



## **ITALIAN REAL ESTATE**

### **Why-Buy & Purchase Tips**

<http://www.clementelawfirm.com/en/home-2/>

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At Clemente Law, we have successfully assisted through the years thousands property transactions helping our clients making their Italian dream come true.

We have faced unlimited legal and commercial issues along the way and learnt the importance of having an **up-front buying strategy** in place which would prevent our clients from unpleasant surprises as well as contributing to make the buying process a stress-free experience.

In the current market property prices start growing after years of decline and instability.

This is certainly then the right moment to plan a real estate investment in Bel Paese.



Here the main economic-financial reasons:

WHY-BUY in Italy:

- 1) **Invest in Beauty:** *Italy is widely considered one of the most beautiful country in the world; Italians are well aware that an investment in beauty is for ever*
- 2) **Property prices among the most convenient in Europe:** *the fact that prices start growing represents a new signal of stability of the Italian real estate market which at the moment is considered by the world property analysts the most appealing one in Europe*
- 3) **Inflation:** *the inflation wave coming from the North-American and Asian markets has hit Europe in the first semester 2021; Most dynamic Italian property markets (Milan, Florence, Venice, Bologna and now also Rome) start experiencing this and experts say that very soon this situation will become common to the entire Italian*

*real estate market. Buying a property before the inflationary contagion spreads (still low prices) would turn into a great value for money decision (short-medium term scenario) as well as a stable protection for the investor's savings (long term scenario)*

- 4) **Weak Euro:** *currency exchange is still convenient and the impact on the purchase would turn into a favorable one*
- 5) **Italian mortgages:** *accessible to foreign investors; interest rate at an all time low (between 1% and 2%)*
- 6) **Tax bonuses:** *tax credit measures for property renovations (110%, 65%, 50% fiscal credit) have been extended for 2022 and in certain cases until the end of 2023. It has never been more convenient to renovate home in Italy*
- 7) **Tourism rental market:** *Italy represents a world tourism hub; it is very easy to generate high rental income (short-medium term) making the return on the real estate investment (RoI) extremely interesting. Rental Flat Tax (residential premises) is also reasonable (21%) and it contributes to attract the interest of motivated property investors.*
- 8) **Low Property annual tax:** *First home (residency) is annual tax free; very reasonable second home property annual tax*
- 9) **Reasonable Capital Gain Tax (CGT):** *equal to 26% of the profit within 5 years from the purchase; after 5 years no CGT is due*
- 10) **Low inheritance tax:** *by far the most convenient in Europe; As long as the fiscal treatment of the real estate asset is concerned, Italy became a Tax heaven*
- 11) **New-resident Tax incentives (Relocation):** *7% retirees flat tax, HNWI 100k flat tax, non-dom incentives are attracting foreigners to move to Bel Paese.*

In other words, buying home in Italy now would mean:

- purchasing at affordable conditions (*low prices*)
- protecting your saving from inflation

- having a significant part of the renovation works “paid by the country”
- taking advantage of the favorable currency exchange rate (*weak Euro*)
- having the possibility to get part of the sale price (up to 50-60 %) financed by an Italian bank at extremely convenient rates (*Italian Mortgage*)
- attractive rental income (*Air-bnb, Student housing, etc.*)
- taking advantage low real estate taxes (*Fiscality + Bonuses*)



## HOW-BUY in Italy – Purchase Tips:

A) **Market Research**: having a correct understanding of the current market conditions is certainly a great start; property investors are used to do their homework scouting the market through the Property Portals (*immobiliare.it, idealista.it, casa.it, etc*).

Please note property portals aim to help the Owners/Realtors to list properties, and this doesn't necessary mean that the goal is to provide an exhaustive overview of the market prices.

No worries! Recently official sources of information showed up.

We are able to provide our clients with the **official market data** (what has been paid for a specific type of property in a specific quarter/street/area in the last 6-12 months and as resulting from the registered sales).

For Italy, this is a very new and different way to research and understand the most likely reasonable market price of a property.

B) **Walk-Through Video**: We all know how the pandemic has affected our life bringing in – among other things – travel restrictions. This made planning of a property trips more and more complicated with the result of postponing visits, and so transactions.

It then became of crucial importance for the buyers to obtain as much information as possible to favor the correct choice of the property.

A high quality “Walk through video” of the property should be required as well as its very detailed description.



No reasons to feel uncomfortable asking for as much information as possible, even the most unlikely ones; replies in written are always more than welcome.

C) **No rush signing binding documents:** We suggest potential buyers not to sign any document unilaterally proposed by the Vendor or by the Realtor in charge for the sale; and this because most probably that document will be balanced in the direction of the vendor. Take your time trying to sort out as much information as possible trying to understand how best to set the offer to purchase.

D) **Legal Due Diligence (LDD):** Knowledge is always the key-factor! We suggest – when found/chosen the property to be purchased – the Buyer to hire the service of an **independent English-speaking Italian Property Lawyer** who would better protect his very best interest and contractual position.

Your Lawyer will carry on an independent LDD (Title search, Mortgage inspection, Compliance to building regulation, Tax Planning, Family Law interactions, etc.) and based on the LDD result will draft a tailor-made Offer to Purchase (OTP) so to let the Buyer start the buying process confidentially (buying strategy).

E) **Realtor's commission:** Typically Italian realtors get paid by both the buyer and the seller (*conflict of interest*) when the property gets sold; they manage to market the property because of an individual agreement (agency agreement) reached with the property owner: this is how they first get in contact with the property.

Standard Agent commission is equal to 3%+VAT of the sale and purchase price.

Please note that the commission is negotiable, and so the very best thing is to agree on the entity of the commission with the agent within the moment of placing the OTP in; and most important is to agree when the commission should be paid.

Realtors will try to get paid when the OTP or Preliminary contract is signed between the Parties.

We believe that the commission (whatever would be the agreement on its entity) should **be paid at closing or at least to be splitted between preliminary closing and the final one**, so to lower the buyer risks in case something goes wrong as well as keeping the Realtor motivated to fully do his/her job until completion.

Making also sure whether the Realtor is holding the sale based on an *exclusive agency agreement* or not would turn into a very relevant information helping to take under control all the variables coming into the negotiation.

- F) **Occupancy status:** Make sure that the property is and will be sold as free of persons; Italy has a strong pro-tenant legislation, so in case the property is occupied it won't be easy to empty it from the occupants in a short period of time.
- G) **Furniture:** If the agreement reached with the seller also includes the furniture or a part of it, we recommend to ask the Realtor to draw up a detailed Inventory (to be attached to the OTP).
- H) **Budgeting (side costs):** being aware of the transaction "side costs" is essential. Here below a brief list:

Transfer tax: mandatory by law, it varies depending on the fact that the object of the sale is a “used property” (Register criteria) or a newly built one (VAT criteria); appointing the property as first home (where the new owner elects his/her new residency) or second home (holiday home) will have a strong impact of the calculation of the transfer tax.

Notary fee: between 1% and 2%+VAT of the sale price, depending on the specific professional activity required to the Notary

Realtor commission: typically 3%+VAT of the sale and purchase price

Mortgage broker: typically up to 2% of the lent amount

Surveyor fee: generally up to € 1.000,00

Solicitor fee: typically up to 2% of the agreed sale price, with a minimum entry fee.

- I) **Escrow account**: if finding complicated to open an Italian non resident bank account, the Escrow service is certainly the right alternative.  
The Notary public Escrow account is the ideal choice for the final payment (Balance); for the intermediary one(s) your Lawyer or Agent Escrow might help facilitating the payments as well as lowering the contractual risks of the Buyer
- J) **Currency exchange**: opening a non-Euro overseas bank account with a professional money transfer & currency exchange company will save you money (currency exchange rate + transfer bank fees)
- K) **Non Resident Mortgage**: Italian banks in certain cases are keen to lend money up to 50-60% of the property value to the buyer; it is certainly not a straight forward solution, but an experienced overseas mortgage broker will be able to inform whether you'd eligible for a bank loan.



- L) **Proxy services:** the buyer can't come to Italy to close? No worries! Through an international Limited Power of Attorney your Proxy would be able to close the deal on the buyer behalf. It is a very common situation and it also generally turn into an indirect way for the buyer to skip the translation (at closing the translation for those who can't understand Italian language is due) and travel expenses. Your Proxy will help you navigating through the international Proxy process (legalization of a foreign act in Italy) as well as placing all the mandatory declarations in the deed of sale, collecting the keys on the new owner behalf and also the authentic copies of the new title deed). A diligent Proxy might also help drafting/reviewing the Payee list before closing.
- M) **Property insurance:** in order to prevent future risks, it is advisable the new owner to buy an insurance on the property and eventually on the business (air-bnb and/or similars) that he/she meant to run in the property.
- N) **Estate Planning:** If it is about a long term investment or a legacy property we suggest our client to consider giving "stability" to this new asset making use of one of the legal tools available (Italian will, trust, vehicle company, etc.)



**Clemente Law firm** is an English-speaking Italian Real Estate Law Firm offering independent legal services with a specific focus for cross-border residential and commercial property transactions.

We are part of a large network of notaries, mortgage/insurance brokers, surveyors, contractors, property consultants and legal associates around all Italy.

We represent the ideal **one-stop-shop** for any foreign legal entity (individuals, companies, funds, associations, etc.) planning to invest in the Italian real estate market.

Here following CLF *legal services* list:

**Before buying:**

- Obtaining of a Codice Fiscale and/or Italian VAT number
- Setting up of an Italian company
- Opening of a non resident Italian bank account
- Real Estate (“Legal”) market research
- Real estate investment consulting (*traditional, property auction, pre-auction/foreclosure, NPL, vendor finance, off-plan development, flipping, market analysis, etc.*)
- Reviewing of Agency Agreement
- Translation services
- Tailor-made Legal Opinion on the specific cases (Australia, Switzerland, Euro-Asian countries, etc.) where the condition of reciprocity is not manifestly verified

### **Buying Process:**

- Drafting of all type of real estate contracts and pre-contractual agreements
- Setting up of the Buying strategy
- LDD/Conveyancing
- Negotiation
- Assisting with the full property buying process (*turn-key service*)
- M&A (*share deal*)
- Buying Agriturismo/Farmhouse and related business (*share deal + asset deal*)
- Hotel acquisition
- Property transfer Tax planning
- Proxy service
- Escrow service
- Advising on Italian Mortgages
- Advising on Italian Property insurance

We can hold the whole buying process remotely so no need for the client to travel to Italy.

### **After completion:**



- Renovation agreement (*including of the newest ones including of the fiscal bonuses*)
- Lease agreement (*residential and commercial*)
- Setting up of a B&B/vacation rental business
- Estate Planning
- Property management consulting



# CLEMENTE LAW FIRM

ITALIAN PROPERTY LAWYER

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