

## Overview of Real Estate in Turks and Caicos Islands

The following provides a brief overview of real estate in the Turks and Caicos Islands (“TCI”). For any more information, please do not hesitate to get in touch with one of our real estate team for assistance.

### **CATEGORIES OF PROPERTY RIGHTS**

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Real estate can be held as freehold title absolute or leasehold.

The Strata Titles Ordinance allows for the registration of a strata plan against a land parcel to create individual strata lots, each of which is registered with its own derivative title and the remainder held as "common property" by a strata corporation. Strata titles are used as the preferred structure for condominium developments.

### **EFFECTING LAWFUL AND PROPER TRANSFER OF TITLE**

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Transfers of real estate must be registered at the TCI Land Registry. Title is acquired, and only perfected, upon registration. The land register is conclusive as to ownership, appurtenant rights and matters encumbering the title (with the exception of certain “overriding interests”).

### **WHO CAN HOLD REAL ESTATE ASSETS?**

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Title to real estate must be held by a Turks and Caicos limited liability company or by a natural person, although the upstream ownership structure is not regulated and there are generally no restrictions on foreign ownership of real estate in the Islands

Turks and Caicos Islands companies are obliged to pay annual fees, which typically amount to \$1,500 to \$2,000, inclusive of the company agent and government fees.

G&P Corporate Services Ltd. which is part of our wider G&P Group can assist you in setting a TCI company up.

### **REAL ESTATE FINANCE**

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Financing options are available for the purchase of property, either through a local bank or private lenders and there are no restrictions on granting security over real estate to foreign lenders, (save that a private lender may require a TCI license).

## **REAL ESTATE DUE DILIGENCE**

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The purchaser's attorney will typically carry out a range of due diligence relating to the property, including (i) negotiating and settling a suitable form of sale and purchase agreement, (ii) reviewing the title documents and advising on any adverse matters that would affect the intended use and enjoyment of the property, (iii) raising any relevant queries with the seller or any public or other bodies and (iv) reviewing and approving instruments of transfer to ensure that they are properly registrable, (v) attending to the payment of stamp duty and registration formalities after closing, and thereafter providing confirmation of good title to the purchaser.

## **TYPICAL REPRESENTATIONS AND WARRANTIES**

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Typically, a property sale and purchase agreement will contain a basic set of warranties as to good title and the absence of knowledge of any claims or disputes, but generally the position is that purchasers must satisfy themselves as to the state and condition of the property, its suitability for the intended purpose and that necessary consents for development or existing structures are available and/or in hand.

Common purchaser remedies for misrepresentation or breach of warranty would include an action for damages, misrepresentation and/or rescission of the agreement, and a refund of any deposit paid.

## **PLANNING AND ZONING**

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Any development of land requires a grant of planning permission. Development includes not only the undertaking of physical development but also change in the use of any building or other land, or the subdivision of land.

Planning permission may be refused, granted unconditionally or can be subject to such conditions as the relevant authority deems fit.

There is also a zoning plan and a development plan for the Islands that can be referred to in order to ascertain the applicable zoning (categories of residential, commercial etc.) and general development guidelines.

It is common for larger developments to seek and enter into development agreements with the Crown and TCI Government to assist with a development project. The level of concessions and assistance afforded in such agreements will be determined by reference to general development guidelines and an assessment of the benefits of a development to TCI. The first port of call for parties

wishing to secure development concessions or assistance would be TCI's investment agency, Invest TCI.

## **TAXES APPLICABLE TO A TRANSACTION**

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Stamp duty is payable on (i) the transfer of land, (ii) the grant of a new lease and (iii) a debenture or a charge (or mortgage, or equivalent of a lien) over land. Typically this is contractually agreed to be paid by the buyer/borrower (as applicable) but liability may fall to the seller/lender if it is not paid.

Stamp duty on land is paid on the consideration stated in the instrument, or the market value of the property conveyed or transferred, whichever is higher.

The current rates of stamp duty on a purchase of land or property on Providenciales (the main TCI hub where the vast majority of real estate transactions occur) are:

- \$25,000 to \$250,000: 6.5%;
- \$250,001 to \$500,000: 8%; and
- \$500,001 and above: 10%.

The stamp duty rates vary for land or property on other islands in the Turks and Caicos Islands.

For land charges/mortgages and certain other security instruments, stamp duty is payable at 1% of the secured amount (with a current cap of \$50,000).

Stamp duty on the grant of a lease is calculated based on the term and rent. Please let us know if you would like us to provide you with further details on this.

Share transfer duty is also payable on the transfer of shares in a landholding company.

Transfer duty on the transfer of shares in a landholding company is calculated as  $(A/B) \times C \times 8\%$ , where A = the total number of shares being transferred, B = the total number of issued shares in the landholding company concerned and C = the fair market value of the land owned by the company in the Islands.

There are limited exemptions which apply to stamp duty and share transfer duty such as:

- a transfer by way of gift to, or in trust for, the spouse, parent or child of the person conveying the land;

- where the Permanent Secretary of Finance certifies that the lease or transfer is not made for valuable consideration to a sibling or grandparent or grandchild;
- transfers to a group company; and
- transfers between trustees where no change in beneficial ownership occurs.

### **TAX BENEFITS**

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There are no direct income or capital gains taxes charged in TCI, nor are there any annual property taxes.

### **COMMERCIAL LEASES**

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A lease term of five years (or less) is typical. Rents and lease terms are freely negotiable. Certain landlord and tenant covenants are implied in a lease by the Registered Land Ordinance, unless otherwise expressly provided for in the lease.

The tenant is typically responsible for repairing the demised premises and the landlord is usually under an obligation to insure and maintain the building and the common parts and will usually recover these costs from the tenant in addition to the rent, which is commonly paid monthly in advance or arrears.

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## Contact Us

For more information, please reach out to your regular G&P Group contact, or any of our specialists listed below.



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