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“Legal initiatives to strengthen the Real Estate market in Greece”

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At first I would like to thank Capital Link and Nikolas Bornozis for the kind invitation extended to me to participate in the workings of this conference. From what has already been said by the previous speakers, it is more than apparent that the topic of our discussion with regard to the real estate sector presents an exciting new prospect of Investment and Business opportunities and poses new challenges especially for the implementation of the proper legal framework.

The real estate market is one of the most significant elements that shape the financial givens of a Country. The ability of the State to deploy a flexible and stable legal framework with regard to the property, safeguards the steady growth and prosperity of the sector.

The latest developments in the global economy dramatically demonstrate that the real estate market is in need of legislative initiatives that (a) will regulate the sector in a healthy manner and (b) will strengthen it, in order to restrain brusque fluctuations derived not only from the national, but mainly the global economy. The real estate price index affects the whole financial system and transfers the pathology of the real estate market to the whole economic body.

In the modern economy, attracting foreign capital and convincing private investors to enter the market is imperative to strengthen and expand the real estate sector.

Greece, in order to boost investments regarding the development of the Public real estate property and the real estate market, introduced recent legislation governing the exploitation and management of real estate.

The Law for Public-Private Partnerships, which was voted just in 2005, constitutes an important example of this effort and offers a sustainable solution for the renewal of public infrastructure by encouraging private investors to contribute their know how to the public sector.

An abstract definition of Public –Private Partnerships would classify the PPP agreement as any joint venture between a public body and a private company, typically involving the joint ownership of a Special Purpose Vehicle (SPV) established under company law, to work in collaboration on a variety of projects.

The new PPP market offers benefits for both the State sector and the private sector by introducing new investment opportunities and building a stable relationship between them. The heart of this relationship is the PPP contract, signed by the Public Sector with the Private Entity (contractor) which is awarded, after completion of a tender, the execution of works or the provision of services.

The PPP Law also offers some tax incentives such as, income tax exemption on accrued interest payable until the date of commencement of the operation and transfer and settlement of accumulated losses with the taxable profits of the next ten financial years (according to the Greek Income Tax Law, enterprises are entitled to carry forward their tax losses to offset taxable profits of the 5 following financial years).

PPP's are progressing at a very satisfactory rate in Greece as a number of projects have already gone to tender with many large, foreign companies participating in these tenders.

Towards the same end as PPP's, another reform was recently introduced to Greece by the enactment of Law 3581/2007 in order to enhance public infrastructure development. It is the **sale & leaseback of public property** investment tool. The new law allows the State to transfer, build or renovate property it owns by cooperating with the private sector.

Under a typical sale & lease back agreement the State sells the building it occupies and then leases it back from the buyer for an agreed fee and period.

Sale and leaseback is an attractive investment tool, not only because of the traditional advantages that this tool embodies (i.e. long term and stable income stream, inflation hedging for structured leases e.t.c.), but also for the tax incentives offered such as exemption from capital gains tax, exemption of lease contracts as well as the exemptions of deeds related to such transactions from all duties, levies and stamp duty.

Furthermore, the creation of **Trade Centers and Malls** presents a great interest for the investors in Greece, since until recently there was no legal provision with regard to Malls. Licenses for the operation of malls and trade centers in Greece are issued according to article 10 of Law 3377/2005, providing considerable leeway for the construction and operation of new malls.

According to these provisions, more than 1 million square meters will be developed within the next months in various areas of Greece. The relevant market is now undergoing its development period and it should follow the new trends on "green" Malls for mixed use, that combine trade, recreation, service supply, sports while consuming as little energy as possible, installing recycling systems and systems for optimal utilization of natural resources.

According to the law, a trade center is considered property or the group of properties that constitute a whole functional unit fulfilling the following conditions:

- a) It must comprise an area of at least 4.000 square meters total superficies distributed in one or more levels.
- b) The entire center must operate under the leadership of one administration,
- c) It must have the appropriate space for the commercial activities of supplying goods and/ or services to take place.

As far as indirect investment in real estate is concerned, Greece has enacted a legal framework for **REITs (Real Estate Investment Trusts)** with an emphasis on tax incentives.

REITs are exempt, among others, from income tax (e.g. tax on lease income or capital gains from the disposal of the property), and are only subject to 0.3% annual tax calculated on the total value of their investment.

According to the relevant legislation, the companies are obliged to file an application for the listing of their shares with the Athens Stock Exchange or with another organized stock exchange, within one year of their establishment.

REITs constitute an attractive vehicle for investors in the Greek real estate market either through the direct establishment of a REIT or through a portfolio investment by purchasing shares in a REIT.

More specifically this kind of investment presents the following advantages:

- It makes it possible for investors to invest in high value properties by expending a relatively low amount of capital.
- It provides an excellent level of liquation, in contrast to direct ownership, since negotiation of properties through the stock market is impossible.
- It offers greater revenues because of the special tax regime that apply to REITS, in comparison to the tax regime that applies for revenues derived by direct possession of property.

- It minimizes investment risk due to the spread of the portfolio.

Without any doubt, the emergence of a Greek real estate market, that can offer benefits to potential investors, presupposes a clear and flexible legal framework with respect to the acquisition, ownership, exploitation and transfer of real estate.

In summary the **normal procedure** followed in practice from a legal perspective is:

- Performance of legal due diligence with respect to the real estate targeted for acquisition prior to conclusion of the actual agreement. Such due diligence is performed by lawyers only, at the land registry where the land is registered under the owner's name.
- The sale and purchase agreement must be concluded before a notary public. In the agreement reference is made to the legal justification for the transfer (e.g. sale, donation, etc), whereby the manner in which the seller obtained title to the property is set out in full detail. Furthermore a detailed description of the actual piece of property (location, boundaries, square meters etc) is included in the agreement together with the agreed purchase price.
- The real estate deed of transfer is registered with the competent Land Registry where the real estate is located.

With the aim to protect investors from legal defects in the title of real property that the investor has targeted for acquisition or investment, the Greek Government has proceeded at a rapid pace, to establish a **National Cadastre** (i.e. National Land Registry).

The establishment of a National Cadastre, which was provided for under Law 2664/1998, is a fundamental project for Greece, which aims to precisely record all real property throughout the entire Country, the rights and encumbrances on such property as well as record Public Property which operates under the guaranty and the responsibility of the Public Sector.

The scope of this project is to safeguard the citizenry's ownership or real property and simplify real estate transactions, as well as those related to State Property. The principal goal of the National Cadastre is to register 3,1 millions hectares of real property.

More specifically, all properties will be recorded on one map that will cover the entire Country and in this manner, the recordation of real property in Greece will pass from anthropocentric index to geocentric index. Moreover, the successful conclusion of the National Cadastre project will result in a clear delimitation of forestry and tracts throughout the entire Country with the objective to compile a forest land map of the country as well as a clear definition of the coastline.

Thereby, with the conclusion of the National Cadastre, public properties will be safeguarded as will the interest of real property owners.

In any case, the National Cadastre is a step forward towards reducing bureaucracy since the transfer of real property will be effected faster and easier, and concurrently it will ensure transparency and security to investors in real property.

In parallel to the aforementioned legislative reforms, the state has already engaged in **specific governmental initiatives** to establish Greece as an international real estate investment paradise.

- In that direction Greece has established a real estate "objective value" system that represents the minimum value and the index for the calculation of the commercial value of any property in question. It is set out by the Ministry of Finance, after taking into account various objective factors i.e. the area and specific location of the property, the age and use of buildings and other factors which may affect the fair market value of the property. Objective values play a significant role in the real estate market, by constituting a transparent index with regard to the taxation on property that is imposed mainly on the said objective values. It is reported that the Greek Government, due to the

economic crisis, is seriously considering forestalling further increase to the objective values of real estate with the aim to counterbalance real estate market prices and stabilize construction cost.

- A further strong indication of the government's desire to attract private investment is its announcement that company tax rates will gradually be reduced from 25% to 20% by 2014. This reduction also applies to legal entities owning real property.

In closing, I would like to stress that a lot has been done in the right direction, but a lot has yet to be done. It is imperative that further steps be taken to simplify property transaction procedures as well as the general administrative bureaucracy that also apply with respect to the real estate sector.

Where there is a will, there is a way...

Thank you for your kind attention