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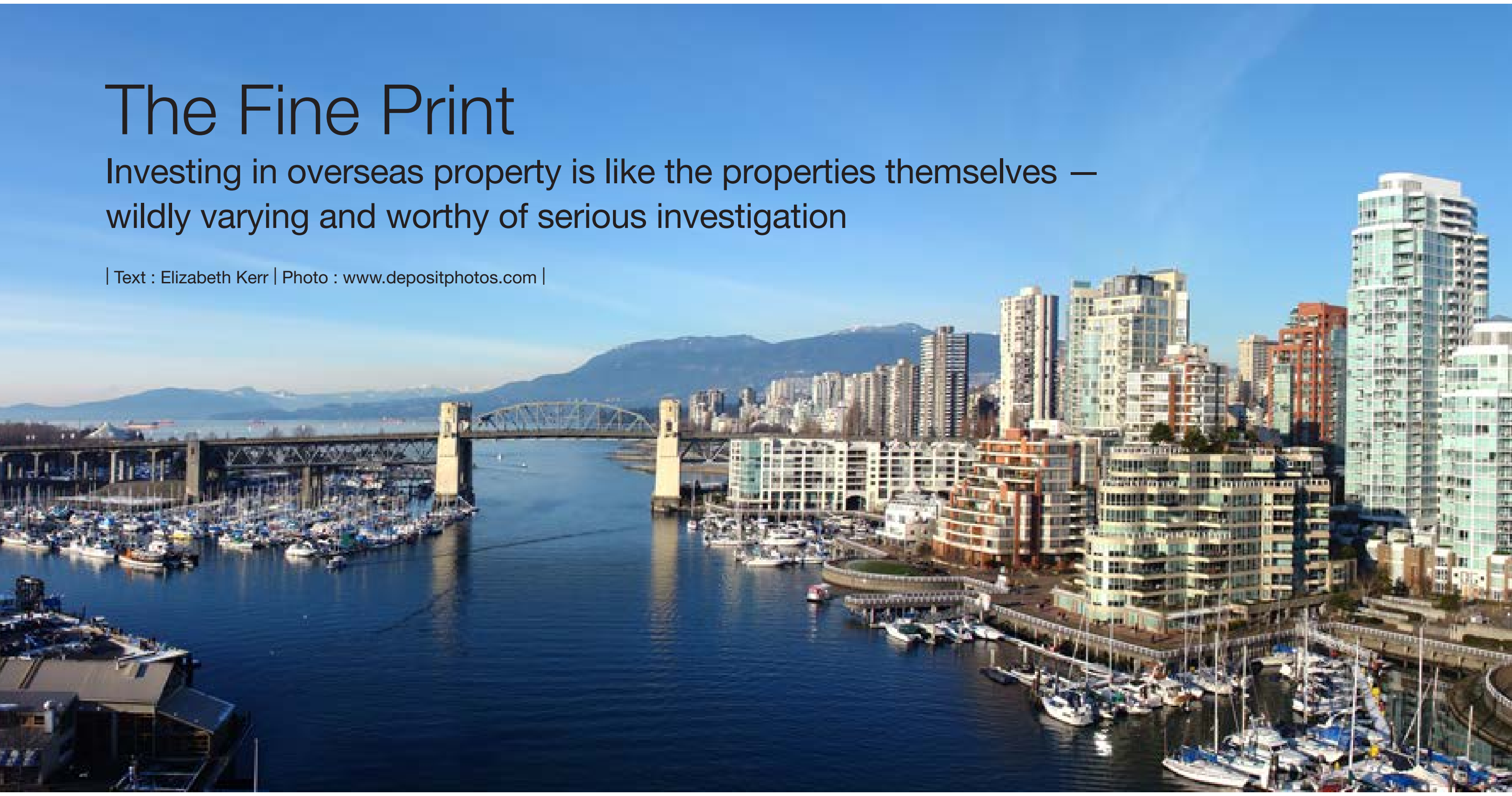

The Fine Print

Investing in overseas property is like the properties themselves — wildly varying and worthy of serious investigation

| Text : Elizabeth Kerr | Photo : www.depositphotos.com |

Judging by the number of property road shows that hit Hong Kong any given weekend, it would appear investing is something everyone does and is really easy to do. In some cases it is. London properties — the most frequent visitors — have few restrictions to worry about for anyone. "Under English law there are no restrictions as to who can purchase freehold property. The legal process is the same regardless of the nationality of the purchaser," notes UK-based lawyer Ardeshir Matini.

That's the case with most states with mature markets and strong legal frameworks. Canada, the United States, New Zealand, Singapore, Japan, Argentina, South Africa and most parts of Europe allow freehold purchases by international investors. But freehold property is prohibited for overseas investors by Thai law, though Thailand is a popular investment spot. South Korea allows foreign freehold ownership but it isn't called the Hermit Kingdom for nothing: it can be broadly unwelcoming to foreigners.

Many parts of the world restrict freehold land to below a certain amount (12 acres in New Zealand) or slap a sale with a stiff tax (Sri Lanka's 100 percent transfer tax). Very often, taxes and other protectionist measure are viewed as restrictions, but that's not necessarily accurate. Hong Kong's recent cooling measures were designed to control prices for residents, not to keep foreign buyers away. It's a fine line.

The first step is determining how important freehold ownership is — which is not very in all cases. "If the price is cheap enough and your horizon is short, leasehold can be a good deal," begins property writer Christopher Dillon, whose latest book, Landed Global, comes out in June. "But the value is almost always in the land, not the building. If your house burns down, is levelled by an earthquake or devoured by termites, the land will always have value." The upshot is that structure ownership is sometimes the better investment for short-term speculation or income in the form of rental yields.

But if land is part of an ideal investment package, locations like the US, Canada and the UK are the only way to go for easy freehold investment. Not so says Dillon. "It depends on how you define 'easy.' For example, Australia welcomes non-resident foreign investors as long as they buy a new home. Canada withholds 25 to 50 percent of the sale proceeds until … tax bills are proved paid, a process that can take months," he says. Even investment-friendly UK has its limits. Investors with unoccupied flats are being penalised with council tax increases and it is getting hare rot buy through companies. "Today, there are fewer hurdles for a foreigner buying in Japan — a market that is notorious for being closed to outsiders — than in Singapore or Hong Kong," Dillon adds. Australia has a slew of other regulations, some of which demand approval from the Foreign Investment Review Board. Malaysia's overheated market prompted cooling measures, one being a minimum purchase price of MYR1 million (HK$2.4 million) as of this year.

Nonetheless many markets are attractive to international investors (Thailand) that are difficult to navigate. “Switzerland is probably the toughest desirable country. It’s also what Nassim Nicholas Taleb would call ‘anti-fragile’ — a market that benefits when times are good and when people are looking for a safe haven,” states Dillon. EU nationals resident in Switzerland are afforded the rights of Swiss citizens. Non-residents need permission, holiday homes cannot be rented out annually, there are size limits and cantons have yearly quotas. Another attractive market is China, but Dillon warns that, “If China’s real estate market corrects, prime locations in Tier 1 cities will be interesting. Foreigners must live legally in China for one year before they can buy anything and no one — except the state and collectives — can own land in China.”

Emerging markets are popular with investors because of how lucrative they can be. Just ask anyone who purchased in one of Hong Kong’s pre-gentrification sub-markets. But buying a flat in Sheung Wan during SARS is a far cry from dabbling in Cambodia, Indonesia, the Philippines, Namibia or even Brazil where rules and regulations can vary from area restrictions (specific zones in Abu Dhabi, close proximity to borders, coasts and military land in Brazil is out) and poorly defined titling. Understanding Indonesia’s hak pakai is complex and critical, and again in Brazil, un-deeded “posse” land can vanish at a government whim.

Dillon has a holy trinity of warning signs that could make purchasing overseas property a nightmare. The first is simply lack of clear government strategy. “Sri Lanka let foreigners buy freehold subject to a 100 percent transfer tax, which was repealed in 2002 and then reinstated in 2004,” he begins. That was followed by an outright ban on foreign freehold purchasing in 2013. But now, “They can now acquire a 99-year lease, subject to a 100 percent tax on the property’s value.” Unpredictable policy can spell trouble.

Another issue is a state’s financial turmoil. When a country is looking to fatten its coffers, investors often foot the bill. “For governments in financial turmoil, like Argentina, foreigners are an easy and tempting target. They have little political power and real estate is immobile,” explains Dillon. Though it’s unlikely to happen in Europe, Spain, Italy and Cyprus’ fiscal messes could lead to extra taxes fees.

Finally, xenophobia is a bad sign under any circumstances and property is no different. “Antipathy towards foreigners in general or a specific group,” stresses Dillon, which is different from revenue-generating duties. “Between 1979 and 1994, for instance, more than 200 holiday homes in Wales were burnt to the ground by arsonists protesting against wealthy English buyers, who they believed were making housing unaffordable for local people. Today, Chinese property owners in Vietnam or Russians in New York may be feeling uncomfortable,” he finishes. One message remains clear, however: Get a good lawyer.