

# UBS immo news

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## Condominium ownership: Here's how it works

**The owner of a condominium not only owns an apartment, but is at the same time a member of an association. There is plenty to watch out for when it comes to rules, finances, rights and obligations.**

In the past many Swiss dreamed of having their own “little house” in the country, while owning a condominium is more in vogue today. According to data from the Swiss Federal Statistical Office (SFSO), the number of condominiums rose from 237,700 to 404,876 between 2000 and 2013 alone – an increase of roughly 70 percent. Up to 25,000 condominiums change hands or are purchased each year, according to Immo-Monitoring of the consulting firm Wüest Partner.

### **Joint or exclusive right?**

By purchasing a condominium, you as purchaser acquire a share of co-ownership in a whole property and the building constructed on it. Ownership includes what is called an “exclusive right.” In other words, the exclusive right to use and develop self-contained parts of the building, such as the apartment, a basement or an adjoining room. Verandas, balconies and loggias are normally also subject to the exclusive

right of each individual apartment. At first glance, this arrangement resembles the freedoms enjoyed by the sole owner of a single-family house – you can do what you want within the four walls of your own apartment. You are only restricted inasmuch as you are not allowed to impair the interests of your co-owners and the community association.

However, the community association, in contrast, makes decisions about the building's common areas. Communal installations include the roof, facade, supporting structure, common areas such as the stairwell, water and heat distribution systems and outdoor areas (e.g. play areas, underground garage). Lawyers to this day dispute the question of windows: do they fall under a joint or exclusive right of condominium owners? To avoid conflict, the bylaws of the condominium association should regulate this question. Something to remember is that individual owners can, for example, be granted an exclusive right to the use of roof terraces or even parking spaces on the collective property.

*Continued on page 2*

# Editorial



Dear Readers,

Condominium ownership is the housing of the future. The dramatic growth in the ownership rate since 2000 is mostly attributable to condominiums.

Despite their popularity, understanding the statutory provisions and applying them in practice can be very demanding. As the co-owner of a property, you have the right to use your apartment, including its adjoining rooms, as you like. Rules govern the use of the building's common areas, and all members of the community of owners must comply with them – though members can decide on the rules together.

In our main article, we show you what special characteristics of this type of housing must be considered, in legal and in interpersonal terms.

We hope you enjoy the articles in this issue.

Roger von Mentlen  
Head of Personal Banking

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## Look closely before you buy

As someone purchasing a condominium, you are well-advised to familiarize yourself with the association bylaws in advance. Before signing anything, check the following documents:

- The publicly certified **condominium declaration** defines the separate condominium units. Particularly important is the proportion of overall value assigned to each unit, that is the share individual apartments have in the entire building.
- The **condominium bylaws** contain the most detailed provisions governing administration, cost sharing, voting rights and voting arrangements, exclusive rights of use, etc. Each condominium owner can submit a request for amendment. Given a required simple majority, it is possible to set down very specific provisions.
- **House regulations** govern daily life together, such as stairwell usage, rest times, etc.
- The **administration agreement** specifies the administration's mandate.
- If you are buying into an already existing condominium association, you absolutely should carefully examine the **protocols and resolutions of the annual meetings**. They generally provide the most unvarnished picture of relations among the condominium owners, the financing of the regular property maintenance, and important pending issues.

## Keeping costs under control

Before making a purchase, it is important to estimate the rough costs you will face by owning an apartment – you might want to ask a bank's client advisor for guidance. Costs include interest on the mortgage, and mandatory amortizations. To provide a sufficient margin of safety, affordability is calculated using an imputed interest rate of five percent on the entire financial amount.

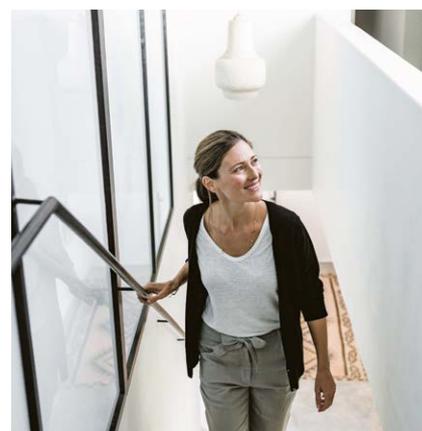
Maintenance and ancillary costs are added on top of this. The individual owner has to finance all expenditures on their condominium unit out of their own pocket, including repairs, maintenance, paintwork, etc.

How much you will need to invest depends largely on the apartment's age and condition. As a basis for making your calculation, you can calculate with a percentage of the real estate value. Estimating general additional and administrative costs can also prove hard – in particular for a new building. "We recommend asking the seller or the general contractor about these costs," says Michel de Roche, attorney in Basel and president of the Fachkammer Stockwerkeigentum (Chamber of Condominium Ownership).

All owners have to pay their share of the regular operational and maintenance costs of common areas. The allocation formula often tracks the share in the overall value, meaning that larger apartments pay more than smaller units. This also applies to a renovation or when financing a larger investment in the common areas.

## Renewal funds: saving for later

Primarily in the case of older apartments, you should critically question whether enough reserves have been set aside. "In our experience, renewal funds in condominium associations are often insufficiently funded," says Michel de Roche. This can become painful: A lack of funds for total renovations that come up at some later date (for example, roof, heating, facade, electrical installations or thermal insulation) can result in conflict among condominium owners. A renewal fund is not stipulated by law, but experts strongly encourage one.




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### The administration's role

The administration is crucially important. Its duties are generally written down in the administration agreement and in part also clearly defined in the bylaws. Duties include administration and accounting (insurance premiums, janitor, heating and hot-water costs), preparing a financial statement, maintaining and managing the building, as well as representing the association in its dealings with third parties. If the condominium building is being renovated, the association will assume responsibility for additional tasks, such as building analysis, budgeting, architect assignments, etc.

Attorney de Roche makes one further point: "The administration is also a guardian overseeing compliance with the bylaws." If someone, for example, fails to abide by the rules within their own apartment or within the areas subject to an exclusive right of use, this must be addressed. Insofar as the administrator's warnings do not bring improvement, the issue will need to be placed on the agenda of the annual meeting. For example: If an owner uses their apartment as a beauty salon or dentist's office, in contravention of the bylaws, they can be prohibited from doing so by majority decision. As a next step if this fails, a court would need to

rule on an action brought to enforce compliance of the bylaws. "The administrator," says de Roche, "must navigate an exceptional field of tension. This requires tact and sensitivity." Unlike for rental apartments, the administrator may in certain situations have to take action against their own client. ●

## Useful information for apartment owners

*As a condominium owner, what can I deduct from taxes?*  
For one, you can deduct the mortgage interest. Depending on the starting position, it can make sense to render repayment indirectly. In this approach, the mortgage remains unchanged (which is a tax advantage), and amortization repayments may be made into a pillar-3a account in a bank. Further, you can deduct the cost of maintaining the value of your apartment, for example paintwork, replacing kitchen equipment, renovating floors, etc. Administrative costs and the cost of hiring a third party to take care of a property are also deductible – in this respect, you should refer to the instructions provided by the cantonal tax authorities. Deposits in the renewal funds are also deductible, provided the money is later used for building maintenance and not for something else. Steps taken to protect the environment (photovoltaics, energy-saving windows, etc.) are generally also fully deductible. In contrast, value-enhancing investments and expenditures that are part of your personal living expenses are not deductible, for example household insurance premiums, electricity, hot water and heating costs.

*How best to avoid conflicts in the association?*  
The dictum "it's not what you say but how you say it" applies here. Keep up contact with your co-owners. If your neighbor's behavior disturbs you, it's best to speak to them directly. As a next step, you can call on the administration. It really is worth a lot if all interested

co-owners are familiar with the provisions set on in the bylaws and act accordingly.

*A resolution about an expensive, total renovation was passed at the annual meeting. I think that's going too far. Can I contest the resolution?*

In principle, every resolution can be contested. The prospect of success, however, is questionable. Insofar as the meeting decided on this renovation or agenda item, you can only return to the item if the manner the resolution came about was formally incorrect. This could be the case, for example, if topics were discussed and decided on that were not placed on the agenda in this form. Maybe the administrator made a mistake because a different kind of majority vote would actually have been required for this particular question, etc. If nothing can be criticized on formal grounds, the majority decision must be implemented.

*Is an owner with an exclusive right of use to the garden entitled to build a pond or pergola?*

No. The garden is an element of the property and is therefore owned jointly. The condominium owner in question may use the garden exclusively in the literal sense, that is they can sunbathe, set up a portable grill or table, etc. Any structural changes generally require some kind of majority vote at the meeting, depending on whether some step is considered "useful" or "necessary." Special provisions in the bylaws could establish other rules.

### Addresses providing further assistance

- **Fachkammer Stockwerkeigentum SVIT (Swiss Chamber of Condominium Ownership)**  
www.fkstwe.ch  
The *Fachkammer Stockwerkeigentum des Branchenverbandes SVIT* handles all technical questions related to condominium ownership. Members are for the most part professional managers and companies with respect to condominium ownership.

- **Hauseigentümergeverband Schweiz (HEV) (Swiss Homeowner Association)**  
www.hev-schweiz.ch
- **Schweizer Stockwerkeigentümergeverband (Swiss Association of Condominium Owners)**  
www.stockwerk.ch

Maciej Skoczek, Chief Investment Office WM

# Apartment prices in the Alps are slowly climbing again

**The vacation home market in the Swiss Alps is showing signs of recovery. After a longer phase, in which the prices for vacation homes sank, prices rose slightly last year by 1.1 percent.**

Significant price increases of sometimes up to 5 percent over the previous year were registered in the destinations of Engadin/St. Moritz, the Jungfrau region and Saas-Fee. In contrast, Gstaad, Laax/Flims, Andermatt, Zermatt and Davos/Klosters increased at a slower pace. Arosa and Engelberg recorded slight corrections of just under 2 percent. Verbier and Crans-Montana, top locations in Valais, had to absorb the strongest price reversals – around minus 2 percent.

## The number of vacation homes should continue to grow

If new vacation homes cannot be built, prices of existing properties invariably move in lockstep with demand. For owners of vacation homes, the current legal environment looks advantageous: the Zweitwohnungsgesetz (Swiss Act on Secondary Residences) severely limits the construction of second homes in Swiss tourist destinations. Despite this, the offer of new vacation homes should not be drying up any time soon.

## Apartments subject to a grandfather clause represent a large reserve of second homes

Apartments subject to a grandfather clause as defined by the Swiss Act on Secondary Residences are apartments that were legally approved or lawfully existed on 11 March 2012. Since the federal law does not subject them to any use restrictions, they represent a large reserve of potential secondary residences. However, their reutilization in roughly two thirds of analyzed localities may be restricted by local regulations. Already before adoption of the secondary residence initiative in 2012, most heavily toured municipalities – foremost in the canton of Graubünden – managed the residential market with the help of plans regulating the proportion of first homes, surface contingents,

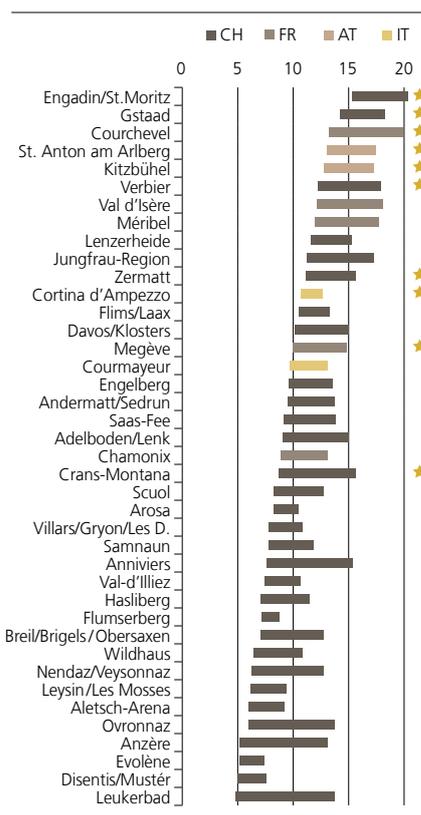
incentive taxes or zoning regulations. Even so, the proportion of use-restricted apartments subject to a grandfather clause is in many places below 10 percent. Only in Oberengadin, where the municipalities already introduced usage restrictions in the 1980s, up to one third of the apartments subject to a grandfather clause could be entered into the land registry as primary residences.

## A shrinking population increases the inventory of secondary homes

Around 800,000 residences (40 percent of total inventory) are used in vacation destinations as a primary residence. If only 1 percent of these residences was converted annually into a secondary home, the inventory of secondary residences would grow by 0.6 percent per year. How many first homes really come onto the market as secondary homes depends in particular on the development of the size of the population in the respective destinations. In case of increasing demand for first homes – for example, in Unterwallis – correspondingly fewer second homes will come on the market. A comparison of building permits and population growth currently suggests there is a current overproduction of first homes and thus to an increase in the inventory of secondary homes. That primary residences with the assistance of replacement construction are deliberately converted is not the intention of the Swiss Act on Secondary Residences. If this opportunity is exploited excessively as a loophole in the law, further restrictions should be expected on the local level. In some destinations the introduction of appropriate restrictions is already a subject of discussion (among other places, in Davos and Zermatt). ●

## Destination prices

Prices of vacation residences in the prime segment, in thousand CHF per square meter.



Source: Wüest Partner, Callon, Nomisma, immi.at, UBS  
 ★ Luxury market = Location with a high-end segment with upwardly open-ended prices

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