

Buying property in Germany: Berlin

There are five important factors that need to be considered when buying property in Berlin:

- 1. Choosing the right location**
- 2. At the right price**
- 3. With the proper criteria**
- 4. In a fast procedure**
- 5. Knowing the total costs involved from the outset**

1. Choosing the right location

East or West Berlin, a central district or a leafy suburb? An established area such as Prenzlauer Berg, Friedrichshain, Charlottenburg and Wilmersdorf, or an upcoming locality like Wedding and Neu Köln? What should I be looking for in terms of infrastructure, population growth and composition? Do I want a property in a tourist area, or would I prefer somewhere quieter? Questions such as these illustrate just how difficult it is to choose the right property, particularly when it is not intended as a permanent residence but rather an investment or second home. As lawyers who provide advice to foreign investors on their real estate purchases not only in Berlin but throughout Germany, we understand that our advisory role begins with the choice of property and because we love Berlin, we are more than happy to assist prospective investors at this initial stage by offering an independent, objective opinion about the property and its location, thereby helping them to make the right choice from the outset.

2. At the right price

In a city such as Berlin, which attracts buyers from all over the world, the only property prices that would appear to be bargains are those which were being offered several years ago. In other words, the margin for price negotiation in a seller's market is very slim. The only way for buyers to gain negotiating leverage is by arranging a proper inspection of the property in order to identify possible drawbacks. Such an inspection should consider the following factors:

- whether the property is indeed in a privileged location
- the condition of the property (e.g. what repairs and improvements have been made, if any, during the past five years)
- in the case of a property that has not yet been constructed, the precise specifications binding on the building contractor
- what repairs, if any, are envisaged during the next five years
- any relevant decisions made by the company managing the property
- in the case of a property within an apartment building, monthly common expenses relative to average levels
- similarly, size of the reserve fund for both the apartment and the building.
- size of the post-purchase tax liability
- any other obligations or restrictions which will burden the property owner in the coming years (obligation to enhance energy efficiency, rent ceilings, etc.)

We consider it imperative to carry out a thorough check of all property both from a legal perspective and overall, not only to secure negotiating leverage but above all because we believe that the best decisions are made on the basis of a combination of subjective impressions (e.g. a prospective buyer's personal feeling about the property and area) and objective facts that lend weight to the former.

3. With the proper criteria

3.1 The area

Location, location, location: It is generally accepted that one of the most important criteria when buying a property is the precise location in the most suitable area. In most German cities however, Berlin in particular, the various districts and their respective ratings are in a constant state of flux. Moreover, in each district there are smaller neighborhoods with particular characteristics of which prospective investors should be aware. So, the first thing we discuss with buyers is whether the property is on the right street in the right location, and whether that neighborhood is the most desirable. Positive factors in assessing an area's attractiveness include:

Quiet: One of the top priorities for German buyers is for a property not to be exposed to noise. Ideally it should be on a quiet road or – if located on a busy street – removed as far as possible from the primary source of any noise.

Greenery and playgrounds: It is obviously an advantage if there are green spaces and playgrounds in the area.

Schools: Where placement in state schools is decided on the basis of place of residence, areas with reputable public schools are clearly more attractive.

3.2 The building

Altbau: Germans have something of an obsession with this category of old buildings, seen by locals and foreigners alike as highly desirable residences, most of which underwent extensive renovation in the 1990s. Drawbacks include higher maintenance costs and the fact they cannot reach the same energy performance levels of newly constructed buildings.

New builds: These apartments are generally characterized by quality construction with an emphasis on good insulation and low energy consumption. Common expenses, the biggest component of which is heating costs, are usually low. If the apartment is to be rented out, low common expenses can offer a significant advantage, since lessees are interested in the total cost involved, i.e. rent plus common expenses.

50s to 90s: In most cases, these apartments have low ceilings but a functional layout and low maintenance costs.

Balcony – terrace: A balcony or other space for exclusive use is a big advantage, though it does count toward floor area. So, for example, in the case of an apartment with a floor area of 100 m² and a balcony of 10 m², 50% of the balcony counts toward the total floor area of the apartment (= 105 m²).

Roof: Having exclusive use of a flat roof, or even access to it, is considered an advantage.

Ground floor: It is not unusual for ground floor apartments to have their own garden. Although this may be considered desirable, in some cases it may increase the risk of damp.

Position: On small, quiet roads or in squares, an apartment's position right on the street is generally regarded as an advantage. On busy streets, however, most buyers prefer apartments set further back from the street or on a higher floor.

Elevator: Generally speaking, elevators are only found in more recently constructed buildings (from 1990 onwards). Consequently, the lack of an elevator is not considered a particularly important disadvantage compared to other countries. Nevertheless, the availability of an elevator is certainly an asset.

Parking: Having access to a private parking space, especially in central districts, is considered to be increasingly important.

4. In a fast procedure

On account of the high international demand for property in Germany and Berlin in particular, prospective buyers should exercise caution but act without delay. Buyers of property in Berlin visit the city one to three times on average before making the final purchase. The cost of these visits is not insignificant, so they are advised to work with reputable real estate agents who can facilitate the process by arranging to show them more than one property during a single visit.

- **Pre-selection:** The properties to be visited are usually pre-selected via the Internet in cooperation with the real estate agents. Because it is a fast-moving market (in Berlin, the average days on market has been dipping to less than one month from the list date), it is advisable for this preliminary selection to be made two weeks at most prior to the visit.
- **Final selection:** After visiting the properties, we advise buyers to narrow their choice within a week at most from the visit and create a shortlist of several preferences, since some of the properties they visited may have already been sold in the meantime.
- **Commitment:** Property purchases are usually secured by some kind of reservation agreement or letter of intent on the part of the buyer. Particular care is needed when making this commitment, since many real estate agents keep the reservation fee in the event that the buyer for some reason changes his/her mind and does not proceed with the purchase.
- **Checks:** The checking of criteria, documents and contracts, along with the preparation of the relevant report, usually takes 5-10 business days.
- **Purchase:** The notary public needs five business days on average to draw up the contract which, if the buyer is a private individual, must be presented to him/her not later than 14 days before its signing. Buyers do not have to travel to Germany to sign the contract, since they can be represented by an attorney-at-law or a person of trust. **However, buyers must be present in person in order to open a bank account, so we recommend that they complete this formality during their first visit to Germany.**

When do I pay?

- The purchase price is usually paid 1½ to 2 months after the signing of the contract.
- The real estate transfer tax is paid about one month after the signing.
- The real estate agent is paid about 10 days after the signing.
- The notary public, usually within one month of the signing.

Unless the use of an escrow account has been agreed, in which case the total cost is first paid into that account.

How much time will it take?

- For a flat, approximately 3-4 weeks
- For an apartment building, approximately 4-5 weeks
- If the property is being purchased with a bank loan, an additional 2-3 weeks

5. Knowing the total costs involved from the outset

When purchasing property in Germany, the total additional costs amount to 13-15% of the purchase price (depending on the city). In Berlin, costs amount to **14.64 %** + expenses for appointing a lawyer.

5.1 Real estate transfer tax

City	%	City	%
Berlin	6	Munich	3.5
Potsdam	5	Frankfurt	6
Dresden	3.5	Stuttgart	5
Leipzig	3.5	Bremen	5
Rostock	5	Hamburg	4.5

5.2 Notary public

About 1.5%

5.3 Real estate agent

From 3.5% to 7.14%. In most German cities, real estate agents are paid by the buyer of the property. Most often, the fee is 6% + VAT = 7.14%. If the fee is lower, the agent usually receives an additional payment from the seller of the property.

5.4 Tax benefits

Private individuals who are purchasing property that is leased out or is to be rented out in the future are strongly advised to consult a tax professional at the start of the process and be aware that:

- income from property in Germany is always taxed in Germany
- the tax-free limit that is applicable only to residents of Germany does not apply to private investors who do not reside in Germany
- both private individuals and companies are entitled to depreciate (write down) the total purchase cost against their annual income; for this reason it is important that they record from the outset all expenditures relating to the property purchase, including the cost of air travel and accommodation in Germany for the purpose of choosing the right property
- expenses for modernizing and equipping an apartment are also in several cases deductible from taxable income, so again, it is important to keep all relevant receipts

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