

## **Guide To Purchasing Property In The Turkish Republic Of Northern Cyprus**

Under the current laws of the Turkish Republic of Northern Cyprus (TRNC) non-TRNC Citizens are entitled to take title to only one property up to a maximum area of 5 donums per person providing that the property only consists of one dwelling (previously this was 1 donum, but this has now been increased by the Immovable Property Acquisition and Long Term Lease (Aliens) Law 52-2008). Building permission will not be granted to build further dwellings after permission to purchase has been granted. Under new regulations, husband and wife may now purchase one property each in their own names (previously, this was one property per household and husband and wife were counted as one household, but this has since changed). Before the title deeds to the property can be registered in your name, you will need to have permission from the TRNC Council of Ministers. This is explained in more detail below. If you wish to take title to more than 1 property, or a property over 5 donums in area, we can give you advice on using trustees or setting up a TRNC company to hold the title to the property for you.

The Conveyancing procedure followed by Naomi Mehmet & Partners is designed to ensure that your interests are protected as far as possible throughout the whole transaction. The first step will be an initial meeting with you to obtain information about the property you have chosen and any informal agreements you have made with the vendor regarding price, payment schedule and included items. This stage may also involve taking a power of attorney from you to ensure that we can act on your behalf to sign documents if you are away from Northern Cyprus for long periods of time. At this stage, the estate agent or vendor may request a holding deposit from you in order to reserve the property for you pending preparation and signing of the Contract of Sale. Holding deposits are usually non-refundable in the event that the purchaser withdraws from the sale without a valid legal reason for doing so (such as an encumbrance being found with the property). Therefore, you should be aware that, if you change your mind about the purchase, the deposit would usually be forfeited. In addition, you should be aware that, once a holding deposit has been released, should the vendor withdraw from the sale or should the sale fall through due to a legal issue which would entitle you to the return of the deposit, in the unlikely event that the vendor refuses to return the deposit, you may have to commence litigation proceedings to recover the deposit through the courts, which can be lengthy and costly.

We will next review the title deeds on your behalf to look for evidence that the vendor is the registered freehold owner of the land/property. Where applicable, we will also check that the planning consents for the construction have been obtained. We will then prepare a Contract of Sale to safeguard your interests. The Contract of Sale will include all important terms such as plot number, plot size, price, payment schedule and completion date. If you are purchasing a property which is under construction, the Contract of Sale will also usually include penalty clauses for late completion and all floor plans and specifications will be attached to the contract to ensure that the vendor is bound to carry out the construction work in accordance with these. The contract will be sent to both the vendor and the purchaser for review. When both parties are happy the contract will be signed.

New regulations since 2<sup>nd</sup> January 2008 require all Contracts of Sale for the purchase of immovable property in Northern Cyprus to be registered at the District Lands Office within 21 (twenty one) days of being signed and it is now compulsory for the Stamp Duty to be paid at the rate of 0.5% before registration can take place. At the time of registration of the Contract, the Land Registry conducts a search to confirm that the vendor is the registered freehold owner of the

land/property and that there are no mortgages/charges, injunctions or other encumbrances registered over the property. Once the Contract of sale is registered the purchaser is protected against the property being sold to a third party and the Contract will take priority over any subsequent encumbrance.

The Kyrenia Land Registry is charging a fee for the registration at the rate of 191 TL. The Land Registry at Famagusta also charges 191 TL. The Land Registry at Iskele charges 165 TL. To register the Contracts the Land Registry require the original and a copy of the Contract of Sale, the site and seating plans and a copy of the Title Deed, a copy of the Stamp Duty receipt and copies of identification for the parties or where the vendor is a company, the company documents, and sight of the original Power of Attorney documents for the parties (where the Contract has been signed on their behalf) together with an application form in duplicate and the appropriate fee.

In addition, if we are signing the forms for the registration of your Contract of Sale on your behalf, the Land Registry will charge for additional stamps to any Powers of Attorney used. The additional stamp costs depend on when the Power of Attorney was signed and as follows:-

*Less than 1 month: 51 TL*

*1 - 6 months for the Kyrenia District or 1 - 3 months for other Districts: 101 TL*

*Over 6 months for the Kyrenia District or over 3 months for other Districts: 152 TL*

You can carry out the registration yourself at the Land Registry or you can instruct us to do this for you (subject to payment of the relevant fee). If anyone, other than yourself, carries out the registration you will have to give a Power of Attorney authorising them to act on your behalf.

Further, in December 2007, the Electricity Board introduced a new regulation under which Purchasers can no longer apply for an electricity meter to be connected to their property unless they can prove that the Stamp Duty on their Contract of Sale has been paid.

Please request a copy of our Guide to Taxes for Property Transactions for more detailed information relating to taxes.

After registration of the Contract of Sale at the Land Registry, we will then make the application to the Council of Ministers for your permission to purchase. Whilst processing your purchase permit application, the Council of Ministers will take searches from the land registry, the military and the immigration authorities and provided that these are positive, the permission will be granted. The permission process can take a long time to complete; the current estimation is around two years. However, this will not prevent you from moving into the property or leasing the property or possibly even selling the property – as standard practice, we always try to negotiate with the vendor the insertion of a clause into the contract allowing you to sell the property before taking title to the property. You should note that the Government of the TRNC has made statements to the effect that all purchasers should obtain permission to purchase from the Council of Ministers before purchasing the property so that payment can be made simultaneously with transfer of title. There is a risk that the permission to purchase could be refused and there are other risks associated with making payment before transfer of title while the deeds remain in the name of the vendor. Therefore, to protect purchasers, the Government advises that permission to purchase should be obtained before any monies are paid by the purchaser. However, due to the length of time permissions are taking to be processed, purchasers find that following this advice is not practical. It is virtually impossible to find a vendor who is willing to wait for a purchaser to obtain purchase permission before concluding the sale. Purchasers who proceed on this basis must therefore accept

that there are risks attached to purchasing without obtaining permission from the Council of Ministers first and making payment simultaneously with transfer of title and there is also a small possibility that the permission to purchase could be refused. You can reduce this risk by ensuring that the property you wish to purchase is not in close proximity to any military bases and you should be aware that you will need to prove to the Council of Ministers that you have no previous criminal convictions. Please note that you will therefore need to provide us with an original police certificate from the country of which you are a citizen in order to enable us to make your application for permission to purchase to the Ministry of the Interior on your behalf. In the event that your application for permission is refused, you can nominate any other person to take title to the property on your behalf and hold the property on trust for you. We can assist you with the drafting of the necessary trust deeds. If you wish, we can also try to negotiate with the vendor to insert a term into the Contract stating that in the event that the purchase permit is refused, the vendor will refund the purchase price to you.

Once your purchase permission has been granted, we will notify you. If you wish us to act for you in connection with the transfer of title, we will then fill out all of the necessary land registry valuation forms for the valuation of the property. The taxes due on transfer of title will be paid and the title deeds will be registered in your name (please refer to our Guide to Taxes for further information on taxes). If you have left us with power of attorney, all of this can be dealt with without you being required to travel to the TRNC. We will then collect and keep the title deeds for you until you are ready to collect them.

Anyone wishing to purchase property in Northern Cyprus should be aware that there are risks as in many other countries. There have been cases where people have experienced problems due to misleading advertising, breach of Contract by vendors/builders, non-completion or late completion of off-plan properties or taxes have been charged incorrectly. The process of achieving legal redress in Cyprus can be very protracted compared to the UK. You should also note that the Cyprus legal system is not the same as that in the UK.

The ownership of many properties is disputed across the island as a result of the inter-communal fighting in the 1960s and 1970s. It is impossible to predict with any certainty what the exact implications of this may be in the future. Negotiations for a settlement which will involve the issue of property on both sides of the island are still continuing and until the negotiations have been concluded and a settlement has been accepted by both sides, there cannot be a definite answer to this question. Purchasers should accept that there is a risk that they could face legal proceedings in the courts of the Republic of Cyprus, as well as attempts to enforce judgments from these courts elsewhere in the EU, including the UK although there is no final judgment on this. Potential purchasers should also consider that a future settlement could have consequences for property they purchase in Cyprus. Under the laws in the South of Cyprus, buying, selling, renting, promoting or mortgaging a property which belonged to a Greek Cypriot prior to 1974 is a criminal offence. Documents relating to the purchase of property in northern Cyprus may be subject to confiscation when crossing the Green Line.

It is advisable for purchasers to have regard to the advice given by the Foreign Office of their home country or their local consulate/embassy in Cyprus. For UK citizens the relevant website is: <http://ukincyprus.fco.gov.uk/>. It is also advisable to regularly check the website of the TRNC Press Office for updates on the purchase of property in Northern Cyprus. The address is <http://www.trncinfo.com/TANITMADAIRESI/index.htm#1>.

## **BUYING PROPERTY IN THE TRNC – FREQUENTLY ASKED QUESTIONS**

***I am not a citizen of the TRNC, but I want to purchase two properties in the TRNC? How can I do this?***

You can sign the contract of sale for the two properties in your own name; however, you can only apply for purchase permission for and take title to one property. Therefore, you will need to find a nominee (this person should be a friend or relative or someone you know and trust) to take title to the property and hold the property on trust for you or you will need to set up a TRNC company. Please ask us for more detailed advice on trusts and companies.

***Can my spouse and I purchase one property each?***

Yes. Under new rules, husband and wife may now purchase one property each in their sole name.

***How long will the purchase permission process take and what does it involve?***

This process can take some time - current estimations are around two years. The process involves searches being taken from the Land Registry, the Immigration and the Military.

***Do I need to wait for my purchase permission before I can move into my property?***

No. Once your property is complete, you will be able to take possession of your property and move in. However, see our notes above on the advice of the Council of Ministers and associated risks.

***Can I sell my property before I obtain my purchase permission?***

This depends on the terms of your contract of sale. As standard practice at Naomi Mehmet & Partners, we always try to negotiate with the vendor to insert a clause allowing you to sell the property before taking title. We would then simply prepare an assignment of contract to be signed between you, the vendor and the new purchasers assigning all of your rights and obligations under the contract to the new purchasers.

***What taxes are payable on the purchase and when are these payable?***

Taxes, apart from stamp duty which is payable within 21 days of the date of the Contract, are usually payable right at the end of the transaction after your purchase permit has been granted and the title deeds are being transferred into your name. However, some vendors require VAT to be paid on the sale price at the date of delivery of possession of the property. Please refer to our Guide to Taxes for more details on this subject. The rates of tax are the rates in force on the date of transfer of title. However, the current rates are as follows:

- Land Registry Transfer Fee - 6%. However, every person has a once in a lifetime exemption to reduce this tax to 3%. If you decide to use your option right, you will pay 3%.
- VAT – 5%
- Stamp Duty – 0.5%

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