

There will soon be no new holiday apartments!

... is a conclusion that could be drawn following the adoption of the motion concerning secondary residences. More on the definitive implementation of the initiative and its effects can be found in this bulletin.

Background:

On March 11th 2012, a majority of Swiss nationals voted in favor of the referendum "Stop the never-ending construction of second homes", thereby determining that the building of secondary residences should be severely restricted. The terms of the plebiscite demanded that the proportion of second homes in a municipality may not exceed 20 %. As a consequence, the considerable uncertainty and speculation as to how the initiative might be interpreted had a palpable impact on the property markets of the local authorities affected. The ensuing ordinance, made public in the following August and which was to be applied with effect from January 1st 2013, was eventually able to dispel many of the rumors and fears that had prevailed. The ordinance remained in force until such time as the applicable laws in respect of the vote on secondary residences could be drafted and implemented. In the meantime, the federal law governing secondary residences (*Zweitwohnungsgesetz ZWG*) has been enacted with effect from January 1st 2016 and regulates all future construction of second homes. The communities impacted – in other words, those with a percentage of second homes above 20 % – effectively include all the tourist resorts in the Cantons of Bern, the Grisons, the Ticino, the Vaud, and Valais.

Transitional arrangements / ordinance

Up to December 31st 2012 it was possible to permit the construction of secondary residences in accordance with the existing law, giving rise to a significant increase in planning applications in tourist destinations and, in turn, to a marked boom in construction. All developments that had secured planning permission had to have commenced building within a period of 12 months (with a one-off extension of 24 months), otherwise planning permission would lapse. There were some exceptions in communities with contingencies for second homes, where it was possible to commence building later; namely, from the date when the contingency was allocated.

The law governing secondary residences / Construction of new second homes

The law governing secondary residences has been in force since January 1st 2016 and regulates the construction of second homes. In those communities where the pro-

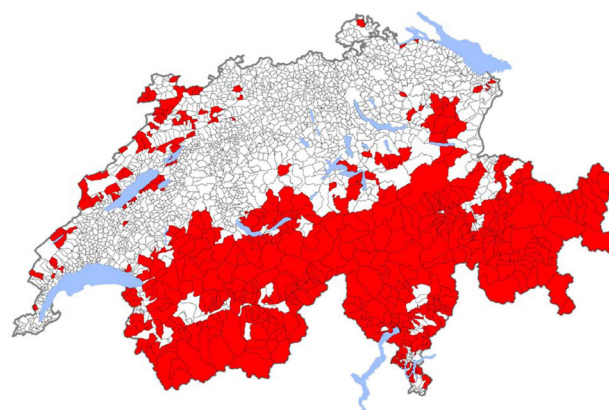


Diagram: Those municipalities with a proportion of secondary residences assumed to be in excess of 20% of the overall housing stock are marked in red. Source: Federal Office for Regional Development, 17.08.2012

portion of second homes has been determined as exceeding 20 %, no new second homes will be approved. However, there are defined exceptions to the ruling that will



continue to permit the construction of second homes in the future.

■ Serviced residences for tourists

Accordingly, it will henceforward be permissible to construct properties under so-called serviced residential tourism arrangements. To qualify as such, these secondary residences are not finished to the individual specifications of the owner/s and are managed within the framework of a structured commercial accommodation venture offering short-term lettings at the prevailing market rate. In addition, second homes may also be constructed in the context of the serviced residential tourism arrangement where the owner/s occupy the same house (as primary residence) and have a self-contained apartment which they rent out to guests for short periods at market rates.

■ Residences connected with structured commercial accommodation ventures

Changes of category in respect of businesses defined as hotels (50 % of the main habitable space) that existed prior to the referendum on March 11th 2012 are also permissible, provided that they can provide evidence that the business was run for at least 25 years. This has to be accompanied by an independent assessment issued by a qualified professional attesting to the fact that the hotel business is no longer commercially viable without significant borrowing for investment on the part of the owner/s and could not even be converted into serviced residences for tourists.

In general, structured commercial accommodation ventures may build secondary residences when the business can no longer (continue to) be run without the income from a residential project of this kind. In such instances, the proportion of units may not exceed 20 % of the overall main habitable area (although this percentage can be further restricted by the local authority concerned), and any profits have to be reinvested in the construction or maintenance of the structured commercial accommodation.

■ Residences in listed buildings or in monuments of local significance in urban areas

Within designated development zones, it is also permissible to convert listed buildings or monuments of local significance to the extent that their protected status is not compromised and where long-term maintenance of the building

could not otherwise be guaranteed. The inventory of listed buildings is compiled by the respective local authority.

Consequences for owners of property / existing homes

■ Secondary residences established under prior legislation

Owners of second homes may continue to use, sell on, or bequeath their properties as holiday homes. In this way, rights of ownership continue to be upheld. For owners of preexisting second homes, practically nothing has changed. Their properties can be renovated, converted or demolished and rebuilt within the confines of the existing main habitable space. Such properties established under the previous law may further extend the main habitable area as it existed on March 11th 2012 by a maximum of 30 %, provided that no additional residences are created and that local planning regulations are observed. Outside the designated development zones, extensions are also permissible insofar as the regulations governing construction outside the development zones allow.

■ Main or primary residences

Main or primary residences that existed prior to March 11th 2012, or which had obtained formal planning permission by that date and were not subject to any restrictions on use before then, are classified as secondary residences established under prior legislation. Properties with registered restrictions on use continue to be bound by these and count as main residences.

Consequences for the markets

The ordinance will effectively divide the real estate market in tourist regions into three distinct segments:

- 1) Market for unrestricted, freely usable second homes
- 2) Market for serviced second homes
- 3) Market for primary residences

It will not be long before price differences become apparent between the three segments on the basis that supply and demand is developing at different rates.

■ Secondary residences established under prior legislation

The ban on new construction will lead to limits in supply

in the market for unrestricted, freely usable second homes with the consequence that, based on the established market prices will tend to be driven up. What cannot be determined at the time of writing is precisely when this supply will become limited.

■ Serviced secondary residences

The market for serviced second homes with an obligation to make the property available for rent has, to date, remained small and does not even exist in some regions. As is the case today, we will continue to see a price difference between “normal” properties and serviced residences. What remains to be seen is whether the advantages of having full access to the available infrastructure of the structured commercial accommodation venture plus the envisaged income from renting out the property will compensate for the disadvantages of being compelled to let the unit coupled with the restrictions placed on using it oneself. The market is bound to become an active one. Serviced developments are, for the most part, large projects consisting of between 30 to 100 units that can meet the demands of supply in one fell swoop. Should demand come to exceed supply in this market, too, however – e.g. in the event that very few projects are realized or if the serviced residential concept really takes off – then it is conceivable that prices will be driven upwards. An additional factor influencing any price developments of serviced residential projects will undeniably be attributable to secondary residences established under prior legislation, which will continue to dictate the underlying asking prices for serviced properties. In the light of the limited experience of this market, it is extremely difficult to make a prognosis.

■ Primary residences

The prices of new as well as existing primary residences as recorded in the Land Registry are likely to achieve significantly lower levels than those transacted for secondary residences. It will no longer be possible to recategorize such properties, meaning that attainable prices will reflect local demand and, therefore, a correspondingly marked reduction in purchasing power. Prices for building plots will similarly be determined by the levels of demand for homes on the part of local residents. The construction of serviced secondary residences is unlikely to compensate the falling demand for conventional second homes, which has already led to a marked reduction in prices for development land.

Definition of terms

1. Secondary residence:

Secondary residences are defined as homes that are not continuously occupied by persons registered as resident in the municipality. For the purposes of the law governing secondary residences, second homes are those that are neither a primary residence nor equivalent to a primary residence.

2. Primary residence:

Homes that are continuously occupied as permanent residence by local inhabitants (those registered in the respective community). Residential units also falling within this category include properties used continuously for commercial or educational purposes; that are continuously occupied by persons not required to be registered as permanent residents in the municipality – in particular, those classified as diplomatic personnel or having asylum status; by enterprises requiring the property in the short-term to accommodate staff; or as housing supplied in connection with employment (this list is not comprehensive).

3. Structured commercial accommodation:

This category includes classic hotels or hotels that also offer apartments/residential units, or resorts that are part hotel (e.g. the Rock Resort), or holiday villages with communal infrastructure and services. Examples that fulfill the minimum requirements are mainly resorts such as the REKA villages or those run by the Landal organization.

4. Residence as defined under prior legislation:

For the purposes of the law governing second homes, a residence is categorized as existing under the terms of prior legislation if it was legally built before March 11th 2012 or had obtained valid planning permission by that date.

Terms used may vary from those contained in the various local planning regulations.

Conclusion

The law governing secondary residences has brought about the desired clarity and certainty in terms of legal status. When considering the market in second homes, while it is fundamentally necessary to view each holiday resort individually, there is always demand for secondary residences in tourist destinations. Increasingly, many prospective purchasers are no longer bound to a particular region, but look for good accessibility, a supply of property and infrastructure that meets their particular requirements, and unspoiled landscapes. Consequently, price developments in the diverse localities and valleys have varied in the past and continue to do so. The vote on second homes will undoubtedly remain a considerable influence on property price developments for secondary residences. Nevertheless, certain other factors – namely, the general state of the economy, current levels of affluence, underlying interest rates, and psychological influences such as overall optimism in terms of the future – should not be underestimated and may, in fact, be of overriding importance. A holiday home is a luxury and is only afforded when circumstances are favorable.

Useful links (data sources)

Just click on the PDF-icon



Federal law governing secondary residences

(Zweitwohnungsgesetz, ZWG)



Ordinance on secondary residences

dated December 4th 2015 (valid as at January 1st 2018)

[Zweitwohnungsverordnung, ZWV]



Guidelines to application of the law governing secondary residences and the corresponding ordinance

(Issued by the Department of Economic and Social Affairs, Canton of Grisons)



Explanatory notes on the ordinance on secondary residences

(Federal Office for Regional Development [Bundesamt für Raumentwicklung ARE])



Geoportal of the Federal Office of Administration: Inventory of housing stock

Author: Sascha Ginesta



Sascha Ginesta is a qualified professional property valuer with a federal license and is also a serving Member of the Executive Board of Ginesta Real Estate with responsibility for the Grisons region. Among other things, his remit includes the valuation, assessment and acquisition of properties. The firm was founded in 1944 and specializes in the sale of real estate in the economic area of Zurich as well as in the tourist resorts of the Grisons. For properties of nationwide distinction the company also operates as agent throughout Switzerland.

Publisher of the “Illusions” series:

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