



# OAK INVESTMENT MANAGEMENT GROUP



JUNE (1) 2013

## The Rule of Law and real Estate

*Real estate is one of the most fundamental possessions to own and is addressed by every system of law in existence. Today virtually every collective system, even if it survives in name, has given up trying to own all real estate in common. That does not mean that legal rights in every system are uniform – far from it. There are varying shades of the right to buy, to own, to operate, to dispose that affect the pure unfettered ownership of real estate – even before the effects of national and local taxes are counted.*

Like any good law – good real estate laws are those that are clear and transparent. They avoid arbitrary process, the greed of others (even society itself) to seize real estate especially once value has been created. If these positive criteria are met, that creates a bigger market as well as more diverse universe of participants. If the negative criteria are met, that incentivises people to put value at risk in order to attain greater reward, after all nothing destroys people investing in any market quite like fear of despoilment. It is prescient to note that both operating taxes and capital gains taxes are claims (although discrete) on successful investing.

The rule of law in the European context is often referred to as a tick box set of rules and laws often proposed as the European Union standard. Whilst helpful in developing the framework of how a market should work because these rules came out of common pre-existing practices in Europe, this *in itself* will not make a market work. A vibrant real estate market works when there are entities selling and buying of their own free will; who wish to maximise their economic benefit; honest commercial agents and government institutions broking / guaranteeing the process – not because of a rulebook set as law. The rule of law is the rule of the principles not a specific clause or paragraph.

In terms of value alone, it is quite possible to have a seemingly working real estate market without the rule of law. Without the rule of law often no or limited development takes place, meaning that the stock of available real estate in relative and absolute terms is small. It also means that investors don't risk their capital in even riskier asset classes. As a result of this the prices can be very high. Ironically, therefore, the first consequence of a transition to the rule of law will result in the decrease in these historic values. But the rule of law, like the free market itself, is no guarantee of prices going up; on the contrary it is a promise, indeed a quality, that prices can go up or down and that if people are on the winning or on the losing side of a trade they will benefit or lose as result of their own investment decisions.

The rule of law is the friend of quantity in real estate, it should be value neutral. Quantity is the best way to drive rational participants, reliable and dependable pipeline developments, correct resource allocation on a macro level as well as liquidity spread between all segments of the real estate market. It is the best way to defend and adhere to normalised value and thus promote the market.