could be used, for example, to impose unreasonably large management charges.

If the property has its own parking allocation, a check should be made to see 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.

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.

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Insurance

For a property that is not a strata property, the required level of insurance should be checked. It may be that the insured sum required is more than the price paid for the property but it should be noted 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, a buyer 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 a buyer 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, a buyer should ask his attorney to 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, the 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 a buyer is 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 the cost of living in the property is understood.
- 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 the buyer is 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 the 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 the buyer 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.

The buyer's lender will expect the buyer to pay the fees of its attorneys, which will range from 0.25% and 1% of the purchase price of the property.

It should be noted that stamp duty is charged at 1% on loans below CI\$300,000 and at 1.5% on loans above this figure.

Selling 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 9% 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. A buyer may find that the price of the property will have had to go up by around 20% for him to break even on the early sale of the property.

It is therefore advisable to obtain advice on what the property could be rented for if it had to be sold quickly and whether the rent would cover the ongoing costs, including mortgage payments, insurance and strata fees (if applicable).

Working with an attorney

It is generally advisable to instruct an attorney before entering into a CIREBA Offer to Purchase or exchanging contracts for the purchase of a 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, the buyer's only real option is to rescind the contract. If an Offer to Purchase has not been made or contracts not exchanged, then the buyer will be able to negotiate with the seller on any points that are unacceptable to him.

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

Continued

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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