

Easier access to land register information

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Introduction

Swiss land registers are organised locally and over time each canton has developed a different system of record keeping. Since 2005, land registries have been entitled but not obliged to operate an electronic register. Except for the canton of Zurich, where some registrars still work with physical books, all land registers are kept electronically. Still, in several cantons access to land register data requires paperwork and can be time consuming.

As of 1 July 2020, new provisions will apply to electronic access to land register data. Whereas current access to electronic land register data is highly restricted, the new legal provisions of the Federal Ordinance on the Land Register⁽¹⁾ extend access to electronic land register data for specified parties. This grants entitled parties easier access to land register data.

While the ordinance provides the basis for this extended access to land registers, it is up to the cantons to decide whether they wish to introduce it.

Current regulation

Access to land register data is regulated in Articles 970 and 970a of the Civil Code⁽²⁾ and Articles 26 to 30 of the ordinance. The law differs between data which is accessible by the public and data for which a legitimate interest must be proven to obtain access (for further details please see "[Access to land register information](#)").

Everyone is entitled to access the following data regarding a property without showing a particular interest:

- the name and description of the property;
- the name and identification of the owner;
- the form of ownership;
- the date of acquisition;
- any servitudes and encumbrances; and
- certain annotations.

Access to any other land register information requires a legitimate interest. This applies for example to mortgage information, plans and contracts underlying register entries.

Special rules apply to certain professionals and organisations which are exempt from showing a legitimate interest. The exemption does not apply by operation of law but requires a contractual arrangement with a cantonal authority or supporting organisation. Pursuant to the ordinance, the following professionals and organisations may benefit from these special rules:

- notaries public;
- engineering geometers registered with the geometer register;
- federal, cantonal and communal authorities with regard to the data that they need to fulfil their duties;
- banks;
- pension funds;
- insurers;
- attorneys at law registered with the bar register;
- landowners; and
- owners of real property as far as they need the information to exercise their legitimate

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interests.

Notwithstanding the above, under the current regulation, electronic access to supporting land register documentation such as purchase contracts, servitude contracts, private plans, powers of attorney and excerpts from commercial registers is restricted to notaries public.

Changes from July 2020

One important amendment introduced by the ordinance concerns the extended electronic access to supporting land register documents for landowners and authorities. While under the current regime they have access to the supporting documents only with proof of interest, under the revised ordinance the cantons may grant unrestricted access to supporting documents to:

- notaries public;
- engineering geometers registered with the geometer register;
- federal, cantonal and communal authorities with regard to the data that they need to fulfil their duties; and
- landowners.

Another important amendment concerns access to land register data by attorneys at law. The revised ordinance specifies that attorneys at law may be granted access to land register data only if such access is required for professional purposes in connection with real estate transactions. This does not include obtaining land register data about the property of a counterparty via the extended electronic access and using such data in a dispute against that counterparty.

To prevent the misuse of the extended electronic access to land register data, the system automatically logs every access. Moreover, under the revised ordinance, the system will record for two years the identity and function of the persons and authorities accessing the register, as well as the time of access and the relevant plots.

Also, to counterbalance the extended electronic access to their land register data, landowners may obtain the access protocols relating to their property via a simple procedure and without any proof of interest.

Comment

The revised ordinance facilitates electronic access to supporting land register documents for landowners and certain professionals and organisations. While the federal ordinance provides for the legal basis of such access, it is up to the cantons to implement the required electronic environment.

The revised ordinance does not generally promote the electronic access to land register information. It therefore remains at the discretion of the cantons whether to grant the electronic access. Unfortunately, a number of cantons still do not grant any electronic access to land register information – even though such e-governance can be expected from a modern administration.

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Endnotes

(1) Federal Ordinance on Land Register, SR 211.432.1.

(2) Civil Code, SR 210.

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