



Title insurance emerges in Europe

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Story Highlights

- Title insurance protects the buyer of a hotel, ensuring the title belongs to the seller and insures against errors that could prevent a transaction from occurring.
- The availability of title insurance allows real estate owners in Europe to purchase title work before bringing properties to market.
- Making hotel transactions easier for foreign investors also could play a large role in helping financially-strapped European governments unload real estate.

GLOBAL REPORT—While purchasing title insurance is a customary part of nearly every real estate transaction in the United States, its availability—until recently—has been rather limited elsewhere in the world. Today, the availability of title insurance, particularly throughout Europe, is helping global investors feel more confident about closing hotel transactions in foreign lands.

“This is an evolving situation. Title insurance is becoming more and more common,” said real estate lawyer David Dixon, partner at Norton Rose Piotr Strawa and Partners LP in Warsaw, Poland. “It helps you get deals done. And at the end of the day, it’s all about buying the hotel.”

Title insurance protects the buyer of a hotel, ensuring the title indeed belongs to the seller and insures against errors that could prevent a transaction from occurring. For example, title insurance protects against defects in land titles—including restitution issues, planning permission and building permits—and helps sellers avoid litigation should any of those issues arise during the due diligence portion of a hotel transaction.

Before the availability of title insurance in many parts of Europe, lawyers on both sides—buyer and seller—performed hours upon hours of due diligence to ensure a property’s title was accurate, using records that sometimes dated back as far as the 17th century. The process was lengthy and costly, and kept many potential buyers—particularly U.S. investors—at bay.

“It’s expensive to have lawyers do all that title work. Plus it costs more money to do deals in Europe and even more in Russia,” Dixon said. “Title insurance helps cover up all those risks at a very reasonable price.”

Today, the availability of title insurance allows real estate owners in Europe to purchase title work before bringing properties to market, thus opening up the amount of potential buyers looking to stay away from the dirty work—and the cost of performing all of the due diligence internally.



Jean-Bernard Wurm
Secure Legal Title Limited

“It takes something that’s intrinsically less saleable and makes it more saleable,” Dixon said.

“It levels the field,” said Jean-Bernard Wurm, co-founder and managing director of Secure Legal Title Limited, a new, Europe-wide provider of title insurance backed by Lloyd’s of London. “If you’re selling a bunch of hotels under the same label and the buyer is doing all the due diligence ... that’s OK if the buyer is Blackstone and they can afford it; but if it’s a little guy, it’s very costly.

“If you can tell the buyer, ‘Don’t worry about the legal stuff, don’t spend money it,’ you can attract twice as many buyers.”

Making hotel transactions easier for foreign investors also could play a large role in helping financially-strapped European governments unload real estate, Wurm said.

Less complex deals

Outside of increased fees, American investors looking to purchase hotels in Europe are finding the process more complex than they initially thought, sources said. Problems with the title often arise, such as a sloppy privatization of the asset in the past. Title insurance helps protect a buyer against the cost of any litigation that could emerge while getting those issues fixed before the deal is consummated.

“If you develop a hotel in a parking lot and after the close it is determined that the neighbor actually owned two of those parking spots, title insurance protects against that,” Wurm offered as an example.

In more serious cases, title insurance could protect as much as the value of the hotel.



David Dixon

Norton Rose Piotr Strawa
and Partners LP

“In the past, if the lawyer disclosed that there was a problem, a potential buyer might say, ‘Oh boy, it’s too big of a risk, I’m not going to buy that problem or take that chance,’” Wurm said. “Now they come to us and see if we will cover that risk.”

He said title insurance clearly speeds along the negotiation process.

“It makes deals possible that wouldn’t have been possible before,” Wurm said.

Availability

Title insurance only has been available in Europe for about 15 years and on a limited basis in Western Europe. The deal struck between Secure Legal Title Limited and Lloyds of London will make it more readily available in most areas, particularly where it is needed most in the western region. “American hotel groups do not know they can get it in Europe,” Wurm said.

In Poland, where Dixon practices, title insurance is better established, with about half of deals requiring it. The introduction of Secure Legal Title Limited will provide another option for buyers and sellers, Dixon said.

“There are more problems (with title transfers) in Central and Eastern Europe,” Dixon said, specifically referring to property owned by Jews that was deserted in Poland during World War II.