



INVESTING IN SAINT LUCIA SIMPLIFIED

The 5 Step Property Investment Guide



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INTRODUCTION

Saint Lucia continues to be an attractive destination for second homeowners and property developers. Not only is it an English-speaking island but it also enjoys good airlift from major hubs throughout the United States, Canada and the United Kingdom.

Of course, the island's rich cultural heritage and the welcoming and friendly personality of its people are a major draw to the island coupled with the island's natural beauty and topography.

The real estate offerings on the island are varied from unbuilt lots, stand alone homes and villas to condominiums. Depending on individual taste, lifestyle and budget there are suitable options for everyone.

So, whether you are in the market for a second home, considering investing in commercial real estate or you are a property developer looking for an opportunity there is something available on the island for you. Most demand for residential real estate tends to start at about US\$400,000. Higher end properties are easily available with sales in the US\$3 million range and up.

The aim of this guide is to explain in simple easy to understand language the basics to help you on your journey and to provide a roadmap to help you avoid common pitfalls and mistakes in the property acquisition process.

I hope that you find it informative and useful.



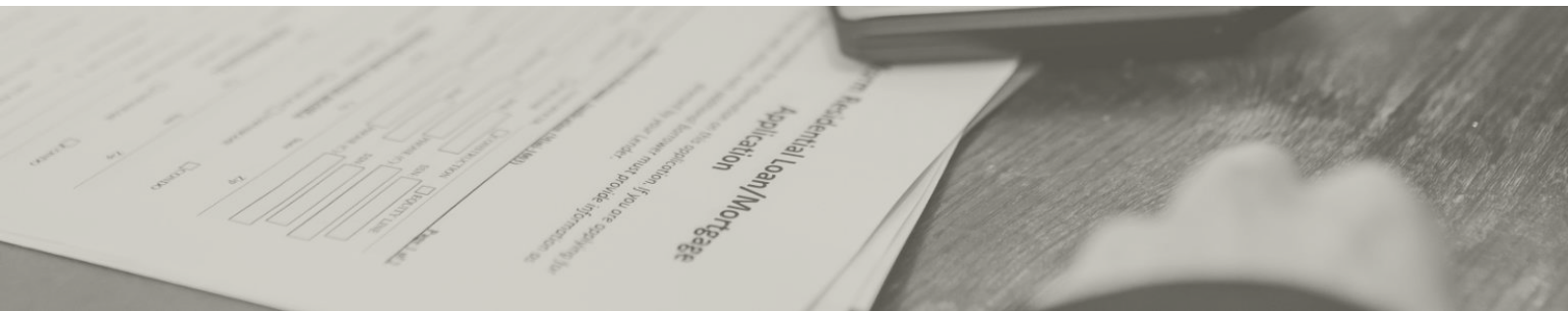
Michelle Anthony

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Chapter 1

FIND THE RIGHT TEAM TO WORK WITH

Having made the decision to invest in a property you will need to find and identify the right team to work with. Here are some of the key people you will need on your team:



The Real Estate Agent

Your Real Estate Agent will be your tour guide on this journey and the journey begins with websites. While realtors on the island do not require a licence to operate there is a Realtors Association to which most Realtors are affiliated.

If you have any questions regarding a particular Realtor you can reach out to the Association (www.raslinc.com) or contact a reputable Legal Practitioner. All the main agents catering to the international markets have websites which will allow you to shortlist properties.

Once you've done that and you've reached out to the various agents of interest, plan to schedule a call with each agent. In that way you can make an assessment of which agents you may be interested in showing you around. While virtual tours can be arranged there is no replacement for an in person tour and inspection, so a trip to simply beautiful St. Lucia should be next on your agenda.

Legal Services

A property investment of any value is not something to be taken lightly. Of course, having a seasoned legal practitioner by your side on this journey can only bring you peace of mind and ensure that your interests are protected in the event of any unforeseen disputes.

Many Realtors may work with specific Legal Practitioners. Be sure to do your homework. Google is a great research assistant. Most Legal Practitioners have websites these days. Email or schedule a call to speak with various legal professionals before making a selection.

An experienced legal professional will guide you on the investment process in St. Lucia; clearly explain all the steps involved and provide you with an engagement agreement which clearly sets out the services to be undertaken, expectations on the attorney-client relationship and the fees and expenses associated with the engagement. There should be no surprises.

Property Inspections

As most properties are sold in an as is condition, depending on the age of the property, or if you are considering renovations you may wish to engage a Building Surveyor to carry out a professional inspection of the property and to advise on any concerns. Quantity Surveyors are licensed by the Government. Most Realtors and Attorneys will readily be able to advise on qualified professionals with whom they collaborate. The Institute of Surveyors (www.isslu.com) also provides valuable resources.



The Land Surveyor

Before completing any property purchase, it is imperative that the property is clearly identified by reference to a duly registered Survey Plan. All registered Survey Plans are duly recorded at the Survey Department of the Ministry of Planning.

You may, if you wish engage a Licensed Land Survey to review the boundaries to the property. Generally, the seller of a property is responsible for ensuring that a property being sold has been clearly demarcated and it's boundaries clearly identified by iron cast in concrete. At a property viewing the seller or the agent may identify the boundaries to the property and the buyer may request that the boundaries be flagged for ease of identification.



Chapter 2

UNDERSTAND THE PROCESS

Title And Registration

The starting point to any property purchase is the title to the property. Investing in a foreign country where you are unfamiliar with the protocols and legal regime can be a nerve wracking process.

Saint Lucia enjoys a land registration system dating back to 1986. Every parcel of land on the island is recorded at the Land Registry and easily identified by reference to Map Sheets from which boundaries can be easily identified.

Every property on the island is identified by reference to a Block and Parcel Number which tells you the location of the property and its approximate area.



Nature Of Title

Property is either privately owned (Private) or owned by the government (Crown) and is either Absolute or Provisional. Ideally if you are purchasing from a private owner you will need to ensure that title is Private Absolute and in the case of the Crown title should be Crown Absolute.

Title to property is held as freehold or leasehold. Leasehold title arises where leases in excess of two years are recorded at the Land Registry or where the Government leases the Queens Chain.

Conveyance Of Title

Title to property is conveyed by notarial deed, executed before an Attorney at Law in his/her capacity as a Notary Royal. Transfers of title are presented first to the Inland Revenue for payment of stamp duty, deeds are stamped and the stamp duty paid is recorded.

Thereafter, deeds are submitted to the Land Registry for recordation where each deed is assigned a unique instrument number and the requisite entries as to ownership are entered on the Land Register.

Land Register Is Proof Of Title

Once title has been recorded, the Land Register becomes proof of title. . An inspection of the Land Register will provide you with almost all there is to know about the property.

It is uncommon to engage in title tracing exercises as the land register provides certainty as to title. Title insurance is not used on the island. In the few instances where title insurance is used, this has been largely in the context of a purchaser obtaining funds from a foreign bank and a foreign title insurance company willing to provide cover on the island.

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Typically, a prospective buyer will engage an Attorney at Law to undertake real estate due diligence and title searches. A search of the Land Registry will allow for a Land Register which is the proof of title to be obtained together with copies of the title of the predecessor in title, instruments confirming existing incumbrances (mortgages, restrictions and servitudes) and a map sheet showing the location of the property in relation to other properties. An examination of the Parcel File for any property will generally give a detailed history of the property.

The Land Register will indicate if the property has been surveyed or if its boundaries are undemarcated. Survey Plans are recorded and registered at the Department of Surveys and Mapping and can easily be obtained from there.

The Registry of Deeds and Mortgages

The Registry of Deeds and Mortgages is housed at the Court Office. A search of the Registry and Deeds and Mortgages will yield deeds recorded prior to 1986 as well as indicate if there are any recorded judgments against an individual or entity.

It is to be noted that judgments in Saint Lucia affect all property of a person, both movable and immovable. The Registry of the High Court will upon application provide a Certificate outlining any existing claims found.



Chapter 3

FROM DECISION TO ACQUISITION

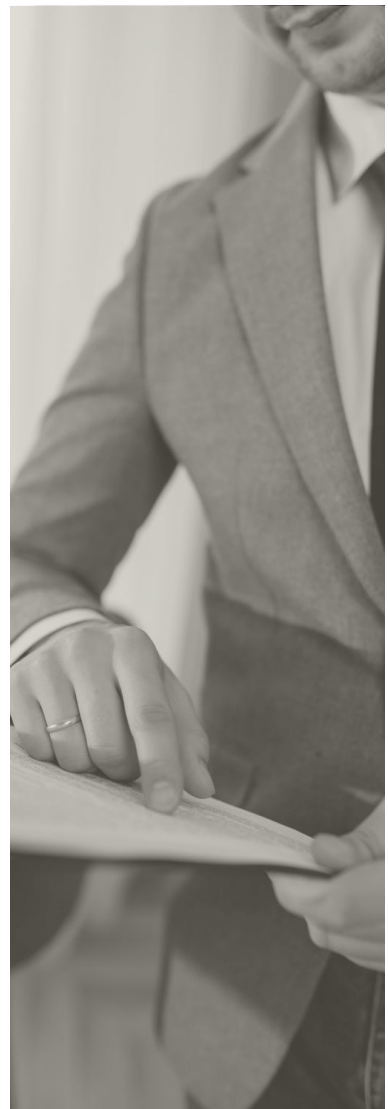
You've found the perfect property, made the necessary investigations or determined which should be carried out and decided on your legal advisor so what's next?

Financing

If you are not a cash buyer, you would be considering raising financing through a mortgage loan. The financial institutions operating on island are local and regional with banking roots in from Canadian Banks. All banks have established intermediary banking relationships with international banks allowing money to be wired into the island.

While local banks do grant mortgage loans to non nationals the process can be lengthy and you will need to be prepared to produce the relevant due diligence, financial and tax information to complete the application process. Otherwise, you are advised to consider obtaining financing from your home country through a second mortgage or other financial arrangement.

It is advisable that you have a clear sense of how you intend to fund the property acquisition before becoming bound by legal obligations. Now would be a good time to segway into the formalities and process of purchasing property in St. Lucia.



The Reservation Fee

In some cases a seller may ask that you pay a reservation fee to either the realtor or the seller's legal practitioner to secure the sale pending the formality of an agreement for sale.

The payment of this fee which may be between US\$5,000 or US\$10,000 and will allow the property to be removed from the market pending an agreement for sale being executed or other investigations carried out. The reservation fee forms part of the deposit. In most cases the reservation fee is non refundable if the buyer simply decides not to proceed. Where title issues arise this fee is usually refundable. Please bear in mind that different terms may apply to each purchase.

The Agreement For Sale

After engaging the legal professional of your choice you should expect that title searches will be conducted and thereafter once satisfied that there are no potential issues which cannot be overcome the drafting or review of a sale agreement should follow.

In most cases the seller or his / her legal professional will prepare the sale agreement and the buyer's legal professional will review. Once the terms of the Agreement are settled the buyer is expected to execute the Agreement and pay the Deposit. Most Agreements will contain clauses to facilitate signing electronically in counterparts.

The Deposit

Careful consideration should be given to payment of the deposit, who it will be paid to and the terms applicable to the payment and retention of that deposit. The parties should clearly set out the circumstances in which the deposit may be forfeited to the seller or refunded to the buyer.

The general practice is for the deposit to be paid to the seller's legal practitioner to be held in escrow in the client trust account pending completion.

In large value transactions a separate escrow agreement may be used and an independent escrow agent appointed. In some cases a seller may simply require proof that the deposit has been paid to the buyer's legal practitioner. The position varies depending on the parties and their advisors.

The Aliens Landholding Licence (ALL)

Non National buyers (with the exception of certain Caricom nationals) require an Aliens Land Holding Licence to purchase and own property on the island. This is a two part process.

The process is a two step one and is overseen by the Citizenship by Investment Board and Unit (<https://www.cipsaintlucia.com>)

The first step requires an applicant to obtain a Certificate of Eligibility.

A Certificate of Eligibility has a duration of one year or ten years and the holder of a Certificate may make one or several applications for an ALL during the validity of the certificate. The grant of the Certificate of Eligibility will then allow the holder to apply for the ALL in respect of the specific property that the holder wishes to purchase, acquire or lease.

It should be noted that there are other categories of persons who will also need to apply for a Certificate of Eligibility, we are however concerned with categories of persons seeking to purchase property.

Documents Required To Apply For A Certificate Of Eligibility

In order to apply for a Certificate an applicant will need to provide his or her Legal Practitioner with the following documents

In the case of individual applicant(s)

- Police certificate of character or equivalent from applicant's country of domicile or nationality
- Certified copy of passport bio-data page
- Bank reference letter
- Birth record of applicant
- Utility Bill (less than 3 months old) confirming residential address
- 2 passport photos one of which must be certified

In the case of corporate applicant(s)

- Incorporation/registration documents of the company
- Certificate of goodstanding or equivalent from country of incorporation or registration
- Filed corporate documents to include notice of directors, beneficial owners and shareholder
- For each director, beneficial owner or shareholder the documents required for individual applicants.



UPON APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF ELIGIBILITY AN APPLICATION MAY BE MADE FOR AN ALIEN LANDHOLDING LICENCE.

An application must be made with respect to one parcel of land or one subdivided lot and must be in the prescribed form and contain particulars of current ownership, location, cost, purpose for which the land will be used and identify any land currently owned or leased by the applicant. A licence once issued is valid only with respect to the land specified in the licence and is subject to conditions specified in the Act and those specified by the planning authorities. Standard conditions include the following-

- A licence once issued must be registered within 90 days at the land registry
- Where the land is proposed to be developed application must be made within 1 year to the planning authorities for approval
- In the case of the purchase of a commercial building, operations must be commenced within 6 months of the construction, purchase or acquisition of the building
- Where the alien intends to trade or carry on a business the alien must obtain a licence under the trade licence act prior to trading or carrying on a business on the island
- Use the land for the intended purpose.

Once the licence is issued then and only then can the holder proceed to complete the property acquisition whether by a deed of sale or purchase of shares in a corporate entity or otherwise.

Where the investor has identified the property intended to be purchased it is possible to apply for the Certificate of Eligibility and the Aliens Landholding Licence at the same time.

It is important that the requisite timelines and conditions be built into any property purchase agreement. The services of an experienced legal practitioner will go a long way in making the process hassle free.

The Conveyance

Conveyance of property typically occurs by a Deed of Sale or Deed of Transfer executed between the seller and the buyer before an Attorney at Law in Saint Lucia. When an Attorney at law executes a deed of any kind, he or she does so in the capacity of a Notary Royal. It is to be noted that a Notary Royal is not the same as a Notary Public.

All Attorneys at Law practising on the island are Notaries Royal. The parties to the deed must sign the deed in the presence of the Notary in Saint Lucia, otherwise this may invalidate the deed. If either party is unable to travel to the island to execute the deed then a Power of Attorney will be required.

Usually, someone in the Attorney's office can be appointed to hold the Power of Attorney in the event that the party does not have someone on island who can do this for them.

It is important to ask your Attorney whether there are any restrictions, servitudes and or covenants which flow with the property by which a buyer will be bound.

This applies equally whether you are purchasing a piece of land or a property which is already built up. In the case of land only, please pay attention to any time periods specified in the Deed or the Aliens Landholding Licence for development of the property.

In some cases where a property is owned by a Company, the buyer may wish to acquire ownership of the Company. In such a case it is important that an experienced Attorney at Law be engaged to understand the relevant legal paperwork required to effect the transfer and acquisition of the company.



Chapter 4

DOS AND DON'TS

Do

- Take your time to research
- Ask questions
- Work with an established and reputable realtor
- Engage an experienced legal practitioner
- Ensure you are provided with a detailed engagement letter from the legal practitioner
- Ensure you understand the process
- Ensure that you have title reviewed before committing
- Ensure that you can be present for closing or that you have appointed a power of attorney

Don't

- Proceed without a title search
- Proceed without an attorney
- Pay a deposit before a title search and retaining an attorney
- Proceed to sign an agreement without appropriate legal review



Chapter 5

CONCLUSION

Property investment of any kind is one of the biggest financial steps you will take during your lifetime. It is part of the journey to creating a legacy for your future. If you are a non national purchasing in a foreign country, it can be a nerve wracking experience as you navigate a new legal system. You will want to be sure that you have a clear roadmap before embarking on this journey and that you have engaged the right team to work with to ensure that your interests are protected in the event of any unforeseen disputes.

I hope that this guide will prove a useful roadmap for you as you embark on your journey.

Appendix 1

THE PROPERTY INVESTMENT ROADMAP

01

FIND THE RIGHT TEAM TO WORK WITH

The starting point to any property purchase is to find and identify the right team to work with. A team comprised of a Realtor, Attorney at Law, Banker, Property Valuer and Quantity Surveyor are a must on this journey as well as your insurer and an engineer if needed.

02

UNDERSTAND THE PROCESS - REGISTRATION & TITLING

Property is either privately owned (Private) or owned by the government (Crown) and is either Absolute or Provisional. If you are purchasing from a private owner you need to ensure that the title is Private Absolute and in the case of the Crown, title should be Crown Absolute. Title to property is held as freehold or leasehold. Leasehold arises where leases in excess of two years are recorded at the Land Registry.

03

MOVING FROM DECISION TO ACQUISITION

Having identified a property, before you can move to acquisition you will now need to consider financing, payment of a deposit, entering into an agreement for sale, obtaining a Certificate of Eligibility and an Aliens Landholding License if you are a non-national.

04

CONVEYANCE OR COMPANY ACQUISITION

You will need to determine whether you want to acquire in your personal name or in the name of a corporate entity. This is a decision best made after discussion with your chosen Attorney at law. Consideration should also be given to whether a Power of Attorney may be required if you do not plan on being on island at completion.

05

COMPLETION

Ensure that you have all funds required for completion inclusive of the purchase price, legal fees and government stamp duties and registration charges as applicable. Your Attorney should provide you with a detailed completion statement as well as a detailed invoice. Celebrate when it's all over!!

