REALTORS® AND IMMIGRATION: WHY EARLY LEGAL ADVICE MATTERS

By Elizabeth C. Pines, Esq.
Immigration Attorney at Pines Law Group
epines@pineslaw.com

REALTORS® often serve as trusted advisors to foreign clients navigating not only the real estate market but also the complexities of U.S. immigration law. One of the most valuable services a REALTOR® can provide is encouraging clients to seek early legal advice from a qualified immigration attorney.

Doing so can save clients substantial amounts of money and stress. Immigration counsel can advise on how to structure companies, how to take title to property in a way that aligns with immigration objectives, and how to anticipate the tax consequences of living—even part-time—in the United States. Remember: a client's physical presence in the U.S. can trigger U.S. tax liability on worldwide income. Professional guidance at the outset is critical.

Typically, a foreign client first comes to the U.S. as a tourist under a B visa or the Visa Waiver Program (VWP). Soon after, that client may decide to purchase a vacation home or pursue investment opportunities. If the client's intentions are limited to short stays, the guidance of an immigration attorney may not be essential. But if the client wishes to live more permanently in the U.S., to work here, or to retire here, legal advice becomes indispensable.

Below is a summary of several common visa categories relevant to real estate investors - there are other multiple visas available, less used by real estate investors. These are only examples as each client's situation must be analyzed individually by competent legal counsel.

A. Tourist or Visitor Visa (B visa)

B-1 Business Visitor Visa

The B-1 visa allows individuals to enter the U.S. temporarily for legitimate business purposes. Examples include:

- Attending meetings or consultations with U.S. business associates;
- Purchasing real estate and arranging financing;
- Participating in non-productive training or professional conferences;
- Buying supplies or raw materials for export.

The B-1 visa does **not** permit productive employment in the U.S. The visitor typically remains on a foreign payroll and may only receive reimbursement for incidental expenses. The usual authorized period of stay is up to three months.

B-2 Tourist Visa

The B-2 visa is for tourism, vacations, family visits, or medical care. Applicants must show strong ties to their home country and no intent to abandon residence there. The maximum period of stay is typically six months.

B. Visa Waiver Program (VWP)

Citizens of certain designated countries may enter the U.S. without a visa for short visits. Instead, they apply online through the Electronic System for Travel Authorization (ESTA) before travel. Entry is permitted with a machine-readable passport and a return or onward ticket.

Key points about the VWP:

- The maximum stay is up to 90 days.
- Entrants waive the right to review or appeal a Customs and Border Protection officer's decision at the port of entry.
- No extensions or changes of status are permitted after entry.

For clients from VWP countries, this is often the first point of entry for vacation or property exploration.

C. E Treaty Investor visa, E Treaty Trader visa, E Treaty Essential Worker visa

The E category is based on treaties between the U.S. and certain countries. To qualify:

- The applicant must be a national of a treaty country.
- The U.S. business must be at least 50% owned by nationals of that same country.
- The business must either engage in substantial trade (E-1) with the national's country or require a substantial amount of investment (E-2).

Applicants may qualify as principal investors or as essential employees.

- E visas are valid for up to five years depending on the national's country and are indefinitely renewable as long as the business remains qualified.
- Upon each U.S. entry, the visa holder is typically admitted for two years.

This visa is particularly relevant for foreign investors developing commercial projects in the U.S.

D. The L Intra-company Transferee Visa

The L-1 visa allows multinational companies to transfer executives, managers (L-1A), or specialized knowledge employees (L-1B) to a U.S. branch, affiliate, or subsidiary.

- The applicant must have worked for the foreign company for at least one year within the prior three years.

- If the U.S. entity is new, the L-1A visa is initially granted for one year, with possible extensions.
- The maximum stay is seven years for executives/managers, and five years for a specialized knowledge employee.

E. EB-5 Immigrant Investor Visa

The EB-5 program provides a direct pathway to permanent residence (a green card) through investment.

- Investment Thresholds: $1,050,000 for a standard investment; $800,000 for investments in a Targeted Employment Area (TEA) (high unemployment or rural areas). These amounts are set by the EB-5 Reform and Integrity Act of 2022 and adjust for inflation every five years (next adjustment: January 2027).
- Job Creation: The investment must create or preserve at least 10 full-time U.S. jobs for qualifying workers.
- Investment Models: Investors may invest directly by owning a business and fulfilling job creation requirements, or through a USCIS-approved Regional Center, which pools capital and credits indirect job creation.
- Residency Process: Investors first obtain a conditional green card valid for two years. To remove conditions, they must prove the investment and job creation requirements have been met.

Conclusion

For foreign nationals interested in U.S. real estate—whether for a vacation home, income property, or commercial enterprise—the immigration implications are significant. Short-term entry may be straightforward under the B visa or Visa Waiver Program, but longer-term goals of living, working, or retiring in the U.S. require careful legal planning.

By encouraging clients to seek early legal advice, REALTOR® members can help them structure their investments wisely, avoid costly mistakes, and align immigration goals with real estate strategy. In short: professional legal guidance is not just helpful, it is essential.

ABOUT THE AUTHOR

Elizabeth C. Pines, Esq., is the founding partner of Pines Law Group, a boutique law firm dedicated to guiding foreign nationals through complex U.S. immigration matters. With nearly 30 years of practice, she focuses on business immigration and family petitions, helping clients align their personal and professional goals with U.S. immigration law.

A respected voice in the South Florida legal community, Ms. Pines is frequently invited to appear on television programs and to speak before business, educational, and nonprofit groups on immigration issues. She has been a member of the American Immigration Lawyers Association (AILA) since 1996, previously serving on the Board of AILA's South Florida Chapter. Her community involvement includes leadership roles on prestigious boards such as the League of Women Voters of Florida and the Florida Commission on the Status of Women. She currently serves on the Grievance Committee of The Florida Bar. Ms. Pines holds a B.B.A. (1985) and an M.B.A. (1988) from the University of Miami, and earned her J.D. (1994) from St. Thomas University School of Law.