

Luther

FEST & KAJLI  
ATTORNEYS AT LAW

# THE LAW SHOOTER

## REAL ESTATE PRIORITY GROUP EDITION

(March, 2007)

### REAL ESTATE MARKET IN HUNGARY

Many foreign nationals have joined together with Hungarians in order to host of different types of real estate investment enterprises. These cross-border joint ventures have been found in a wide array of different types of real estate holdings. For example, multi-national partnerships have been formed in the industrial, commercial and even residential real estate areas.

**As PMLG members we have created a network of real estate specialists in order to help clients through the maze of local property laws. We can provide you with cross-jurisdictional support you need on a co-ordinated one-stop-shop basis.**

### CURRENT TRENDS AND OPPORTUNITIES IN REAL ESTATE

The Hungarian real estate market offers substantial opportunities to investors, developers, occupiers and contractors. Real estates may be used in a variety of ways: apartments/flats, office space, and agricultural land, subjects of various economic activities or of speculative trading. Some of the latest trends and opportunities and challenges in the market are

- Investor focus has become more intense in the non-central office market with more than 75% of leasing transactions recorded and 70,000 sqm of absorption in the first half of 2006
- Many new brands entering Hungary from a wide variety of retail segments, so demand remains high within this sector
- Warehouse space available under very favourable conditions for companies and investors
- The Hungarian land market provides an interesting investment opportunity. Prices are c. 10-20% of the West-European average. Foreign investors today follow two roads. Either buying companies owning land or the lands are bought by Hungarian contacts (please read more on page 4.)
- In the last couple of years Hungary has become famous for its wellness tourism and many prestigious wellness hotels have been built, providing good investment opportunity for foreign investors
- The development of logistic centres around Budapest airport, could be also an interesting opportunity for investors and developers
- NHS privatisation process began, pushing many hospital properties to the market in Budapest and across the country

### PROPERTY TAX AS OF 2008

The government has already decided: there will be a property tax as of 2008. Details of the tax reform are under elaboration.

### CONTENTS

Real Estate Market in Hungary	1
Trends & Opportunities	1
Buying a property as a foreigner	2
Luxury Tax	3
Land Market	4



## **B** BUYING A PROPERTY AS A FOREIGNER IN HUNGARY

A foreign national or a foreign company can invest in real estate by applying the followings:

- Prior to making the acquisition of real estate, the foreign national or company must obtain permission from the Hungarian Land Registry to acquire real estate in that country
- The purchase of real estates requires an attorney's countersigning or the agreement needs to be included in a public deed
- The general stamp duty of the acquired real estate is 10% of the market value
- The stamp duty of acquiring an apartment is 2% up to HUF 4 M and 6% for the exceeded part of the market value
- Real Estate Traders acquiring properties for resale are required to pay stamp duty that is 2% of the property market value
- It is also important to mention that according to Hungarian legislation the developer of a new property has a warranty obligation of 3 years

Some foreigners follow the praxis to establish a limited liability company in Hungary that can take ownership of real estate without the requirement of a permit.

### **1** 1. ACQUISITION OF REAL ESTATE BY A BUSINESS VENTURE

The advantage of buying property through a company is that all expenses relating to the apartment can be written off (e.g.) travel, accommodation, legal & agency fees, purchase (stamp) duty, renovation costs, furniture, utilities and all associated services, including the interest on loans. Under this approach, the company can be sold along with the property, which makes it attractive for future buyers, as no purchase stamp duty needs to be paid. Establishing a company in Hungary is a routine procedure, which can be arranged within a couple of days. The basic procedure is as follows:

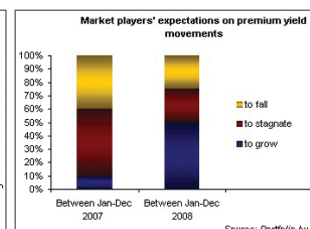
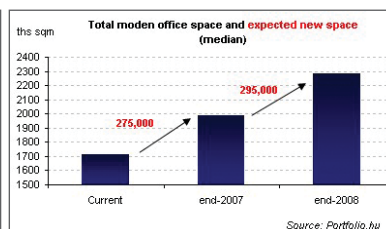
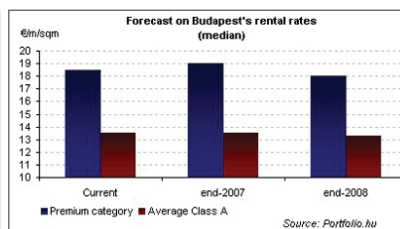
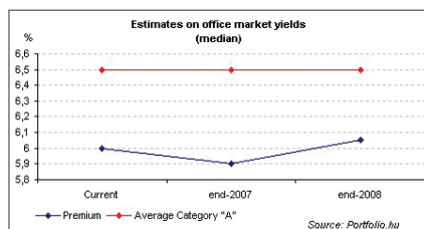
1. The company's Articles of Association needs to be counter signed by a lawyer.
2. The lawyer will also need the name of the new company, its seat, the personal data of the owner(s) and designation of a delivery agent for official documents. The founding capital of a limited liability company is HUF 3million (approx. Euro 12, 000) - this amount can be applied to the purchase of the property.
3. After the Articles of Association are prepared, specimens of signature need to be signed in front of a public notary, and then a bank account must be opened.
4. Then all the documents, forms, authorizations and invoices must go to an accountant who will take care of all the administration and prepare the required reports.

### **2** 2. ACQUISITION OF REAL ESTATE BY PRIVATE INDIVIDUALS

To buy a property in Hungary is straightforward and will require the following:

1. Appointing a Hungarian legal representative and paying in the initial deposit.
2. Going to a notary public and certifying the buyer's identity to initiate the permit approval process. If the permit is refused (which is a remote possibility) establishing a company is the next suggested option.
3. Preparation of purchase-sale agreement needs to be done by a Hungarian lawyer
4. Signing the purchase-sale agreement can be taken care of in your home country if time is an issue whereby the agreement is signed by yourself, notarised at the Embassy and then mailed to your local legal representative. You can also have an acquisition agreement signed in Hungary or you can appoint a proxi.

Overall, the real estate sales process in Hungary has become significantly easier to undertake in the course of recent years. Whether one is proceeding as a foreigner or through a limited liability company, foreigners can purchase a wide range of different types of real estate.



## ACT CXXI OF 2005 ON LUXURY TAX

The Hungarian Parliament has adopted the Act CXXI of 2005 on Luxury Tax with an effective date of 1 January 2006 (“Luxury Tax Act”). Pursuant to the Luxury Tax Act any structure that is located in the territory of the Republic of Hungary and owned by a private individual or upon which any rights are registered in the real estate register on behalf of a private individual, if deemed a residential suite or a holiday resort, furthermore, any section of a building that can be divided into sections (hereinafter referred to collectively as “residential property”), if its adjusted value calculated according to this Act is HUF 100,000,000, in words One Hundred Million forints (appr. EUR 400,000) or higher, is taxable.

The parcel of land on which the residential building stands shall comprise a part of the residential property, just as the percentage of land area consistent with the net floor space of the residential property.

Tax liability arises on the first day of the year that follows the year when the occupancy or continuation permit is issued, or when a private individual obtains

ownership or other rights on a residential property from an entity other than a private individual. Tax liability for any residential property that was built or occupied without authorization arises on the first day of the year that follows the year when the property was in fact occupied.

The private individuals registered on the first day of the year (tax year) as the owners of a residential property that is not encumbered by any rights is liable for the tax payable. Where a property is owned by more than one person, these property owners are liable for the tax payable in accordance with their percentage of ownership. If there are any rights registered on the residential property in the real estate register, the person holding such rights is liable for the tax payable.

The rights and obligations relating to tax liability may be conferred upon a single property owner in an agreement submitted to the tax authority bearing the signatures of all property owners.

The basis for tax is the adjusted value of the residential property. The tax rate is 0.5 per cent for the amount in excess of HUF 100,000,000 forints of the residential property’s adjusted value.





## LAND MARKET OPPORTUNITIES

Current regulations close out the legal (even local) entities and foreign investors from the market until 2011, which results depressed prices. Price change will highly depend on regulation and a dramatic increase in prices expected at the end of this period. Such increased price would still have a significant discount comparing to neighboring Austria and Germany (approx. EUR 6,000-16,000). Foreign investors today follow two roads. Either buying companies owning land or the lands are bought by Hungarian contacts.

Until the price increase, leasing of land can provide a comfortable, predictable cash flow for financial investors, calculating with subsidies growth of 5% every year. In case of a minimum 5 year contract the leasing fee is tax free.

At the moment only Hungarian citizens can buy land up to 300 hectares. A foreign citizen living in Hungary at least three years and dealing with agriculture activity is judged as Hungarian citizen. There are sometimes offers of companies owning legally land. In this case the company can be bought freely by legal entities or foreigners but prices can be higher.

## OUR SERVICES

Our Real Estate Priority Group offers our clients legal advice on all aspects of property acquisition, development, planning and construction. We are experts in drafting and advising on contracts and warranties, in negotiations and setting up structures for all types of development, construction projects, including licensing and in green-field investments. We offer due diligence for our

clients, mostly international companies, which own or lease real estate not only in Hungary but also in other countries and provide legal counselling regarding the procedure for restructuring all the contractual obligations. We investigate title, encumbrances and other rights or facts registered in the real estate registry, furthermore, advise clients on security systems in relation to investment projects.

Dr. Arne Gobert, Managing Partner of Luther Fest & Kajli is the co-ordinator for the PMLG network and contact person for all related Real Estate transaction questions throughout the network.

## PMLG NETWORK BENEFITS

As of January 2007, in a move to build one of the leading associations of European law firms Pinsent Masons in the UK and Luther in Germany formed the Pinsent Masons Luther Group (PMLG). By becoming a founding member of this pan-European association, Luther, Fest & Kajli has extended its international capability. From now on we can combine local know-how with a cross-boarder, one-stop-shop legal services resource in Europe and especially in the Central European region.

We are also able to provide support in other countries. If you would like to discuss a cross-border project, please contact Dr. Arne Gobert.

### Dr. Arne Gobert

Luther Fest & Kajli Attorneys At Law, Hungary

Telephone: +36 1 270 9900

Mobile: +36 20221 8455

E-mail: [arne.gobert@luther-lawfirm.com](mailto:arne.gobert@luther-lawfirm.com)

**Luther, Fest & Kajli Attorneys at Law**

Address: Hungary, 1132 Budapest, Váci út 22-24.

Telephone: 270 9900 ■ Fax: 270 9990 ■ E-mail: [fest.kajli@luther-lawfirm.com](mailto:fest.kajli@luther-lawfirm.com) ■ [www.budapestlaw.com](http://www.budapestlaw.com)