

10

THINGS

YOU SHOULD KNOW

BEFORE BUYING REAL ESTATE

By: Lee Harrison



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Ten Things You Should Know Before Buying Real Estate

The world beyond North American shores is loaded with opportunity. And no matter how bad things look in the United States or Europe, the proverbial sun is always shining somewhere.

In 2008 and 2009, my investments in U.S. markets lost plenty. But my property investments in Uruguay and Brazil posted double-digit gains each of those years. This was not because I had a crystal ball; it was because I had diversified my investment portfolio beyond U.S. borders.

Investing in real estate overseas is the smartest thing you could do with your investment capital right now; however, buying property abroad is nothing like buying property back home.

In some markets, you'll find unbelievable red tape...more than in any American state. While in other markets, there's no red tape at all...along with no protection for the buyer under the law.

Like It Or Not, You Need A Lawyer

Most Americans have never used an attorney to buy real estate...because there's no need to have one when buying real estate in the United States. I used one once for a private sale—with no real estate agents involved—but, aside from that, I've relied on the heavily regulated U.S. process to watch out for me. That's ok in the States; elsewhere, it can be a mistake. While the process outside the United States can be refreshingly simple, it also lacks the protections we Americans are used to.

The critical first step in the process of buying real estate in any other country is engaging your own, qualified legal counsel for the transaction. The developer or seller may offer you his own attorney, and some developers will even offer you attorney services free.

But I'd recommend that you get your own, independent attorney, one who's willing to ask the seller those tough questions that arise. Attorneys are cheap when compared with the risk of making an investment without one.

If you're not fluent in the local language, find an attorney who speaks English. In addition to representing you and your interests throughout the process and at the closing, he or she can also translate the documents for you.

Here are 10 other things you need to know before you make a real estate purchase in another country:

#1 Foreign Real Estate Markets Are Inefficient And Hard To Navigate

I recently helped a friend from the UK who wanted to purchase a piece of property in the U.S. state of Arizona.

We went to a popular real estate website and called up a map, zooming in on the area he was interested in. We looked at the detailed aerial view, which showed the estimated values of every house and lot, the official prices of those that were for sale, the actual prices of those recently sold, and the rental prices of those offered for rent.

For each house, we could click through to see its tax history, its sales history over the years, and the price changes of its current listing. A quick look at the Maricopa County Recorder's website showed a 40-year history of liens on the property.

If desired, he could have made a purchase with a text message to the realtor. The escrow company would protect his money, the title company would make sure the title was good, and title insurance was paid for by the seller.

Without a doubt, the United States has the most efficient real estate market in the world. Markets outside the United States are another story.

First, you probably won't find a Multiple List Service (MLS). This kind of database that compiles every agent's listing in one place is unheard-of in most of the world. When I was shopping for an apartment in Uruguay I found that the same property was sometimes listed with as many as three realtors...all at different prices. That's because there's no "official" price, a fact that allows owners to raise the price when a buyer is dressed well, looks to be American or European, or drives a nice car. I speak from experience, as this has happened to me many times.

Also, in some markets, you'll find relatively few real estate agents who are willing to show each other's listings, meaning you've got to go to LOTS of agents to get a real idea of everything available.

And the agents themselves can be a problem. In the United States and Canada, they are licensed, registered, and qualified. They can be held accountable for performance by their professional organization. This can be true in some countries, but it's not true everywhere. I've worked with many agents who had almost no experience and certainly were not licensed.

There is a way around all this... but no silver bullet. It takes legwork, research, and time.

Start by going to a local real estate agent and seeing what's for sale. Keep track of the price per square meter ($\$/M^2$), the standard measurement for property comparisons around the world.

This is a starting point...something to compare to as you go forward. Next you want to check with other local agents, trying to include some who don't specialize in selling to foreigners. Then spend time in your favorite neighborhoods, looking for For Sale signs, check the local papers, and make some calls.

From long experience, I've learned that you don't need to speak the local language to buy real estate abroad. But even if you do speak the language, it pays to enlist local help now and then. Once while shopping for condos in Brazil, I hired the hotel receptionist to inquire about For Sale signs that I'd seen while walking the Fortaleza boardwalk. That way the sellers would hear a native, local person on the inquiring end instead of me, who would surely get an inflated price quote with my obviously foreign accent in Portuguese.

After collecting a number of prices, you'll begin to know a fair price when you hear one.

In Medellín, the agent I started with was right on par with everyone else with respect to prices. But in Ecuador, I've seen agents buy a piece of property themselves and then sell it on to a foreigner buyer at a very hefty profit (more than once). In Uruguay, I've known agents who consistently added 30% to the asking price.

But I caught all of these by keeping my eyes and ears open—speaking to gardeners, maids and neighbors—and getting a broad-enough sample of properties to know what's fair.

Over the years, it's been well worth it... I've gotten some fantastic deals. I just couldn't do it from my laptop.

#2 Zoning Laws May Be Weak Or Non-Existent

In most First World countries, you can generally count on a given neighborhood maintaining its character over time. Zoning laws regulate what kind of buildings and business can be present.

But in much of the rest of the world, no such zoning exists. My first experience with this was many years ago in Costa Rica, where I was surprised to see a beautiful and large modern home that had a tin shack against its property line and a tire repair shop across the street. You don't see these things in the nice agency photos.

And I've seen it all since, including high-rises built in what was believed to be a quiet neighborhood of houses... and a disco that opened up in a sedate corner of a historic center.

The way to protect against zoning surprises is to check the regulations (if there are any)...but then go one step further to see how easy it is to violate them.

#3 You Might Encounter Restrictions On Foreign Ownership

The United States is wide open when it comes to foreign property ownership. Anyone willing to bring money into the country is welcomed with open arms. But not every country is that way; many place restrictions on foreign buyers.

In Thailand for example, foreigners cannot own land, only condos, and, even then, only under certain conditions. Brazil restricts on the purchase of agricultural land over a certain size.

Many countries restrict foreigners from owning beachfront. The restriction can be some specified number of meters from the high-tide line, or it can be hundreds of meters. There are also often restrictions on foreign ownership near a country's international borders and on land granted to indigenous peoples.

The problem is that there are plenty of unscrupulous entrepreneurs out there who will sell restricted land to you anyway and leave you (less your money) to sort it out. I've been offered communal land in Ecuador and Indigenous-owned land on the Caribbean side of Nicaragua.

Lots of people have lost their land after thinking they'd circumvented the local foreign ownership restrictions with the help of a developer or real estate agent. This is an important reason to have an independent local attorney review your purchase carefully.

#4 Good Title May Not Be All That Good

A number of years ago, I bought a terrific property in Vilcabamba, Ecuador, from a friend. It was a good-sized parcel of land with a simple home and a guest cottage...and over 150 feet of river frontage. Surrounded by beautiful mountains, it was a real paradise.

After a couple of years and much Spanish study, I got around to actually reading the title. What I found was that I hadn't actually bought the property outright, rather I'd bought rights to the inheritance of the descendants of the original owner. And to make matters worse, I wasn't completely sure if I had every descendant's rights.

And the strangest part was that this was considered a "good title." It was perfectly legal, and quite common in Ecuador. The title search was clean.

I got it all straightened out, ended up with a clean title, and learned an important lesson:

There are many types of titles out there in the world that, while legal, may not meet our standards for ownership.

Beware of things like concessions, rights of possession, and adverse possession; they're all legal...but none of them is the same as freehold ownership, which is what we're used to in North America.

Before signing on the dotted line, be sure to have the title researched by your local attorney.

#5 Don't Expect An "Official" Price Or Exclusive Listings

When buying property in the United States, you can count on an "official asking price." If you see the same property for sale on 10 different websites, the price is expected to be the same...and will be.

This is often not true outside the United States.

Once in Punta del Este, Uruguay, I got three different quotes for the same property—by different agents in the same realty office—within 30 minutes.

And in many countries, real estate agents are actually in competition for the sale. In other words, whoever sells the property gets the commission, rather than splitting it with the "listing" agent. I like this aspect of overseas markets, because the agents are incentivized to work harder for the sale when they can keep the entire commission.

And in almost every country where there's no official price—in an effort to get more for the seller and raise the commission—agents will change the price based on your perceived ability to pay. I've seen them shamelessly add huge sums—"shamelessly" because it was normal.

#6 Offers And Counteroffers Are Less Formal...And Less Binding

Most often in a developing country, the asking price is just a starting point for negotiations. The most important point to remember when considering an offer is to offer no more than you feel the property is worth...without regard for the asking price.

Sellers often establish the price based on what they *wish* the property were worth, rather than depending on any kind of analysis of what it's really worth. That analysis, abroad, is up to you.

And don't worry about offending the seller with a low offer. In many cases, they are used to low offers when they sell to the local market. And even if they're offended,

don't worry; there are far more overpriced properties out there than potentially offended agents and sellers.

If they want to sell, they'll counteroffer.

When it comes time to make the actual offer, it will most often be verbal. Instead of sending signed sales contracts back and forth with counteroffers, the process often takes place by means of a few short phone conversations or in person.

In some cases, you need to get past the agent first, before the seller will see your offer. I've had agents refuse to pass an offer on to the seller. More often, I've had agents lie, telling me they'd contacted the seller and he'd refused the offer. I used to find this upsetting; after a while, I accepted the fact that this is how the game is played in some markets and learned to live with it...almost.

Once you've agreed to a price, you should formalize the agreement with a sales contract as soon as possible. As there's no signed contract, the seller can (and generally will) shop your offer around to other interested parties—trying to get someone to beat it—until you get his name on a contract. (By the same token, you can keep looking for a better deal elsewhere until he gets *your* name on the contract.)

Despite the potential drawbacks, I like the simplicity of the offer process outside the United States. The offer process is quick, and you can either proceed with your sale or move on.

#7 Financing Is Expensive Or Non-Existent

Whether or not you can get bank financing abroad depends on what country you're in. Financing can be common in Western Europe and even in some Latin American countries such as Panama and Mexico.

You can expect the loan-to-value ratio to be relatively low, with down payments of between 20% and 50% the norm. Also, the terms will be shorter; generally 20 years or less. I've seen terms as short as two years from developers or private individuals.

Interest rates usually will be much higher than rates for U.S. mortgages.

Developer financing is sometimes available where there's no bank financing. In Brazil, I worked with quite a few developers who offered some form of financing. In some cases, they carried the loan during the construction period and then arranged bank financing for you afterwards.

And even when developers don't offer financing per se, pre-construction deals usually come with progress payments, allowing you to stretch out the capital requirements over the construction period.

#8 Commissions May Not Be The Same And Can Even Work Against You

Most of us are accustomed to a straight commission paid by the seller to the real estate broker. Within the United States, as a seller, I've paid between 6% and 8% over the years.

But abroad, I've seen a wide spectrum of practices.

In Ecuador, for example, the standard rate on the local market is 3%, charged to the seller. But I've seen American agents in Ecuador charge 7%... to the buyer. And sometimes, this was *in addition* to what they charged the seller.

In Uruguay, the 6% commission is shared between the buyer and the seller.

Net commissions are another commission scheme that you may not have encountered back home. In this scenario, the seller tells the agent how much he wants to walk away with (the "net"), allowing the agent to keep anything over this amount.

This is not uncommon, and, in fact, I've done it myself as a seller. But the problem is that it can set up a conflict between the seller and his agent. The seller wants to sell the property quickly, for a reasonable price. The agent may be tempted to establish an unreasonably expensive asking price and then hold out hoping to get top dollar.

As a seller, you may not sell the property for a long time or you may not get your fair share of what the buyer paid. As a buyer, you're probably negotiating with the agent instead of what may be a motivated seller.

#9 Closing Is Not Really "Closing"

Most North Americans come to "closing" with a standard set of expectations. For example, we're accustomed to having escrow services that will hold the funds, and then distribute them to anyone who is a party to the sale. They'll pay out taxes, real estate commissions, and other expenses of the sale.

Outside the United States (especially in Latin America), a "closing" is often limited to the public recording of the sale, usually at a notary's office. And while the notary office will collect notary fees (and any transfer taxes), it's up to the buyer and seller to reconcile everything else (things like part-year tax payments, unpaid HOA fees, etc.).

In Colombia recently, I had an uneventful closing and then left the country. On my return, both anxious agents were waiting for me so I could pay my share of the taxes the seller had already paid, as well as the HOA fees that he'd paid in advance.

So while the closing process abroad may be simple, keep in mind that there can be some follow-up tasks to take care of after "closing." Your agent or attorney can help you with this.

#10 Standard, Included Items May Not Be Standard...Or Included

When we took possession of our apartment in Montevideo, I opened the door and flipped the light switch. Nothing happened. It was pitch dark.

This was because the permanently installed light fixtures had been removed from the ceilings throughout the apartment. When I looked in the bathroom, the medicine chest had been taken down from the wall. In the kitchen, the range/oven unit was gone.

When I called the agent (and my attorney), I found that this was normal in Uruguay when you don't specify otherwise in the sales contract. I'd never thought to ask.

In Brazil, new construction usually does not include kitchen or bathroom cabinets and may not include the fixtures either. Same for light fixtures. And unless specified, there won't be appliances.

Items that are included as a standard part of the property, when outside North America, will often be different than you're used to, so don't forget to ask.

The answer is to specify what you want in the sales agreement. And if you can't get what you want by means of the sales agreement, then you'll need to factor the replacement costs into your expenses of the sale.

Welcome To The Fun And Profit-Filled World Of International Real Estate

As I said, it's nothing like the real estate world you left behind back home.

There are hundreds of ways a foreign property purchase can differ from buying in your home country. The ones I've discussed here are the most prominent, but you're sure to notice other quirks.

Here's an important thing to understand at this point: While it may sound complex, it's really not. Your local attorney does this every day and will guide you through the process safely.

But make sure you have your attorney explain the process so that you have a good understanding of the checks and balances and that you're comfortable that the bases are covered.

I've bought a number of properties abroad over the years and have never had a problem. In the early days, this was due to luck...in the later days, it's because I was well informed.

Believe me, the latter will serve you far better in the long run.

That's what we're here for—to keep you well informed, both about what to buy and also how to buy with confidence.

I'll be in touch again soon.

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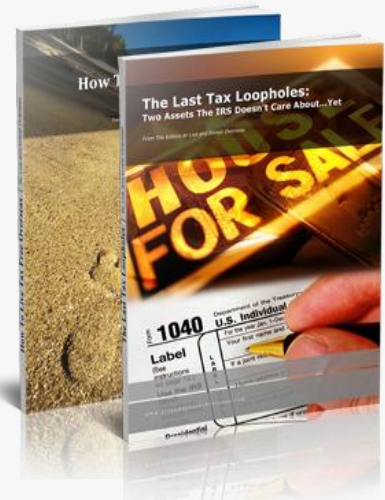
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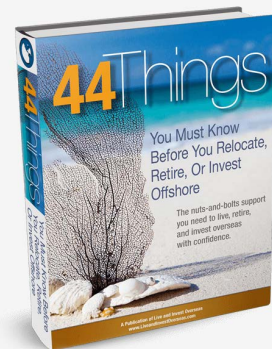
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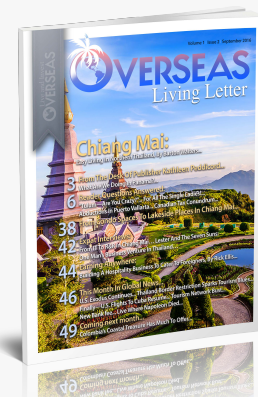


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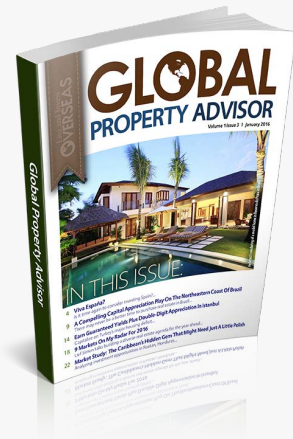
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