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STYLE

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The Swiss Magazine for Leaders

Graceland and wasteland

Business and pleasure mix
in the social media

Sweet and power

Swiss balsamico moves up
to asset class

Sharp and savvy

Super Max slices into the
men's toiletries market





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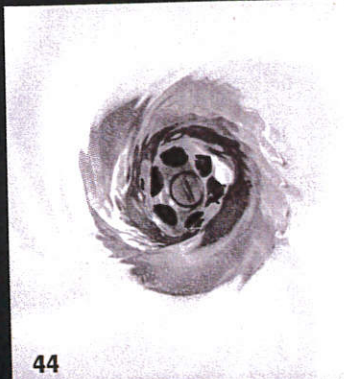
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The finite asset

Worries about Switzerland being covered in concrete are nothing new. But with the popular "aye" for the Weber Initiative earlier this year, the people showed that they were no longer willing to accept unlimited building. And another initiative may restrict construction even more.

Proliferation of secondary residences, rarely occupied properties – usually designated as "cold beds" – urban sprawl, destruction of agricultural land and environmental protection are all becoming sensitive issues in small Switzerland. Following the "Weber Initiative," which was just voted in by referendum, another initiative is emerging on the horizon: the "Landscape Initiative". Both these initiatives have triggered (and will keep triggering) changes in the federal planning and zoning law ("*Loi fédérale sur l'aménagement du territoire*" – LAT). It is interesting to put these changes into perspective to foresee the evolution of Swiss planning and zoning and, consequently, the Swiss touristic and real estate investment markets in the coming years.

In 2011, a revision of the LAT which aimed to reduce the proliferation of secondary residences entered into effect. The LAT now imposes on the cantons a deadline of three years to include in their master zoning plan specific measures to limit the number of secondary residences, to improve the occupancy rate of the existing ones and to promote the hotel industry. Cantons that failed to comply by July 2014 would be prevented from granting any secondary residence construction permits. Once regarded as a measure to control the negative effect – such as speculation on residential properties – of a possible abolition of the Lex Koller, such revision was eventually presented by the federal government

as the "indirect counter-project" to the Weber initiative, the abolition of the Lex Koller being now regarded as unsustainable in the present political context.

Legal rushes

A constitutional initiative, such as the Weber initiative, consists of a proposed modification of the Federal Constitution that is submitted to the Swiss people's vote. If accepted, the modification

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becomes part of the Constitution. The Weber initiative, which intends "to end the invasive construction of secondary residences" by adding the new Art. 75a to the Federal Constitution, was launched in 2006 by the ecologist Franz Weber and submitted to the people's vote in March 2012. Federal authorities called for its rejection. But, against all odds and despite the above mentioned revision of the LAT, the Weber initiative was adopted by a majority of Swiss voters and is now part of the Swiss Constitution. The Weber initiative is much more radical than the revised LAT: secondary residences shall not constitute more than 20 percent of housing stock and of the gross surface of living space in each Swiss district (com-

mune). In the touristic regions of the Alps, such a 20-percent limit is most of the time widely surpassed (the figure reaches 80 per cent in some of the more popular regions of the Valais). The initiative, however, was drafted in rather vague terms and will require a careful interpretation to decide on very important matters such as the very notion of secondary residence. For some supporters of the initiative, the concept of secondary residence should be understood as the contrary of a primary residence, while for others, secondary residences should only be the ones inhabited less than 120 days a year, including for rental purposes. This affects the fate of construction permits granted between March and December 2012 (the initiative only stipulates that those granted after the 1st January 2013 are void) and that of existing buildings in cities that have already exceeded the ceiling of 20 percent. A working group constituted of representatives from various federal offices, alpine cantons and the initiative committee is already at work and should make its recommendations before the summer to allow the Federal Government to adopt a directive in September, waiting for a new revision of the LAT. But whatever may be the retained solutions on these highly debated subjects, it should indeed become more difficult – and probably more expensive – to acquire a secondary residence in the touristic regions of Switzerland, as a lot of development projects may be abandoned or at least totally redesigned. On the positive side, the actual owners of secondary residences in touristic areas may see a substantial increase in the value of their property.

Lex Koller The law which limits the ability for foreigners to acquire residential properties in Switzerland.



On cold beds and hot topics, bark or bites?

Tighter controls

Another initiative is about to have an impact on the Swiss real estate market. The current Art. 75 of the Constitution stipulates that planning and zoning is the responsibility of the cantons, and they are required to make “judicious and reasonable use of land,” while the Confederation limits itself to fixing the basic principles and coordinating cantonal efforts. Introduced in 2008, the initiative on “space for man and nature (the Landscape Initiative)” aims at amending this constitutional article in order, amongst other objectives, to share the responsibility of judicious and reasonable use of land, between the cantons and the Confederation. Above all, it imposes a moratorium of 20 years on enlarging current construction zones. Its declared objective is to put an end to urban sprawl and to protect the landscape. The Federal Government has admitted that the current legislation has not been successful in resolving the problem of urban sprawl and the destruction of agricultural land. It does, however, consider that the moratorium of 20 years neither takes into account the specificities of each canton, nor of an eventual dearth of constructible land in some parts of the country. The federal government thus recommends rejecting the Landscape

Initiative (which should be submitted to people’s vote in the coming years) by opposing, yet again, a modification of the LAT as indirect counter-project.

The new government promoted a revision of the LAT that could be adopted by Parliament as early as summer, imposing on cantons a modification within five years of their master zoning plan (which must then be accepted by the Federal Government) in order to define the size and allocation of constructible zones based on foreseeable needs over a duration of 15 years. This would allow the planning and coordination on a regional scale – and no longer only cantonal – of economic development poles. Once its master zoning plan is approved, a canton could only increase its constructible zones under restrictive conditions and in conformity with defined objectives. In addition, the cantons would be obliged to take adequate measures (obligation to build, tax incentives and even expropriation) so that constructible land is actually used, constructible zones not having been allocated in accordance with real development needs (17 to 24 percent of their global surface would not be built). Until consent for the revised master plan, new classification of constructible zones could only be made if compensated by declassification

of equivalent surface areas. Finally, in the event a canton does not respect the deadline of five years for adopting its new master plan, it could not modify in any way its constructible zones unless it conforms to the requirements of the LAT. Given the comprehensive content of such governmental counter-project, a withdrawal of the Landscape Initiative may well be in the offing.

It is now clear that in Switzerland “judicious and reasonable use of land” will be more and more under survey in the future, impacting highly the touristic and real estate investment markets, particularly in favouring the hotel industry rather than the secondary residences and controlling the extension of construction zone to combat urban sprawl. In view of the dramatic challenges posed in Switzerland by planning and zoning, these tendencies do not seem likely to be reversed and should be carefully monitored as they may also create interesting opportunities of investment in the coming years, especially in the hotel industry market, which is not restricted by the Lex Koller. «»

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