

Good News For Developers! Federal Government Walks Back Prohibition On Foreign Ownership For Vacant Lands And Development Properties

Amendments were recently announced to the regulations to the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (the “Act”). The Act came into force on January 1, 2023, and aimed at cooling the Canadian residential real estate market. The recently announced amendments relax some of the restrictions and prohibitions to foreign buyers purchasing residential real property in Canada. The stated goal of the amendments is to provide greater flexibility under the Act for newcomers to Canada and entities whose operations ease housing supply issues.

These are the five key takeaways from the announcement:

INCREASE TO THE “CONTROL” THRESHOLD FOR CORPORATIONS

The amendment to the definition of “control” raises the threshold of allowable non-Canadian ownership interest in a corporation’s voting and/or equity shares from 3% to 10%. This means that private corporations with up to 10% non-Canadian ownership may purchase residential property in Canada.

EXCEPTION AVAILABLE TO PUBLICLY TRADED ENTITIES

The amendment extends the exception previously available only to publicly traded companies which were incorporated under the laws of Canada or a Canadian Province. The amendment has broadened the exception to include other publicly traded entities such as real

estate investment trusts (among other entities) which are established in Canada and listed on a designated Canadian stock exchange.

PROHIBITION NO LONGER APPLIES TO VACANT LAND

Previously, vacant land that was zoned for residential or mixed use was included under the prohibition. The amendment removes the paragraph of the regulation dealing with vacant lands in its entirety. This means that the prohibition no longer applies to entities purchasing vacant land, regardless of whether the purchaser is a non-Canadian entity.

EXCEPTIONS AVAILABLE FOR DEVELOPMENT PURPOSES

This new exception allows non-Canadians to purchase residential property for the purposes of development. This allows developers, regardless of whether they meet the Canadian ownership threshold, to purchase residential real estate for development.

EXCEPTIONS AVAILABLE TO (SOME) INDIVIDUALS HOLDING TEMPORARY WORK PERMITS

Individuals working in Canada under a temporary work permit are no longer subject to a blanket prohibition. Such individuals who have 183 days or more remaining under that work permit and who have not already purchased a residential property are excepted from the prohibition.

For more information, please contact Jennifer Williams, Hamish Gray or any of the members of our Real Estate Practice Group.



Jennifer Williams
Co-Chair, Real Estate Law Group
jwilliams@harpergrey.com
604.895.2904



Hamish Gray
Business Law Group
hgray@harpergrey.com
604.895.2319

Important Notice: The information contained in this Article is intended for general information purposes only and does not create a lawyer-client relationship. It is not intended as legal advice from Harper Grey LLP or the individual author(s), nor intended as a substitute for legal advice on any specific subject matter. Detailed legal counsel should be sought prior to undertaking any legal matter. The information contained in this Article is current to the last update and may change. Last Update: March 31, 2023.

©Harper Grey LLP 2023