

Mr. Mario Thurner
Managing Director
CLC

Via E-mail

IX. CENTRAL EUROPEAN COVERED BOND CONFERENCE
BUDAPEST, OCTOBER 17-18, 2005

Budapest, October 10, 2005

Dear Mr. Thurner,

Please find enclosed our comments to your Executive Summary.

Land register

The German and the Austrian regulation alike also the Hungarian real estate law is based on the authenticity of land registry (“*ingatlan-nyilvántartás*”) entries. Following that, on the basis of rights registered and facts recorded in the real estate register, it is to be presumed that such registered rights and recorded facts pertain, until proven otherwise, to the right-holder thereof. In the event of abrogation of any right or fact, it shall be presumed, until proven otherwise, that such abrogated right or fact does not prevail. So the registration has constitutive meaning (the right comes into force and abrogates through registration).

Only those rights and facts listed in the relevant act can be entered into the land registry. Such rights and facts include besides the right to ownership mortgage, independent mortgage lien, right of execution, etc. Registration fees are maximised.

There is a land registry system in Hungary, operating a ‘Unified Land Registry System’ - which is the integration of cadastre and legal registry on legal basis. The ‘Unified Land Registry System’ is fully electronic, land registry extracts of public faith can be obtained from any of the land registry offices or those notary publics and attorneys-at-law having an audited connection to the System. The Hungarian land registry system is conducted by competent land registry offices (“*földhivatal*”) subordinated to the Ministry of Agriculture and Regional Development. A possible change for a judicial conduction of the System is discussed, however, we assess that it’s beneficial to maintain the current system - as in this case obligatory public-administration deadlines apply for the registration procedure.

Please note that land registry offices shall register mortgages as well as restraint of alienation and encumbrance in favour of Mortgage Banks within eight (8) days by law.

Types of real estate liens

There are two types of real estate liens in Hungary: the accessory hypothec („*ingatlan jelzálogjog*“), and the non-accessory independent mortgage lien („*önálló zálogjog*“). The independent mortgage lien in terms of the Civil Code is negotiable without assigning the correspondent claim too, up to the amount of the outstanding mortgage loan.

Both hypothec and independent mortgage lien are adequate instruments to secure mortgage loans provided or refinanced by Hungarian Mortgage Banks. Such loans shall be secured usually by a first rank mortgage or a first rank independent mortgage lien on a real property located in the territory of Hungary, with the restraint of alienation and encumbrance.

Forced sale procedure

On the basis of the enforceable deed of the court or the notarial document it is the bailiff's office selling the property. There are three alternatives to sell the property:

- Sale at auction;
- Open tender;
- Sale to a third party specified by the creditors and the debtor jointly.

In case of sale at auction the price can be reduced by law up to 50 percent of the appraised value, in case of residential property up to 70 percent. The appraised value of the property has to be set out by the forensic expert. At an open tender the upset price is the appraised value. In case of sale of the property to a third party specified by the creditor and the debtor, the price has to be determined in advance. Is the creditor a credit institution, it might be entitled by the mortgagee to sell the property itself at a price set in the agreement of the parties.

Fifty percent. rule in case of insolvency

In case when the debtor is a company (an economic organisation), fifty per cent of the purchase price from the sale of a property minus the costs of sale shall be exclusively used to satisfy the claims of pledgors holding a hypothec or an independent mortgage lien, naturally, only up to the amount covered by the specific liens. As for the satisfaction of the unsettled part of the claims the general rules apply.

Looking forward to discuss the above topics in your panel in depth,

Best regards,



Dr. András Gábor Botos

Secretary General

Association of Hungarian Mortgage Banks