

RELAXING THE CONDOMINIUM ACT

Changing property restrictions to allow more foreign ownership will help lift the market from the economic doldrums *Says Nigel Cornick*

There is no doubt that these are challenging times for all businesses in Thailand. Foreign investment has waned, political instability is now in its second year, and the global credit crunch has further compounded the tough times we are experiencing.

This has posed several challenges but at the same time has presented a number of opportunities.

In the property market, the Condominium Act allowance for foreign ownership currently stands at 49% of the saleable area and increasing the quota represents an opportunity to attract international investment while not affecting the principals of Thai ownership that are well established in the country.

Strong demand from international investors still exists in Thailand, but a decline in sales throughout the upper end of the property market is expected in the future if there is no supply to meet the demand.

The main cause for the possible decline is that the foreign quota at 65 projects in Thailand is sold out, while demand is rising as seen in the number of foreign enquiries that are up 10% or more for some developers.

For us, foreign enquiries reached 6,716 in 2007 for a monthly average of 560. This year's monthly average has hit 622 to date and the annual tally is set to pass 7,000.

However, developers cannot fill this pent up demand due to Thailand's foreign quota restriction. This is the case in 35 Phuket projects, 20 developments in Pattaya and 10 in Bangkok's high-end sector where the foreign quota has already been reached.

A closer look at these projects shows billions of baht in potential sales if the foreign quota restrictions were relaxed.

For example, Phuket's 35 projects are valued at 20 billion baht, and analysts estimate that foreign demand is as high as 90%. As such, lifting the quota could bring in eight billion baht billion in additional sales.

Pattaya's projects, where the quota is full, are valued at 35 billion baht, and estimates say there is a further 30% in foreign demand, which could account for another 10.5 billion baht in sales.

The Bangkok properties could sell approximately 20% of the unsold units to foreigners for some nine billion baht, as actual foreign demand in high-end projects is 70%.

By increasing the foreign quota, the market could sell 3,000 to 5,000 units over the next

one or two years to bring the industry a substantial 25 to 30 billion baht at a time when developers and banks are concerned about lacklustre domestic demand.

To address the slowdown, the Finance Ministry recently proposed four possible remedies.

One is to reduce the special business tax on property transactions from 3.3% to 0.11%, the transfer fee from 2% to 0.01% and the mortgage registration fee from 1% to 0.01%.

Other possibilities being considered are a reduction in the corporate tax from 30% to 25% and increasing the land-lease period from 30 to 90 years.

However, the fourth and best proposal is to increase foreign ownership quotas beyond the current 49%.

This would stimulate sales and help sustain long-term growth in the market and re-establish foreign confidence in the Thai market recently affected by political instability, and its quick implementation would cost nothing while almost immediately generating billions in revenue.



It should also be noted that foreigners must pay with cash transferred from overseas as loans are not allowed for foreign buyers, and they cannot make purchases in baht held in Thai banks. This would bring in much needed foreign currency in the country.

Raising the quota would also instil more confidence in foreign buyers seeking long-term opportunities, while benefiting the government through income taxes on sales and the various fees collected from transactions.

Benefits would also go to companies that manufacture building materials and the contractors who build the projects.

The tourism sector would also gain as owners will spend more money during longer visits, and high-end long-stay tourists will be drawn by the luxury accommodation offered by owners who rent their units.

The trickle-down effect would have positive ramifications throughout numerous industries injecting welcome funds into the economy.

However, it must be stressed that any extension of the foreign quota needs to address

Thais' concerns over the sovereignty issue so that foreigners will not control a condominium's juristic committee, which indirectly controls the land.

Thais must be assured that an increase in foreign ownership in a project does not translate into the ownership

of the land on which it sits, as this is fundamental to Thai law and the Thai people.

Possible solutions to these concerns do not require amendments to ensure Thai nationals control juristic committees, as these mechanisms are already in place.

The regulation could state that a condominium's juristic committee must retain a Thai majority regardless of the percentage of foreign owners as is currently the case.

Preferential voting rights could be given to Thai nationals to guarantee they maintain a majority.

To dispel any fears that an immediate across-the-board implementation of less restrictive foreign quotas may cause, the government could launch it as a pilot project in

a single geographic area such as Phuket.

With banks and Thai people currently voicing concerns over falling property prices, now is the best time to employ measures that raise the foreign quota while ensuring control remains in Thai hands.

This will certainly boost sales, while at the very least maintain prices.

The move would also be a major step forward in ensuring Thailand remains on top of the competition it faces in real estate and tourism from neighbouring countries. ■

Nigel Cornick is chief executive officer of Raimon Land Plc, a luxury property developer with projects in Bangkok, Phuket and Pattaya. For more information visit www.raimonland.com.