

Q1 YOU DEAL WITH A LOT OF NON-RESIDENT CLIENTS. WHAT HAS ATTRACTED THESE CLIENTS TO YOUR FIRM?

Harridyal Sodha & Associates is committed to providing quality service to our clients. This, coupled with our strong work ethic, superb client care and efficient support staff has led to our success. Our firm's size has also played a role in our attractiveness to non-resident clients. As a medium size firm, we are able to develop and sustain strong relationships with our clients. Whether our clients are large companies or individuals, we ensure that we cater to their unique and individual needs.

Q2 THE LEGAL PROFESSION RECEIVES A LOT OF CRITICISM THESE DAYS BUT NOTHING SEEMS TO IMPROVE. DO YOU FEEL THE INDUSTRY NEEDS TO IMPROVE ITS IMAGE?

Lawyers have long been perceived as being dishonest and in some instances this reputation has been truly earned. I believe the public's perception will only change when attorneys place greater emphasis on the quality service they provide to their clients and work hard to maintain their personal integrity, and the integrity of the legal profession.

Q3 YOUR LEGAL TEAM INCLUDES A NUMBER OF DIFFERENT CARIBBEAN NATIONALS. DO YOU OFFER LEGAL SERVICES ACROSS THE REGION?

Although our firm does consist of a number of different Caribbean nationals we only currently offer legal services from within Barbados. However, we intend to expand to other Caribbean islands in the near future.

Q4 THE PROPERTY PURCHASE PROCESS IS SLOW AND FRUSTRATING FOR EVERYONE. WHAT DO YOU FEEL COULD BE DONE TO IMPROVE THIS?

One must first appreciate that what might be perceived to be a delay is actually a process or an undertaking which the Attorney is required by law to carry out. An example can be seen in effecting due diligence on the proposed sale/purchase property, it is imperative that time be taken to ensure that a prospective vendor has good and marketable title which can be transferred to the prospective purchaser.

The sale/purchase process would be thwarted if a prospective vendor does not have a good root of title to the proposed sale/purchase property. In this case steps must be taken to rectify the vendor's defective title prior to completion of the sale/purchase.

Consideration must also be given to the fact that various Governmental Agencies may also be involved in the sale/purchase process. For example, in the case of a prospective purchaser purchasing a soon-to-be-constructed property, it rests with the vendor to effect the appropriate applications to the varying Governmental Agencies for the erection of the proposed sale/purchase property. There are also various exchange control applications to be made to the Central Bank which can be very time consuming.

The above are mere examples of what is involved in the sale/purchase process and are not meant to be exhaustive.

It is acknowledged however, that some impediments are avoidable and in this regard, Attorneys must take due care to ensure that their actions or lack thereof do not hinder the sale/purchase process.

Q5 SOME BUYERS GET CONFUSED ABOUT WHETHER TO PURCHASE IN THE NAME OF A PROPERTY-HOLDING COMPANY OR AS INDIVIDUALS. IS THERE AN EASY ANSWER TO THIS QUESTION?

In formulating that decision prospective purchasers should consider their reason or reasons for purchasing the property. They should also consider the various benefits attached to each option. For example, a prospective purchaser contemplating the purchase of property with the intention of immediate re-sale may consider using a limited liability company as a vehicle for property acquisition. This option has certain tax benefits. Further, if the prospective purchaser is purchasing with the intention of leasing it may be beneficial for him/her to acquire the property through a company.

The use of this form of vehicle is also a beneficial tool for estate planning purposes. A property holding company can be incorporated for the purposes of transferring shares, and therefore the interest in the property, from one generation to the next. This may be more efficient and cost effective method of transfer rather than effecting the transfer of the immovable property itself. Of course, each individual purchaser will have unique tax or other circumstances which to consider.

Q6 LENDERS ARE GETTING MORE UNCOMFORTABLE WITH TITLE THAT INVOLVES OWNERSHIP OF SHARES IN A PARENT COMPANY. IN SOME INSTANCES THIS WILL MAKE A RE-SALE DIFFICULT WHEN A PURCHASER COMES TO SELL. SHOULD PROSPECTIVE BUYERS STEER CLEAR OF SUCH COMPLICATED FORMS OF OWNERSHIP?

Additional costs and due diligence are involved when purchasing shares in a parent company. The prospective purchaser has to ensure that the vendor company has good and marketable title, and in addition he/she must ensure that the vendor company is operating in compliance with the statutory requirements of its jurisdiction of incorporation. If the vendor company is not incorporated in the same jurisdiction as the property being sold, the prospective purchaser is required to engage legal counsel within the foreign jurisdiction to provide, amongst other things, legal advice as it relates to the vendor company's compliance with statutory requirements and that the shares being purchased are free from charges, encumbrances and liens. Notwithstanding these initial additional costs this method is oftentimes cost effective in the long run when acquiring property with the intention of selling the same in the future.

Q7 YOU SERVE ON THE BOARD OF THE BARBADOS INTERNATIONAL BUSINESS ASSOCIATION. WHAT DOES THIS COMPANY DO?

The Barbados International Business Association (BIBA) promotes and assists in the development of Barbados' international business sector. It achieves this by representing the rights and interests of the international business sector in the local legislative process. BIBA liaises with the relevant statutory bodies that regulate the international business sector and advises and orients new and potential investors on the important aspects of international business in Barbados.

Q8 WHAT OTHER LEGAL SERVICES DO YOU OFFER A NON-RESIDENT CLIENT WHO IS PURCHASING A PROPERTY?

Our firm offers a variety of services to non-resident clients. We also offer the services of incorporating local and international business companies and registering external companies. We provide legal advice on statutory requirements for non-residents seeking to lease local property (whether long term or short term) and we prepare the lease agreements. With our extensive contacts throughout the Caribbean, we also recommend and assist in the incorporation of companies in other Caribbean jurisdictions. Harridyal Sodha & Associates also routinely applies for work permits for non-residents seeking employment in Barbados.

Q9 IS THERE A CASE FOR TITLE INSURANCE ACROSS THE REGION TO PROTECT EVERYONE?

The laws and legal recourse available for purchasers who have obtained a defective title differs in each territory. Further, the legal recourse offered in some territories offers greater compensation to the purchaser than others. This lack of uniformity reduces the likelihood of such a system being implemented across the Caribbean region.

Q10 IF YOU COULD CHANGE ONE THING IN YOUR PROFESSION AT THE FLICK OF A SWITCH WHAT WOULD IT BE?

I would definitely want a more efficient judicial system. There are times when the completion of the transfer of ownership of property can be delayed for months and yes, sometimes years, while awaiting judicial approval for some aspect of the sale transaction. This is can be very frustrating for all the parties involved.