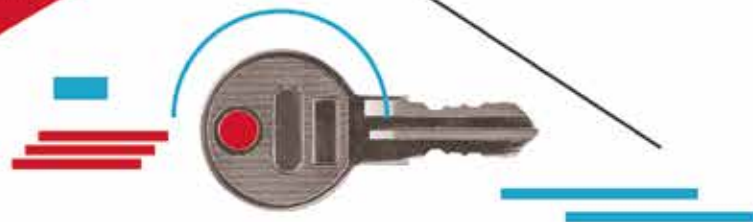


07

REAL ESTATE  
**ACQUISITION**  
AND LEASING



BY:  Invest in Bogota

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## Is there a special treatment for foreigners regarding the acquisition and leasing of real estate properties?

In Colombia, the mechanism used for leasing and acquiring real estate properties is the same for Colombian nationals and foreigners. Real estate transactions do not involve any additional taxes or any legal, or financial burdens for foreign investors.

## What is the process for the purchase of real estate properties?



### **Preliminary phase - due diligence:**

Confirm that the seller is the actual owner of the property and that the property has no defects or limitations that could affect it. Additionally, it is necessary to confirm that the approved use of the urban soil allows for the development of the buyer's economic activities and that the seller has no criminal background, especially in relation to terrorism or asset laundering.



**Study of title deeds:** Carried out before the property is purchased; it allows the buyer to have certainty on the property's ownership history and the possible burdens that may affect the property.



### **Integrity analysis of previous owners:**

Analysis done based on the information available in public and corporate databases, in public listings, in business journals, websites, industry publications, the media, etc. to investigate the background of the sellers and the previous owners of the property.



**Land use study:** Done to establish the type of use that can be given to the property, i.e. the activities that can be carried out, and the types of construction. This step is required to meet the investor expectations and avoid any type of unforeseeable circumstances possibly affecting the project.



### **Purchase commitment:**

It is customary for the parties to make a purchase commitment before the

property purchase agreement is done. This guarantees the performance of a contract that is to be postponed until the parties have taken the necessary legal and administrative steps. It has no cost (unless issued as a public deed before a notary public). An advance payment is made at this time, called "arras" in Spanish.



### **The agreement should include the following:**

- Buyer and seller information.
- Property description and location, describing its boundaries.
- Price and payment terms.
- Date and manner of delivery.
- Date, time, and place where the deed is to be executed.
- Terms for the payment of expenses arising from the contract and its registration.
- Parties' notification addresses.
- Signatures and authentication before a Notary Public.



## What should I know about the purchase agreement?

The property purchase agreement should be executed as a public deed before a Notary Public. Usually, the notary officials prepare the public deed draft and submit it to the parties for review.

The applicable cost is approximately 0.3% of the transaction value. Should the parties not reach an agreement on which of them will pay such a cost, the law indicates that it will be shared equally.

In the case of real estate transactions, the ownership is transferred when the purchase public deed is registered before the Public Instruments Registry.

The cost ranges between 0.5% and 1% of the value of the purchase or the property cadastre appraisal (whichever is higher). The so-called registration fees are 0.5% the above-mentioned value, usually paid by the seller.

## What should I know regarding the lease agreement?

The urban housing lease agreement is an "agreement according to which two parties make an undertaking, one allowing for the enjoyment of an urban property that will be used for living purposes, in part or in whole, and the other to pay a specific price on such account".

Contract execution can be either verbal or in writing (it is highly recommended that it be done in writing). An agreement between the parties and containing the following essential terms is the only requirement for its formalization:

- Price.
- Property object of the lease:
  - Despite not being required for formalization of the lease agreement it is advisable for the parties to include the following in their agreement:
    - The payment terms.
    - The manner and the date in which the property object of the agreement is to be delivered.
    - Public utility agreements.

- Related aspects or uses.
- Contract duration.
- Designation of the person responsible for the payment of public utilities.

## What should I know about real estate trusts?

A trust is a legal agreement according to which a person, called the trustor, transfers the legal ownership of one or more specific properties or assets to another person, called the trustee, the latter undertaking to manage or sell them in order to achieve a certain purpose, in their own benefit or to benefit a third party called the beneficiary.

On the other hand, a real estate property trust is a trust agreement according to which a real estate property is transferred to the trust company for its management and/or the development of a real estate project, in accordance with the instructions contained in the agreement. Subsequently, the trust transfers the completed units to the contract beneficia-

ries. These types of projects usually offer several advantages:

- The real property ownership is transferred to an independent trust, managed by a trust company overseen by the Colombian Superintendency of Finance.
- The independent trust is independent from the owner's and the trust's assets a circumstance that allows for the assets to be used exclusively for the real estate project.
- Being an independent trust, the risk of the project developer's assets being seized is reduced.



## How do the municipal regulations work?

In Colombia, municipalities should have the necessary autonomy to establish the legal norms governing their territories, the use of the land, and the protection and defense measures required for the cultural and ecological heritage found in their territories. Consequently, a Territorial Land Use Plan (POT by its Spanish acronym) is required to regulate the development and use of municipal land.

The Territorial Land Use Plan (POT by its Spanish acronym) is a document prepared by the municipal administration containing a number of objectives, guidelines, policies, strategies, programs, acts, and norms established in order to guide and manage the physical development of the territory and land use. However, it has various objectives, of which the most important are:

- Improve the quality of life of those living in the area and benefit the development of the city.
- Provide citizens access to common services (roads, parks, schools, hospitals, etc.).

- Ensure the rational use of the land, guaranteeing environmental sustainability and protecting the region's assets.
- Protect the community against natural hazards.

The territories of the various municipalities and districts are classified as urban, rural, and urban expansion areas. The above classification determines the type of uses that can be given to the land:

- Urban
- Urban expansion
- Rural
- Sub-urban
- Protected

## How do urban building licenses work?

A planning permission is an authorization required prior to land urbanization and division, for the construction and demolition of buildings, for the intervention and occupation of the public space, and for the division of land properties.

This authorization is issued by the urban curator or the competent authority, in accordance with the POT norms. It involves various classifications:



- **Urbanization permit:** A prior authorization required to create public and private spaces in one or several land properties located inside the urban area, to construct public roads, and to develop infrastructure and public household utility projects. This type of work aims to adapt these areas for urban purposes in accordance with the POT, providing the various necessary elements, and subdividing them for the subsequent construction of buildings.



- **Partitioning license:** Allows creating public and private spaces in one or several land properties located inside the rural and sub-urban area. It also allows executing the work

required for the roads and the infrastructure required to guarantee the provision of residential services and the use of the resulting land properties in accordance with the respective POT.



- **Building permit:** A prior authorization required for construction and to develop traffic areas and common areas in one or several land properties, in accordance with the POT, the Special Plans for the Management and Protection of Cultural Heritage Assets, and other applicable norms. These licenses specify uses, floor areas, volumetrics, accessibility, and other technical aspects approved for the respective building.



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