

Zoning : the other face of the home country

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The other face of the home country. More and more second homes and holiday homes are changing the face of villages and altering landscapes – in the very parts of the country that are the most picturesque. Now the regulations governing the purchase of real estate by persons resident abroad are to be fully relaxed. But there is opposition. By Rolf Ribi

Article 75 of the federal constitution contains the sentence: "Zoning serves to achieve an appropriate and moderate use of the land and its ordered inhabitation." If only! For decades Switzerland has seen so much land development, you would think it had twice the amount to spare. Scaffolding and cranes dominate the landscape virtually everywhere, but particularly in the Engadine, Valais and Ticino. New houses are shooting up like mushrooms in these tourist regions, and these second homes are changing the face of formerly quaint villages and entire regions. The home country looks very different from how it looked fifty years ago.

The facts speak for themselves: In 2000 the Federal Office of Statistics recorded some 420,000 second homes and holiday homes (in official use, "temporarily occupied residences"), of which some 57 percent were second homes and 43 percent holiday homes*. This means that almost one Swiss home in nine is only used temporarily. Since 1980 the number of second homes and holiday homes has virtually doubled, and now exceeds 450,000.

Every day 11 hectares of Switzerland's cultural land is developed. Over the past two decades this has amounted to 32,700 hectares: equivalent to the area of the canton of Schaffhausen. In other words, one square meter of our land is built on every second. Per day this is the equivalent of a small farm, and per year to more than the surface area of Lake Brienz. "One square meter per second: that is the major deficiency of the Swiss zoning system, and a de facto infringement of Article 75 of the federal constitution," claims the Swiss Foundation for Practical Environmental Protection.

More and more second homes

The highest concentration of holiday homes in Switzerland is in the regions of St. Moritz, Lenzerheide, Flims and Laax, Arosa, Verbier and Goms in the canton of Valais, and in the Ticino. The second home boom is particularly marked in one of the most beautiful parts of our country, the Upper Engadine, where year after year around 400 holiday apartments are built: twice as many as the number of first homes for resi-

dents of the region. Sixty percent of all apartments in villages in the Upper Engadine between Sils and S-chanf are only temporarily occupied holiday homes. In Silvaplana the proportion is 80 percent and in Madulain as much as 82 percent.

Madulain, the smallest of the eleven communes in Upper Engadine, typifies what has been happening throughout the region for some years. More and more second homes are springing up in this small romantic location between La Punt and Zuoz. Nowadays the Engadine village boasts only 180 inhabitants but 253 second homes/apartments. The holiday homes, built in the style of old Engadine houses with "Sgraffiti" facades and rhaeto romanish proverbs, are occupied on average only 75 days a year. Recently Madulain lost its only inn, and with it the village's only hotel. "Closed for good", says the notice on the doors of the "Stüva Colani", once one of the best gourmet restaurants in the region.

Second homes are to be found not only in well-known tourist locations. According to a study conducted by Credit Suisse, more than half the total number of "temporarily occupied dwellings" are in cities or conurbations. These dwellings serve as urban "pied-à-terres" primarily in towns where their owners work or study. Taking five major cities into account – Zurich, Geneva, Basle, Berne and Lausanne – over 45,000 residential units are only used on a temporary basis. Over the past twenty years the canton of Aargau has seen a growth of 379 percent in second homes in rural suburban regions.

Who owns all these second homes in Switzerland? There are no statistical data available, but estimates exist: Ten years ago a panel of experts estimated that four fifths of these homes or apartments belong to Swiss. According to the Swiss Foundation for Landscape Conservation, 83 percent of holiday homes or apartments are built and used by Swiss. According to the Credit Suisse study, 1,400 residential holiday units per year are purchased by foreigners.

The quotas defined by the government for property purchases by persons abroad reflect

the foreign demand for such residences. 97 percent of the current quota of 1,400 units per year was used up in 2004 – and the trend is growing. And over the past five years, the tourist cantons of Graubünden, Ticino, Valais and Vaud have fully used up their quota. "There is significant demand from abroad in these cantons," claims the Federal Office for Spatial Development.

Different nationalities tend to opt for different regions, due to historical traditions as well as the distances involved and transportation infrastructure. A look at the land register records of transfers of ownership to foreign nationals between 1996 and 2004 reveals the following national preferences: Germans (33 percent of all transfers of ownership) and Italians (18 percent) mainly favour the cantons of Graubünden and Ticino, while the Dutch (10 percent) prefer the Valais and the Bernese Oberland, the British (8 percent) the Bernese Oberland and Vaud, and the French (8 percent) tend to go for ski regions in the Valais and Vaud.

Drawbacks of the construction boom

The drawbacks of the construction boom are enormous, especially in the most picturesque tourist regions: As more and more seldom-used second homes and holiday apartments are built, the landscape is increasingly being encroached on. Locations formerly known for their unique beauty are gradually being ruined. Shutters that remain closed for most of the year convey the impression of ghost towns. "Dead" villages are losing their charm and their tourist appeal. "A high concentration of second homes endangers the quality of the landscape and hence the assets on which Swiss tourism is founded," says the Federal Office for Spatial Development.

Many second homes are now being built on land in outlying regions, leading to uncontrolled urban spread and increasing traffic congestion. The infrastructure of such communities is geared to cope with large numbers of people during peak season, with the resultant cost burden on public services and tax payers. Land prices and rents are climbing and becoming prohibitive for many local residents. In places like St. Moritz, Celerina and Silvaplana, strong demand for holiday homes has driven land prices up to as much as CHF 10,000 per square meter, and up to CHF 25,000 for luxury locations.

"Second homes are an inefficient form of accommodation because, due to large land requirement and low occupancy, the use of land per night is much larger than for hotels," explains Thomas Bieger, Professor of Tourism at

* The terms "second home" and "holiday home" are interchangeable. People usually talk about holiday homes when referring to property in the 16 cantons designated as tourist cantons by the government.

the University of St. Gallen. As a rule, guests in holiday apartments have less money to spend than hotel guests, resulting in lower added value. In many places, second homes are in direct competition with hotels. Selling new apartments is a lucrative business – as is the conversion of hotels into holiday apartments. Three well-known hotels in Locarno, on Lake Maggiore, are currently being converted to holiday residences.

Naturally the booming market in second homes also has some winners, such as the construction industry and related sectors, property brokers and holiday home agents. New accommodation capacity is being created, thereby increasing the volume of room occupancy. Communities are benefiting from tax revenue (from ownership transfers and capital gains tax).

The sparse occupancy rate of new second homes has now raised alarm among landscape conservation and spatial planning authorities. “The number of second homes being constructed now far outweighs any form of social, ecological or economic sustainability”, says Raimund Rodewald, Head of the Swiss Foundation for Landscape Conservation. “An inexorable increase in second homes endangers our landscape and architectural heritage, accelerates uncontrolled development and contravenes the constitutional provision for moderate use of land,” says Heidi Haag of the Swiss Planning Association. “A high volume of second homes endangers the quality of the landscape, which is the major asset of Swiss tourism. Large numbers of seldom-occupied residences are changing the face of locations and the quality of settlements. This has a negative impact on tourism” (Federal Office for Spatial Development).

Surprise in Upper Engadine

In a referendum last summer, the citizens of the Upper Engadine recognised the seriousness of the situation and took the bull by the horns. People in this attractive alpine valley are well aware how scarce land is becoming in their home territory: 95 percent of designated construction zones in core community regions has already been developed, and 84 percent in other residential areas. Current land development reserves will be exhausted in only five years’ time. Three in five apartments in the Upper Engadine are seldom occupied holiday

apartments, and in Celerina, Silvaplana and Madulain as many as three in four. Everywhere there are visible signs that second homes are damaging the local hotel industry. The same applies to St. Moritz, where long-established hotels such as the Belvedere and the Post-hotel have now been converted to luxury residences.

mayors of all these communities as well as from commercial and business associations. “The tide has turned,” commented the Swiss Foundation for Landscape Conservation.

For Romedi Arquint, the driving force behind the initiative committee, the outcome was “sensational”. He calls the initiative a “citizens’ movement prompted by desperation”. Accord-



Construction land reserves in the Upper Engadine will be exhausted within five years

A few Engadine communities have already responded to this situation by introducing zoning and tax measures in a bid to limit the construction of second homes and sustain the local hotel industry. In addition, most Upper Engadine communities impose restrictions on the purchase of property by foreigners, and some (such as Sils, S-Chanf and Bever) have reduced the quota to zero. In a move that has become the stuff of legends, the community of Sils slapped a conservation order on the Upper Engadine lakelands in 1972, to preserve the picturesque lakes of Sils and Silvaplana for posterity.

Despite these community measures, the population of Upper Engadine applied the brakes in June 2005, when almost 72 percent of the citizens voted in favour of an initiative to restrict the number of second homes to a gross floor area of 12,000 square meters per year, or approximately 100 apartments. This is only a quarter of the current construction volume. The initiative calls for the regionally coordinated regulation of second home construction on the basis of a reference plan with allotments for all eleven communities. The people’s initiative was approved despite opposition from the

ing to Arquint, the building boom has caused major unease among local residents due to the high cost of land, high rents and the destruction of the landscape. Thomas Nievergelt, mayor of Samedan and an opponent of the initiative, believes the result is “a clear directive by the people to apply the brakes on the building boom.”

But the path to implementing the people’s will is long and paved with difficulty. The regional reference plan must be incorporated in community construction by-laws and zoning plans. Yet community councils boast a strong lobby of construction company owners, architects, managers of small businesses, and accountants. At the beginning of the year, two of the eleven community councils rejected the draft regional reference plan with second-home allotments. If a single community rejects the reference plan, the initiative is dead in the water. Even as the consequences of the vote are disputed, the construction of Residenza Serletta – a major 61-apartment development in a top location – is already causing ripples.

The surprising outcome of the referendum in the Engadine has rekindled the discussion

about second home construction in Switzerland. "Now is the time to apply the Upper Engadine model to other regions which are suffocating from a surfeit of second homes," claims Raimund Rodewald of the Swiss Foundation for Landscape Conservation.

Against selling off the homeland

The legal precepts are the Lex von Moos, Lex Celio, Lex Furgler, Lex Friedrich and for the moment the Lex Koller. Since the 1950s, new laws have been introduced at various intervals to govern the purchase of Swiss real estate and properties by persons abroad. Since 1961, persons living abroad have required a permit to purchase property in our country. The idea behind this is to keep Swiss land as far as possible in Swiss hands.

When parliament transposed the federal decree of 1961, which had been extended on several occasions, to an open-ended federal law (Lex Friedrich), the new 1984 law stated that: "The purpose of the law is to limit the purchase of real estate in Switzerland by persons abroad, in order to prevent the excessive foreign ownership of Swiss land." Persons living abroad and seeking to purchase an apartment or plot of land for economic purposes had to apply for a permit. A quota was imposed on holiday apartments, and the purchase of land for investment purposes was prohibited. Federal Councillor Rudolf Friedrich emphasised that only one fifth of all second homes was foreign-owned. "The overdevelopment of entire alpine regions cannot simply be laid at the door of foreigners."

The revised Lex Friedrich was a counterproposal by the Federal Council to the National Action people's initiative. Submitted in 1979, the initiative "against selling off the homeland", called in particular for an extensive ban on the purchase of second homes by foreigners. "With every plot of land that is transferred to foreign ownership, we are giving up a little piece of our sovereignty and homeland," said Valentin Oehen, at that time a National Councillor, and added: "The boom in holiday apartments and second homes is creating short-term employment, damaging the hotel sector and posing a threat to tourism." The outcome of the referendum of May 1984 was extremely close: The initiative was rejected by only 51.1 percent of voters.

Pressure to relax the rigid law began mounting in the 1990s, prompted primarily by concerns about the importance of Switzerland as a centre of business. Federal Councillor Arnold Koller wanted "our country to be open to foreign investors and enterprises". The revised federal law of 1994 provided for a controlled relaxation: Persons abroad require a permit

only if they wish to acquire property here as an investment, for commercial trading purposes, or as a holiday home. Persons residing in Switzerland or who have resided here for five years may acquire property without a permit. However, the purchase of holiday apartments remains subject to restrictions.

The change from the principle of nationality to the principle of residency had some unfortunate consequences. The remaining restrictions on purchasing property applied not only to foreigners living abroad, but also to Swiss nationals resident abroad. Nevertheless, anyone who had lived in Switzerland for more than five years could purchase property without a permit, and their heirs were entitled to inherit the property. The second generation of Swiss Abroad, who had lived here for less than five years, were treated as foreigners. "This turns Swiss Abroad into foreigners in their own country," said National Councillor Werner Vetterli at the time (see inset).

The outcome of the referendum of June 1995 was a "shock" as the *Neue Zürcher Zeitung* described it: 53.6 percent of voters rejected the proposal to relax the Lex Friedrich. Almost 60,000 Swiss Abroad helped to decide the outcome with their postal votes. German-speaking Switzerland voted against, while French-speaking cantons voted in favour. The Swiss Democratic party, the successor to the National Action party, won the referendum with their slogan "No to the selling off of the home country".

Abolition of the Lex Koller?

Despite the referendum defeat of 1995, the Federal Council and parliament took further steps towards liberalisation (relaxation of provisions governing holiday apartments, lifting of restrictions for EU and EFTA citizens). Last October the Federal Council decided to abolish the Lex Koller (as the federal law was now called) and partially amend the zoning law of 1979. It submitted both proposals for consultation to interested parties, who must state their positions by the end of February.

The Lex Koller is the only mechanism by means of which the government can exert an influence on the second home market. Why does the government want to do away with this instrument? According to the Federal Department of Justice and Police, the federal law on the acquisition of property by persons abroad is no longer required. "With the exception of a few communities, the danger of excessive foreign ownership of Swiss land no longer exists." As of now, persons abroad can also purchase construction land and properties exclusively as an investment, which will trigger important economic impulses.

According to the responsible department, the number of second homes and holiday homes "is currently very high in certain tourist regions", and an uncontrolled rise in such numbers contravenes the constitutional prohibition on the appropriate use of land. The Federal Council is therefore calling for a partial revision of the zoning law, so that cantons and communities can exercise reasonable control over the construction of second homes. Cantons will be obliged to designate in their reference plans the communities and regions where zoning measures are required. The Lex Koller would only be lifted once cantons and communities complete these steps.

Which zoning and other measures could be implemented by cantons and communities? Cantonal reference plans could, for instance, stipulate that regions and communities where second homes account for more than 30 percent of residences restrict the area designated as construction land for second homes, or define a maximum annual number of construction permits for second homes. Fiscal measures such as the introduction of a tax on second homes or higher property tax on second homes are also conceivable.

Opposition and demands

The Federal Council's planned abolition of the Lex Koller has attracted the attention of zoning authorities, landscape conservationists and tourist organisations. They all agree on one point: If this law is abolished and the purchase of property by persons abroad is allowed to proceed unchecked, demand for second homes will rise significantly. The general attitude is therefore: Yes to the abolition of the Lex Koller, but with effective substitute measures.

"Abolition of the Lex Koller will greatly exacerbate the problem," explains the Federal Office for Spatial Planning. Demand will increase in cantons and communities already much sought after by foreigners." The limitations on foreign ownership will be lifted. In the opinion of Pierre-Alain Rumley, Head of the Federal Office, the zoning law reform will "tangibly exacerbate the situation": Cantons must designate problem areas in their reference plans and define measures to ensure a "balance between first homes (for the local population) and second homes". And the government is entitled to reject inadequate reference plans.

The Swiss Planning Association points to the high proportion of second homes in many tourist communities. Given a marked imbalance between first homes and second homes, "there is clearly a need to act". Our beautiful landscapes and our tourist assets are in danger. Director Lukas Bühlmann explains: "If the Lex Koller is

abolished, we need substitute zoning measures.” But every location must find its own practical solution. It is important “that the government defines clear minimum requirements on the content of cantonal reference plans”. If this is not done, “the reference plans must be returned to the cantons for revision.”

The Swiss Working Group for Alpine Regions supports the abolition of the Lex Koller “unconditionally”. The law governs only the purchase of second homes by foreigners, and second homes are also an issue in urban areas. Director Thomas Egger is in favour of “spatially differentiated zoning measures”. The spectrum of measures for cantons and communities is “very broad” and ranges from quotas to taxes on second homes. The Working Group is concerned about “very low occupancy of a large housing stock”, and believes that more frequent use of second homes is essential.

“If the Federal Council abolished the Lex Koller without introducing effective supporting measures, it would be doing the affected regions a disservice, because demand would rocket,” says Raimund Rodewald, Head of the Swiss Foundation for Landscape Conservation. Rodewald believes the Lex Koller should only be abolished if the government and cantons set up a quota system for second homes.

“The Federal Council’s proposal largely passes the buck to the cantons. And that clearly will not do.” The Federal Office for Spatial Planning and the Federal Council “have for too long approved reference plans that they should have rejected.” The best solution would be a “federal competence to rule on second home quotas.”

For the Swiss Tourist Board, abolishing the Lex Koller would bring about the necessary

opening of Switzerland. Foreigners would no longer be discriminated against. But Director Judith Renner-Bach is concerned that demand could rise sharply in popular holiday resorts, and is in favour of supporting measures at the cantonal and community level: Zoning measures such as quotas for second-home construction permits and tax measures such as higher charges for community infrastructures, or tax incentives to encourage the renting out of holiday homes. The Tourist Board views the low

liest. The best-case scenario is for the revised zoning law to come into force in 2007. This would enable abolition of the Lex Koller by 2010 at the earliest. Provided, of course, there is no referendum on the horizon...

“We will launch a referendum” says the President of the Swiss Democrats even now. And who is aiming to be in the vanguard of the campaign against abolition of the Lex Koller? None other than former National Councillor and leader of National Action, Valentin Oehen. He



Empty dwellings have already ruined the appearance of local landscapes

occupancy of these homes of “less than 15 percent at present” as a real problem. “Warm beds rather than cold beds” and a good balance between hotel and holiday home accommodation could promote tourism in individual locations.

What happens next with the controversial proposal to lift the Lex Koller and amend the zoning law? The consultation process in parliament will be held this year and next at the ear-

was the victor in the 1995 referendum. “I will give my all in a bid to rescue the last means of protecting our land.”

DOCUMENTATION: Abolition of the Lex Koller, reform of the zoning law
www.postreg.admin.ch/dokumentation/medienmitteilungen/artikel/20051102/02394/index.html?lang=de
 Second homes and vacation homes in Switzerland, Economic Research Credit Suisse 2005
www.credit-suisse.com/research

THE INTERESTS OF SWISS ABROAD

■ What are the options open to Swiss citizens resident abroad seeking to purchase property in their home country? Some will remember the federal referendum of 1995: The proposed revision of the so-called Lex Friedrich on the purchase of Swiss property by persons abroad would have resulted in Swiss living abroad being treated the

same way as foreigners. This change from the principle of nationality to the principle of residency would have obliged Swiss citizens who had not resided in Switzerland for at least five years to apply for permission to purchase property. Since the revised Lex Friedrich was rejected in the referendum of 25 June 1995, Swiss citizens resident

abroad are still entitled to acquire second homes and holiday homes without restrictions, as confirmed by Pascal Roth of the Credit Suisse Economic Research Department.

■ Due to supporting measures, Swiss citizens resident abroad, like Swiss citizens resident in Switzerland and foreigners, may be subject to restrictions on the

acquisition of second homes in certain regions. The Organisation of the Swiss Abroad will ensure that the legitimate interests of Swiss citizens resident abroad are taken into account.