Spatial Planning Policy, Company Law, Regulation

Lex Koller: Fewer investments won't create a single new apartment

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At a glance

- The tightening of the Lex Koller law demanded by the National Council will not create any additional housing: It targets the asset market, whereas the bottlenecks lie in the development market.
- Less foreign capital can make it more difficult to finance and carry out new projects, so the stricter regulations are counterproductive.
- The best ways to address the housing shortage are, above all, more land for development, denser development, and faster planning and permitting processes—not a reduction in the investor base.

This week in the National Council, the SVP, SP, and the Greens joined forces and passed the Aeschi motion to tighten the Lex Koller. It aims to largely reverse the deregulation of the past 40 years and return to the provisions of the Lex Friedrich of 1985. Among other things, foreign nationals would no longer be allowed to acquire shares in real estate companies and funds. This would significantly reduce the amount of capital available for housing construction. Political pressure on the Lex Koller is intense. The Federal Council is also pursuing its own tightening measures in parallel, which failed in the consultation process: Outside the cantons, only about five percent of participants supported them, as the Lex Koller is anything but a panacea for the housing shortage.

Proponents of stricter regulations want to curb foreign demand and thereby counteract land speculation and rising land prices. This has created an ideal bogeyman: the foreign investor. However, excluding foreign investors will not result in a single additional apartment being built in Switzerland. The problems in the real estate market run much deeper, and the key lies in where policymakers choose to focus their efforts.

The regulatory impact assessment commissioned by the Federal Office of Justice from Fahrländer Partner distinguishes between three markets: the user market, where tenants and owner-occupiers encounter the existing supply; the developer market, where new apartments are built; and the asset market, where real estate is traded as an investment. The Lex Koller targets the asset market. However, the shortage arises in the user market, and it can only be resolved in the developer market.

Capital Funds Additional Housing

If the pool of potential investors shrinks, not a single new apartment will be built as a result. On the contrary: new construction, replacement projects, and site developments must be financed. If the capital base narrows, financing becomes more difficult and more expensive. Projects that are barely profitable are delayed, scaled back, or not carried out at all.

The study by Fahrländer Partner highlights precisely this connection. A greater restriction on sources of investment tends to lead to fewer apartments being built. In the medium term, the bill will thus exacerbate the housing shortage rather than alleviate it. Reinstating regulatory oversight of publicly traded real estate companies would have a particularly adverse effect. These companies play a major role in large-scale development projects. Because the number of large developers in Switzerland is limited, it is highly likely that fewer projects involving a large number of residential units would be carried out in the future.

The problem lies in the real estate development market. Supply is too limited. In high-demand locations—particularly in urban areas—it is simply not possible to expand supply quickly enough. Anyone who seriously wants to tackle the housing shortage must start there. And while the problems there are manifold, they have nothing to do with the source of capital. Permits, rezoning, a lack of opportunities for densification, objections, and complicated regulations—these make building in Switzerland a gauntlet. The Lex Koller does not shorten any procedures, does not free up building land, and does not create incentives for densification. It merely makes financing more difficult. Instead of solving a problem, the motion creates a new one.

Real estate prices are not the same as a housing shortage

The price argument isn't convincing either. Rising prices for investment properties do not automatically mean higher rents or fewer apartments. In the real estate market, interest rates and expected returns play a central role. Transaction prices for new apartment buildings have more than doubled on average over the past 25 years. However, according to the study, about three-quarters of this increase in value is attributable to interest rate trends. Less foreign capital does not affect either interest rates or the high domestic demand.

More housing requires building land, feasible planning, swift approval, and sufficient capital. Restricting any one of these factors does not eliminate the scarcity of the others; on the contrary, it creates new problems. In the Council of States, the SVP, SP, and the Greens do not have a majority. It is to be hoped that the "Chambre de Reflexion" will approach this issue more prudently and will not follow the National Council's lead.

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