

## Owning Property in the British Virgin Islands

(This article was originally featured in Real Life Magazine)

Whether you're interested in luxury or mid-income properties, raw land or a move-in ready home, the British Virgin Islands, a favourite of both sailors and stars alike, might be the perfect destination for a practical yet priceless property investment. A variety of properties are available - from time share properties, fee simple properties with hotel pool rental income, raw land to construct your dream home, or a private cottage on the water or in the hills. This article is intended to provide an outline of ownership of land in the BVI, as well as tips for buyers and sellers in the property market.

There is a central registry of land title holdings operated by the Government of the Virgin Islands (i.e. a registered land system as opposed to deed-based system) which creates a land register for every parcel of land in the Territory. The register is deemed to reflect accurately the ownership and all other necessary information about title (e.g. charges (mortgages) and other incumbrances e.g. rights of way or restrictive covenants, so that it is unnecessary to look behind it. The foundation of the system is what is called indefeasibility of title, which means that the person whose name is recorded on the register holds state-guaranteed title to the property in all but the most exceptional circumstances. In the event an error is made by the Registrar in registration of a transfer or any other interest, any person who suffers a loss as a result of such an error is entitled to be indemnified by the Government of the Virgin Islands. The result is a Land Registry System that provides a reliable, relatively simple and speedy system of registration of interests in land, protecting owners, lenders and others alike.

For purchasers, an attorney can advise you on how to freeze title between exchange of contracts and closing, and between closing and registration, to protect your interest.

Documentary proof of ownership is the Land Register for the particular parcel in respect of the property purchased. The original is held in a Register Book at the Land Registry but a certified copy can be obtained. A purchaser should also have a registry stamped original or certified copy of the Transfer Instrument passing title from the vendor to you.

### QUESTION & ANSWER

#### What's hot in the BVI real estate market?

Properties with marinas. The British Virgin Islands is a grouping of about 60 islands, islets and cays. The BVI Tourist Board describes it perfectly – “scattered in an aquamarine sea the islands flank the broad Sir Francis Drake Channel which has beguiled sailors for centuries”. If your preference is inland there's hardly a hillside that doesn't offer spectacular views.

#### What's your key piece of advice for sellers

Know your landscape intimately. To do this you should have both a real estate agent and a lawyer involved from inception. Our firm has represented the developers of the 3 five star properties in the BVI as well as leading property management firms. We have significant expertise in handling long-term complex developments, including drafting documentation,

facilitating negotiations, dealing with government agencies, and administrative appeals and litigation when necessary. And we have worked closely with all the major real estate agents.

### **What's your number 1 tip for buyers**

Negotiate, negotiate, negotiate. Purchasers are often concerned about acquisitions offered as a package deal involving a land sale and construction agreement with the Vendor, where a standard contract is often presented as not being negotiable. Time and again our experience and acumen has enabled us to negotiate such contracts to appropriately allocate risk between the buyer and seller.

Also, you're going to hear the term "non-belonger" a lot. Don't be intimidated. It's legalese for someone who is not a citizen or permanent resident of the BVI. The licensing process is designed to facilitate property ownership for persons who truly want to own a home in the BVI while discouraging speculation and protecting the heritage of the people of the BVI. Having navigated the legal and regulatory process involved in non-belonger landholding regulation, we are well placed to handle the application for you.

### **O'NEAL WEBSTER CAN HELP YOU GET THERE**

Our clients benefit from our extensive experience in acting for both buyers and sellers which gives us an unmatched perspective of the key factors involved in each transaction. As a full service law firm we advise clients on all aspects of property sales and acquisitions including due diligence, planning and design approval, protection of beneficial ownership, resolving defects in title, and the non-belonger licensing process.

While the property market here is quite a bit more involved than simply closing on a contract for sale, the investment is well worth it.

**For further assistance, please feel free to contact Ms. Willa Tavernier at [wtavernier@onealwebster.com](mailto:wtavernier@onealwebster.com).**

*This article is not intended to deal exhaustively with all aspects of the subject and proper legal advice should always be obtained before entering into any real estate transaction.*

**March 2011**

---

Simmonds Bldg. 30 DeCastro St. ■ PO Box 961, Road Town, Tortola, British Virgin Islands, VG1110  
■ Phone 284 494 5808 ■ Fax 284 494 5811

