

UBS immo news



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The pitfalls of buying an apartment

New apartments still pop up all the time in Switzerland. Nowadays, “off-plan” is the most common option for buying a newly built apartment. When doing so, you should keep a few points in mind to avoid any unpleasant surprises.

Around 15,000 newly built apartments hit the market every year. Buying your own home is generally the biggest purchase you’ll make in your life, and yet the appropriate knowledge and experience is often lacking. Especially an “off-plan” purchase (of an apartment that hasn’t yet been built) can have its pitfalls.

Hedging against financial risks

When you make an advance payment, the seller will guarantee that the sum is included in the later purchase price. However, buyers are often unaware of the risks involved: If the seller (or the general contractor) files for bankruptcy during the construction phase, you’d lose the advance payment. Installments and payments on account demanded during the construction phase are often insufficiently hedged. In the worst case, the apartments won’t be ready for occupation at the agreed time – making you the owner of an unfinished building.

“Buying a home has a broad financial impact. So study the sales dossier very carefully,” says Stéphanie Bartholdi, legal expert at the Swiss Homeowner’s Association (Hauseigentümerverband HEV Schweiz). Plans, building specifications and the purchase agreement are the most crucial; often, there’s also a separate service contract with a general contractor (GC). According to Bartholdi, you as a buyer should pay attention to the promised service, to timelines, defect-related rights and guarantees. Specifically, the sureties should cover two different aspects:

- Financial safeguards during the construction phase (performance guarantee)
- Risks after building inspection of construction defects (contract guarantee)

The surety of the general contractor for the time between contract conclusion and final acceptance is generally provided in the performance guarantee. It guarantees payments if the contractor can’t complete the project according to contract. General contractors for example can provide such a guarantee

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Editorial



Dear Readers,

The numerous apartments built recently are generally of high quality: well designed architecturally and with advanced energy-saving technologies and select materials.

But what makes an apartment a top property? Typically, you sign a reservation contract when only just the plans are available for the planned superstructure. Whether the glossy images, brochures and 3D renderings correspond to reality will only become clear later.

What's often forgotten out of joyful anticipation: the contractual conditions are crucial. Only elements specified in a notarized contract are binding. And there are many different points you should keep in mind.

In our main article, we show you how you can safeguard yourself against unpleasant surprises on your way to your dream home. True to the motto: buy only if you've subjected your contractual partner and the property to a thorough inspection.

We hope you enjoy the articles in this spring's issue.

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through a bank or insurance company in accordance with Art. 11 OR or as joint security, while taking over the premium.

The contract guarantee is about ensuring the builder's claims arising from the contractor's liability for defects. Should the builder for example not be able to repair a given construction defect, these guarantee payments will ensure an appropriate repair. In service contracts, such contract guarantees are already integrated in accordance with SIA norms.

Contracts: every detail counts

Despite these guarantees, you should think about the risks as well as financial safeguards before entering into any obligations as a buyer: Were all necessary and appropriate precautionary measures taken? Have you carefully chosen the construction partner? Have you checked their creditworthiness and references?

Stéphanie Bartholdi warns against making the purchase decision based only on superficial factors. In practice, the interested parties sometimes distance themselves from a project because they didn't like the view after all or because the rooms appear too small. Surprisingly, the small print in these contracts often isn't as pivotal as one might think, says the legal expert from HEV Schweiz. "Fact is, however, that the contractual provisions contain the essence of the purchase," says Stéphanie Bartholdi.

To ensure that the seller and/or the general contractor really use the buyer's money for the planned construction (and nothing else), the following should be considered:

- This first advance payment should not be too high and only serve to compensate specific and minimal preliminary services from the contractor – in the amount of 10,000 or 20,000 Swiss francs, for example. Pay attention to the formal legal requirements: if the reservation contract isn't publicly notarized, it counts as void and not binding for both parties.
- The remaining payment plan should reflect the actual construction progress and circumstances: start of digging at the construction site, pouring of

concrete for the basement ceiling, completion of the shell construction, the topping-out ceremony, etc.

- An additional security for the buyer is provided if the overall building complex is financed by a bank and the bank supervises the flow of payments.
- A common and serious risk is the builder's lien: Builders who are directly involved in the construction can sue the site owners if there are any outstanding payments – so possibly the apartment buyers if damages cannot be recovered from anyone else. That's why we recommend that you contractually define that the general contractor is obliged to settle any such claims and/or liens. Once the construction is complete, demand written proof that all involved contractors and builders have been remunerated. Because the builder's lien can be entered from the conclusion of the contract until at most four months after the construction was completed, it provides an additional security should you make your final payment four months after completion.

Perfect sales dossier

The digital and multimedia presentation of new buildings has made great advances in recent years. This may cause a little confusion as to which documents are significant and which ones aren't. Brochures, the seller's website, building descriptions or plans are only binding in so far as they are explicitly declared part of the contract. And the contract is only binding if it's officially notarized. So watch out: the perfectly designed



showcase apartment on the top floor or the virtual tour in 3D have no legal significance and only serve as advertising. The plans and descriptions of the property at the time of notarization may look completely different or have been modified from the initial plans.

Building specifications: the more precise, the better

An apartment buyer who values well-defined and high-quality services has to pay attention to every detail. A comprehensive and precise building specification therefore plays a key role as part of the contract. In these documents, vague descriptions like “Swiss valves” in the bathrooms or “parquet in the living areas” mean you’re literally buying a pig in a poke. This kind of imprecise wording leaves it open whether the final materials will be cheap or of high quality.

The exact products or appropriate budget items should be defined for every building component and element. This includes a comprehensive description of all materials and appliances for the kitchen. Similarly, all elements and standard of furnishings and fittings for bathrooms and living areas should be defined in detail. Furthermore, windows, doors, blinds, appliances, etc. have to be precisely described.

For inexperienced buyers, the budget items often aren’t indicative as to what they get for the money they pay. Only when the final choices are made (for example for the kitchen) does it become clear that the dream stove you’ve wanted costs considerably more than the corresponding item in the construction specifications. Gathering information and the thorough review of the promised services is also important for determining the value for money. Only a more precise analysis of the construction quality will show if a relatively expensive apartment is really worth the money.

Finalization: what shouldn’t be overlooked

Another challenge is the building inspection of the finished building. Othmar Helbling of the Chamber of Independent Building Consultants (KUB) says: “According to my experience, buyers really want walls, ceilings and floors to look impeccable.” But they do not fully understand that they’re not only buying an apartment, but primarily a part of a building. “A contractor’s failure to

properly implement construction norms for the facade’s external insulation has further-reaching implications than a scratch in the parquet,” warns the expert Othmar Helbling. The shell and support structure of the building actually make up a much larger part of the purchase price than the interior of the apartment.

Apartment buyers should therefore not only look at their own floor unit during the building inspection. The new building’s common areas are just as important, for example the roof, garage, energy technology, playground, exterior spaces, etc. Mistakes in planning or in properly treating the exterior hull or statics will have quite different consequences than purely cosmetic deficiencies in floors and walls. Experience shows that claims about defects on the roof or in the underground garage lodged after the building inspection and occupation can cost a pretty penny.

Solution: When you buy an apartment, it’s worth not only checking the property and the sales documents, but also the building partner. Because the entire process involves many building, financing and legal issues, it’s also worth getting good advice and professional support. One possibility is talking to your bank advisor. They have extensive knowledge about financing, assessing and purchasing real estate. Find further information here:

- GC service contract, checklist when buying real estate: Swiss Homeowner’s Association: hev-schweiz.ch ▶Shop ▶Bücher
- Advice and information: Chamber of Independent Building Consultants: kub.ch
- Specialized literature “Planen und Bauen”: sia.ch/dienstleistungen ▶sia-ius
- Specialized literature “Der Weg zum Eigenheim”: beobachter.ch/buchshop ●

Purchasing apartments: What to look out for

Contract: It’s a simple truth, but it needs to be repeated: don’t sign anything you haven’t read and fully understood.

Clarity: Costs, timelines and services have to be defined precisely and as detailed as possible. Any documents that describe the apartment must be part of the contract. Be careful if the construction specifications are short and vague.

Price: Be careful with promises about fixed and flat fees. In practice, buyers repeatedly find that furnishing details are not included in the flat fee or that changes require disproportionately high additional charges.

Changes: When buying “off plan,” it is common for the buyer to want to make changes. Kitchen, floor coverings or bathroom furnishings are often offered separately. Make sure that the process is contractually defined. Any additional fees for you or extra services from the contractor have to be defined contractually beforehand. Verbal agreements or unclear statements can be expensive when you do the final accounts.

Complaints: Defects have to be precisely documented and claimed in writing by registered mail right after they are discovered. To put pressure on the contractor, stipulate a deadline for solving these issues and threaten them with the involvement of a third party to deal with this – at the expense of the culpable contractor.

Apartment ownership: Review all documents related to apartment ownership. These include the regulations and the officially notarized deed of constitution with the definition of value and size of the apartment units, etc.

Building land: enough space for everyone

The Swiss population should grow by more than one million people over the next 15 years. Current reserves of building land are enough to meet the anticipated population increase, even without increasing the density of the housing stock. Only the greater Zurich area and cantons of Waadt and Freiburg might experience a lack of building zones.

Building land reserves in Switzerland shrank between 2012 and 2017, whereas the population grew by more than 450,000. In total the surface of undeveloped residential building zones (residential, mixed-use and central zones) sank by around six percent, though it currently still amounts to more than 20,000 hectares. However, more than half of the additional population should be absorbed into the existing building areas.

According to the reference scenario of the Federal Statistical Office (FSO), more than one million more people may be living in Switzerland in the next 15 years than do today, which corresponds to a need for building zones amounting to about 16,000 hectares. The population increase could be absorbed into the national average without increasing the density of the housing stock.

It will get more crowded in the west
According to the reference scenario, population growth over the next 15 years will be strongest in the canton

of Freiburg by just under a quarter. Growth rates between 15 and 20 percent are anticipated in the cantons of Waadt, Wallis (primarily Sion) and – in the German-speaking part of Switzerland – in the cantons of Thurgau, Aargau and Zurich. The mountain cantons of Uri, Appenzell Innerrhoden and Nidwalden should not see growth above the five percent mark. A stagnant population is anticipated in the regions of Glarner Hinterland, Goms, Engadin, Schanfigg and Davos.

Needs covered almost everywhere
Only in the regions with anticipated above-average population growth, such as in the western parts of the canton of Zurich, the southern parts of the canton of Aargau and the regions of Sursee-Seetal and Gros-de-Vaud is it possible that the undeveloped building zones will be less than what is needed for the new population (see map).

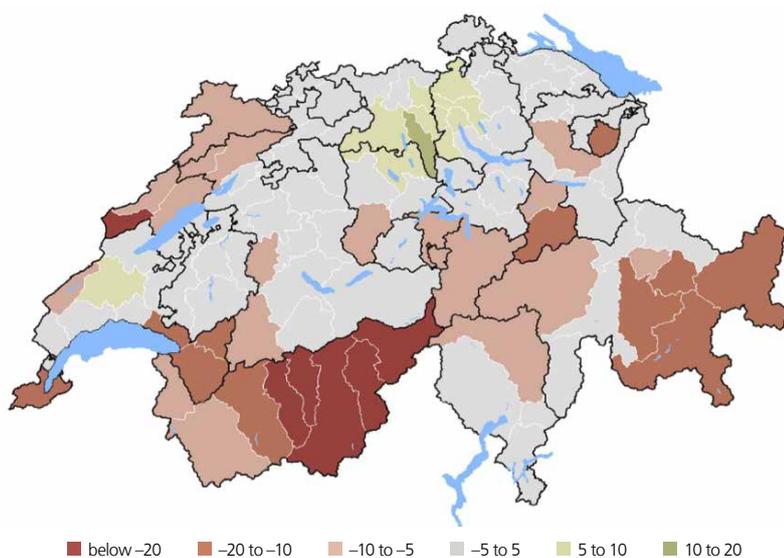
In the cantonal structure plans, the building zone surface area can also be determined by reference to the FSO population scenario. This scenario assumes a population increase of roughly 1.5 million people over the next 15 years – in other words, up to the 10 million mark. Under this extremely optimistic assumption, the anticipated need for building zones in all regions of the cantons of Zurich, Thurgau and Aargau and partly in Waadt and Freiburg will not be covered. The mountain regions,

in contrast, will continue to have a large overcapacity of underdeveloped reserves.

Relief from increasing density
In view of the increasing density aimed for by the new spatial planning law, the surface area effectively required to absorb the population growth will sink. According to an ETH Zurich study and the Federal Office for Spatial Development (FOSD), floor area reserves by themselves (implemented floor space adjusted to admissible floor space in accordance with planning) and potential residential space that has already been built up (space with the potential to be redeveloped) offer capacity for up to one million additional residents.

Building land only more expensive in isolated cases
The amount of residential space on offer over the next 15 years should be able to keep step with demand. Analysis shows that there is no lack of building zones for new construction. A large portion of the growth in population could even be absorbed by the existing housing stock without increasing building zones. Increases in land value, consequently, are not automatic, but should be restricted to individual regions and locations. ●

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Need for building zones until 2032, as percent of the current residential zone stock (residential, mixed-use and central zones)
Sources: FOSD, FSO, UBS. *Population growth according to the FSO reference scenario, negative numbers represent excess building zones.

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