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# Canada's foreign home buyer ban slows rental housing construction

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Currently in use as a parking lot, Colonia Treuhand's site for rental-only apartment units is in limbo because of the foreign buyer ban.

FRED LUM/THE GLOBE AND MAIL

Canada's ban on foreign purchases of residential property is creating barriers to construction of new rental housing, another unintended consequence stemming from a law that was supposed to help Canadians buy more homes by barring foreign competition.

The ban, which is set to last for two years, has already led to the cancellation of hundreds of commercial property deals because the law's definition of residential property includes land that is zoned for residential or mixed use. As well, the rules

specify that no more than 3 per cent of any money going to a residential purchase can come from a foreign source.

But developers and real estate experts say the new rules are hampering development of rental apartments, which the federal government has said is critical to help deal with the shortage of affordable housing.

“The bottom line is we’re stuck,” said Clemens Sels, president of Toronto-based Colonia Treuhand Ltd. Group, which has been developing real estate in southern Ontario for 50 years and whose investor base includes wealthy Europeans.

Colonia Treuhand has plans to build about 1,000 rental-only apartment units across three sites in downtown Toronto. The land was bought about 15 years ago, and Mr. Sels said he had been organizing construction financing from his European clients.

But since the law went into effect Jan. 1, Mr. Sels said his project has been in limbo.

“I cannot fund it with European equity,” he said. “There’s a lot of planning for a long time in this, and now comes this law and it screws up the whole thing.”

### **Real estate industry braces for foreign buyer ban**

Foreign investors are still allowed to buy apartment buildings – anything with more than three units. They are also permitted to buy real estate for commercial purposes that was zoned fully or partly for residential use, as long as it is in an area with a population of less than 10,000.

But the law prohibits foreigners from investing in land zoned for residential in regions with larger populations such as Toronto and Vancouver, even if the plan is to create rental-only apartments. The ban also makes it hard for developers to start acquiring individual homes for land assemblies, since those homes fall under the category of banned types of purchases.

Lawyers and brokers say the law has proven to be a stumbling block for many developers trying to arrange tens or hundreds of millions of dollars in financing for new projects.

Kirk Kuester, a vice-president at Colliers International in Vancouver, said he is aware of at least four major projects in the Vancouver region with at least 500 rental units among them that have been impacted by the ban.

“Much of what is done in this market is with investor money and developers need even more capital today than they used to because the banks have pulled back,” said Mr. Kuester. “The need for partners is even greater.”

Developers often get financing for projects from a collection of sources. Now, every one of those sources has to be checked to see what percentage is owned by any non-residents to ensure that more than 97 per cent of the money is defined as Canadian.

“When the threshold is at 3 per cent, it becomes easy to trip that,” said Andy Gibbons, a partner with law firm Torys LLP who focuses on commercial real estate transactions. “A lot of these developments require land assemblies and that has been caught as well.”

Another problem is that the industry is so nervous about running afoul of the rules that it is creating a chilling effect on commercial real estate deals and development. “The market is spooked. Nobody is able to get comfortable about advice for clients,” said Mr. Gibbons.

The rules to the **Prohibition on the Purchase of Residential Property by Non-Canadians Act** were released late December, less than two weeks before the law went into effect.

Lobby groups have been trying to get clarification from the policy makers who helped craft the law, including the federal ministries of Finance and Housing, as well as at the Canada Mortgage and Housing Corp.

Asked for comment, CMHC said the federal government was closely “monitoring the implementation and impact of this measure across the country.”

“We will continue to engage with stakeholders as we consider potential additional steps to ensure this measure does not have unintended impacts on communities,” said Claudie Chabot, a spokesperson for CMHC.

The federal ban is part of a wave of efforts by countries around the world, along with various Canadian provinces and cities, to deal with skyrocketing housing costs.

Several countries in recent years, most notably New Zealand in 2018, have introduced bans on purchases of homes by non-citizen buyers.

All of those efforts have provoked debate among politicians, housing experts, people in the real estate sector and the general public, with some arguing that foreign investors have been significantly responsible for Canada’s extreme problems of housing affordability. But others say that foreign investors are too small a part of the market to have that impact.

Non-residents own 7 per cent of all condos in British Columbia and 5.6 per cent in Ontario, according to the most recent data from Statistics Canada’s Canadian Housing Statistics Program.

The non-Canadian buyer ban is also affecting foreigners moving to the country for work because they do not yet have permanent residency status and therefore are not allowed to acquire a home. Employers are alerting foreign workers about the perils of finding housing.

Earlier this year, the University of British Columbia warned faculty that non-Canadians would not be eligible to buy a home until 2025, and said the law may affect recruitment at one of its campuses where there is scant rental housing for faculty and staff.

“There is no stock of faculty and staff rental housing, and the rental market is at max capacity,” said the notice sent out on behalf of the university’s director of faculty staff housing and relocation services, Siobhan Murphy.

The foreign buyer ban is attracting attention in other countries, particularly the United States, where many citizens have bought property in Canada over the years.

U.S. Congressman Brian Higgins, from New York, said he believes the new ban violates Canada’s trade agreement with the U.S. and Mexico, as well as long-standing tax treaties. “This is an unnecessary burden and bad-faith action by the Government of Canada,” he said.