Welcome to another edition of Accessing China, the quarterly newsletter of Asia Pacific Access.

The flowers are blooming, the snow has stopped, the sun is out—spring has finally arrived in China!

After an interesting winter (relatively mild in the north with the worst snowstorms in decades in the south), the winter jackets are being shed, and people are heading outdoors to get in shape for the Olympics coming up around 100 days.

In this issue, the first of 2008, we will be looking at some of the most important issues to the thousands of people who will be relocating to China this year, including a look at finding housing, schools, and personal challenges to overcome.

In addition we’ll be looking at the introduction of the new Labor Contract Laws and the implications of these for western businesses in China. There is also an article looking at the availability of keyhole surgery in China, and the effect of the Olympics on relocating to Beijing in the upcoming months.

We hope you enjoy this edition!

Warm regards,

Shelley Warner

Finding a Home in Beijing

There are so many things to think about when relocating to China, and finding a home where you and your family will feel happy and comfortable is no doubt a top priority. There are housing options in Beijing to suit all tastes and budgets, with others being continually created as the city develops at a frenetic pace.

When first arriving in Beijing you may feel a little disoriented and confused about which area of the city is best for you, so below we try and make this task a little easier by providing a quick overview of each area.

In terms of the ‘lay of the land’ in Beijing, most expatriates tend to live in either the east of the city, in Chaoyang District, congregating in areas like Sanlitun, Chaoyang Park, Lufthansa, Lido and the CBD – or in Shunyi District in the north-east, which is near the airport.

Haidian District in the West is where many of the universities are located, and the area is thus popular amongst students, but it too is seeing an increase in the number of housing and shopping options, making it an increasingly popular place to live.

There is not much to lure expatriates to the south of the city as far as housing is concerned. There is however interesting shopping and sight seeing, with the Temple of Heaven, Panjiayuan Antique Market and Hongqiao Pearl Market to be found down south.

Continues page 2
Shunyi

Shunyi is the area of choice for many expatriate families given its close proximity to the international schools. The area offers a lifestyle well-suited to families for whom space is important, as many of the properties are villas with plenty of living room, offering a more suburban experience than living in the CBD. There is a perception that the air quality is better here too, although Shunyi still seems gets much of the city smog. One obvious drawback is the commute into the CBD, which can be up to an hour when traffic is congested. Some people who work in the CBD still opt to live in Shunyi so their children can be close to the schools, and they commute instead – if they have the advantage of having a company driver, this time can still be used productively to check emails.

Sanlitun

Sanlitun is a popular place to live for many reasons – the area is a hub of activity with tons of restaurants, shopping malls, markets, butchers, bakeries, bookstores and other entertainment venues and amenities.

There are fewer villas or large houses here, although there are many spacious apartments, most within walking distance or a short bicycle ride from restaurants and shops. Sanlitun is also well-located between the second and third ring roads, with a relatively easy commute into the city. Many embassies are in this area, as well as the lively Sanlitun bar street. For families who prefer to be in the city, there are also a number of good city-based schools to choose from. Taxis are easier to find in this part of the city than in Shunyi, and it is better connected to the subway system.

The CBD

The CBD is the preferred area for single people working in the city who work long hours and are not prepared to commute long distances.

For a while, this was not an appealing place to live because it resembled a construction site, but now most of the construction has been completed, and there are a number of newly built apartments as well as high end shopping malls, making city living convenient and easy – the area is still relatively quiet though and lacks the energy and vibe of more established residential areas like Sanlitun.

Lido/Chaoyang Park

Lido’s advantage is its location between the city and the suburbs (Shunyi) – the area is quieter than the CBD but still retains a suburban feel, with most things within walking distance, giving it the feel of a self-contained village. A number of trendy restaurants have opened in the past few months, and the area also has a well-stocked western supermarket, the Japanese school, Beijing United Family Hospitals, and an Oriental Tai Pan (massage and spa).

Chaoyang Park, not too far from Lido, is a lovely area that is close to one of Beijing’s biggest parks, Chaoyang. Some apartments in this area have great park views, and it’s also close to the west gate of the Worker’s Stadium, a ‘vibey’ area with lots of restaurants.

As getting to grips with the geography of Beijing and the advantages and disadvantages of each area can be confusing, at APA a first and very important step of our relocation programs is to have a sit-down briefing with a relocation counselor, who will orient you to the map and point out where everything is in relation to everything else, so that you get your bearings.

No matter what your family’s requirements or lifestyle choice is, you’re sure to find a place to call home where you’ll create many happy memories while you’re here.

Continues page 3
On Thursday 27th March I had the opportunity to represent APA as a speaker at the 7th Annual In-House Counsel Congress held at the Peninsula Palace Hotel in Beijing. The main topic for the day was the future challenges and opportunities created by the new labor laws in China. As the new laws are still an important topic for employers and employees alike, I intend to provide you with an outline of the main discussion points of the conference.

With respect to challenges, one of the main issues is the many and varied ambiguities that exist in the law. Some of the more common questions that many members of the legal profession are continuing to ask include issues relating to Article 14 and fixed terms contracts; such as what counts as the first fixed term contract; and do contracts that commenced prior to the laws count? Another example issue that requires clarification is with respect to the necessity to consult workers regarding workplace rules under Article 4, with many within the legal fraternity hoping that the process that needs to be followed will be spelt out clearly under the forthcoming rules. A further example of an issue that requires clarification is whether or not contractual clauses entered into prior to the new legislation are now enforceable under the new. It is not uncommon for laws promulgated in China to lack clarity and for such clarity, in theory at least, to come from the implementation rules. While I have been advised that there are some 25+ sets of rules currently being drafted to be read in conjunction with the rules, and having been privy to the content of some of those rules, my advice would be not to hold your breath. Many of the issues raised by legal practitioners have simply not been addressed.

"Many of the attending delegates were asking whether they should be moving away from these employment agencies towards direct hire of employees. The general consensus is yes”

Also of continuing interest to foreign invested enterprises is the issue of using labor dispatch agencies such as Foreign Enterprise Service Company Ltd (FESCO). As many of our readers would be aware, there are advantages to using such agencies, including head count restrictions, easy of record keeping for social welfare, etc. While labor dispatch agencies are available under the new legislation for ‘temporary’ appointments, ‘temporary’ is yet to be defined. Of course, FESCO is lobbying the legislators to have the term defined as long as possible, as at least two years. The All China Federation of Trade Unions (ACFTU) is proposing a six month limitation. Smart money is probably on the final ruling falling around twelve months. Many of the attending delegates were asking should they be moving away from these agencies towards direct hire of employees. The general consensus is yes; the reason being that whatever the final determination should be with respect to defining ‘temporary,’ the intent of the legislation is to limit these sort of employment relationships.

There are many reasons for such is that dispatch agencies are required to sign longer contracts with their employees than are required by their clients.

Yet another important question that was raised at the congress is whether or not the new laws will better equip Chinese enterprises for investment abroad. On this issue there appeared to be substantial agreement throughout the legal profession. The main reason is that it will force investors to account for labor issues when planning investment. To further illustrate this point, one of the speakers brought up the situation of the United States. Up until the 1970s, there was very little labor legislation in the US and as such very little in the way of labor disputes (at least as far as the judicial system was concerned). Fast forward to the 21st Century and across the US around 30% of all cases before the courts are labor matters. Of course, there are important cultural differences that are likely to continue to lead US citizens to litigate more often than Chinese (this relates to my topic for our next newsletter!) but a new provision in the labor legislation, that holds officials personally accountable should they fail to act to protect workers rights, will likely lead to an explosion in the number of labor cases.

"a new provision in labor legislation....will likely lead to an explosion in the number of labor cases”

Overall, though many legal professionals are certain that there are many problems to come, and that there will most certainly be growth in labor litigation, many hold the opinion that this is an important step along China’s path to becoming an advanced economy, and as such shouldn’t necessarily be seen as all negative.
One of the plusses is the opportunity created by the necessity to implement workplace rules and form labor associations to implement performance appraisal systems. Another plus is that the new laws should hurt those companies that hold a competitive advantage based on their exploitation of unskilled labor.

“full impact of the new laws will not be felt for some time.”

However, for anyone who is interested, my opinion is that unless certain changes are made, employers will opt for, for example, two four-year contracts before refusing to enter into third contracts so as to avoid having employees on open-ended contracts. The reason for this is that some employers, particularly in the low skilled labor intensive industries, see this provision as a return to the ‘iron ricebowl’. At the other end of the spectrum, with respect to highly skilled white collar employees that demand higher salaries, there may be some reluctance to hire (though this trend will necessarily be tempered by the lack of skilled and well qualified labor in the market). In any event, the full impact of the new laws will not be felt for some time.

Laparoscopic surgery is sometimes called “key-hole surgery” or “minimally invasive surgery”. This technique allows surgeons to perform operations through very small incisions compared to traditional surgical techniques which require large incisions through muscles and other tissue to approach the surgical sites. Due to this, there are numerous advantages to minimally invasive or laparoscopic surgery. Patients can expect shorter hospital stays, smaller wounds, less scaring and fewer complications, as well as more rapid and less painful recoveries.

What Can You Expect When You Have A Laparoscopic Procedure?
As an example, let's use a patient undergoing a laparoscopic abdominal procedure. Except in unusual cases, the procedure will be completed in an operating room with a general anesthetic. For that reason, the patient will need to fast starting at midnight the night before the procedure.

Once in the operating room, the patient is given general anesthesia and a small incision (or port) is created through the umbilicus (or belly button). Using this port, the abdomen is inflated with gas (pneumoperitoneum) which creates “working areas” for the surgeon to complete the procedure. A telescopic camera is then inserted into the port through which images of the abdominal cavity are projected on to a video monitor, essentially becoming the surgeon’s eyes during the procedure. Other ports are created for the surgical instruments (used to cut, grasp dissect, and retract any diseased area) and the surgeon is then able to complete the procedure. After the procedure is completed, the abdomen is deflated and the ports are closed with minimal scarring.

After the surgery, a patient spends 2-3 hours in the recovery room and is then taken to an inpatient hospital room. Time spent in the hospital varies depending on the type of operation. Most patients undergoing diagnostic laparoscopy or hernia repair will only spend one night in the hospital post surgery.

Continues page 5
The biggest concern for most families moving to China is finding schooling for their children.

Regardless of their country of origin, expats moving to China want to make sure that their children’s education is consistent with that of their home country.

A key factor in deciding whether to even make the move is the availability of good schooling, and the good news is that as more western families are moving to China, schools are expanding.

More options are opening up as well. In Shanghai alone, there are American, British, Hong Kong and German curriculum schools both in Puxi and in Pudong. Additionally there are French, Korean, and Singaporean schools in Puxi, as well as a variety of kindergartens, including ones that are run on Montessori principles, on both sides of the river. Throw in the option of Chinese schools, and families have an excellent variety of possibilities for their children’s education and language development.

One can well imagine that the question of schooling is always the number one concern, followed by worries over medical care and housing.

This year especially, more people are moving to Shanghai than are leaving, and as a result the most desired schools with the best locations have long waiting lists. Even families that start their application process early are running into these long waitlists, and this creates tremendous anxiety for them as they contemplate a move to Shanghai.

Take for example the Brown family (names have been changed). Mr. Brown was promoted to a high level position in Shanghai from his office in Canada. The joy from the promotion lessened when faced with the actual reality of the move, coupled with the worry of getting the children into good schools.

Most international schools have web sites (see list below) which are a great resource as a first point of reference. The web-sites provide a lot of information about the schools, all positive, and each is decorated with photos of happy children along with smiling teachers and administration, painting a pretty picture of educational perfection.

The web-sites also give information about tuition, usually ranging from 15,000 – 25,000 USD a year. For most families, this is not a problem as their companies foot the bill.

On each web-site, applications, a list of admissions procedures, and contact information are all readily available. The first step is to enquire about space.
This can be a bit discouraging as the family is confronted with waiting lists and the possibilities of adding a second and even a third choice school to the application process.

There can be a bit of shock too when the applying parents discover that non-refundable application fees averaging $350.00 US must be handed over for each school and each application. Schools will not even consider an application until the fee is paid.

From the web-sites’ admissions pages families can also learn what other requirements each school has for their children: entrance exams, test scores, English competency etc.

The fortunate families that receive relocation services as part of their package have a great opportunity to start the school selection process early, as the first priority on the agenda is usually school appointments. By the time they have their orientation and home search in their new host city, some families are lucky enough to have a secured spot, and during their visit they will meet future classmates and teachers while viewing their classrooms to be.

For those families who are on a waiting list, these trips are a mixed blessing. On one hand it is reassuring to know that the schools in Shanghai are on par with or even better than the schools their children were enrolled at in their home country. But at the same time, school visits can become a harsh reminder that getting children into the schools they want is not an easy task.

Children on the British or American education track have more options than those on alternative tracks, like French, Spanish, German, Japanese or Korean. Besides the French, German and Korean schools, most international schools use English as the official teaching language. Even if English is not the preferred language of education for a family, enrolment in an English program does have its benefits. Children can socialize with a truly international student body and can quickly gain near-native English skills, an attribute that is without a doubt advantageous.

While there are families who do not get into their first choice school, it is rare that a child is not able to enroll in his/her second or third choice school. Even after enrolment in a school, some families keep their names on waiting lists with the idea of moving the child when a space becomes available. Interestingly enough, many students become very comfortable in the school they start out at and do not want to move after a few months, even when a space becomes available at their original first choice school.

In the last few years, the Chinese government has opened certain local schools to expat children. Families who plan to be in China for a long time and who want their children to learn to read, write and speak Chinese, have found great advantages in this local school option.

Local schools usually have a handful of foreign teachers who make sure that the children keep their English up to par, but for the most part the curriculum is taught in Chinese. Though Chinese immersion can be intimidating at first, parents are always surprised by how quickly their children pick up the language. It is not uncommon to see 6 year olds translating for their parents at markets, in the taxi, and when ordering food at restaurants. The other major plus from this option is that tuition to these schools is considerably less than at any international campus.

From world class international schools to the foreign language immersion options at the French, German, Korean, or even local Chinese schools, China has terrific opportunities for expat children’s education. Parents need to be prepared though for possible challenges for enrolling their children in their first choice schools, and understand that second or even third choice schools can quickly become favorites after enrolment. Families relocating to China with children need to keep the importance of early application submission in mind, and should refer to each school’s website frequently to watch for updates and changes. Schools also have very friendly admissions staff who welcome opportunities to help. If one uses the available resources, keeps an open mind, and appreciates the advantages of sending children to school in China, the biggest concern of families moving to China – education – should be an easy one to alay.

Continues page 7
Shanghai American School
www.saschina.org
Most popular in Shanghai; Puxi branch very difficult to get into, Pudong branch is usually easier. Both campuses far from downtown but have the best facilities in the city

Concordia International School
www.ciss.com.cn
Very popular school with American curriculum and Christian values. Located in the heart of the Pudong Jin Qiao expat community, very difficult to get in unless application submitted months in advance.

Shanghai Community International School
www.scischina.org
Two locations, one very conveniently located in Puxi's Hong Qiao neighborhood, and the other in Pudong. American style education. Usually easier to get into than the two schools above, but there are often waiting lists.

Dulwich College International School
http://www.dcsanghai.cn
Elite British school located in the heart of Pudong's Jin Qiao expat community. Very difficult to get in unless application submitted months in advance.

British International School Shanghai
www.bisshanghai.com
Two locations, one in Puxi and one in Pudong. Great education with 100% British teaching staff. Usually easier to get into than the schools listed above, but there are often waiting lists.

French/German School
www.ds-shanghai.de
www.ef.shanghai.online.fr
These schools share a campus both in Pudong and Puxi called the Euro Campus. Very popular with French and German students, usually space available.

There are many other international schools in China as well. A simple Google search will bring up list after list.

1) Why have you come to China?
My husband has set up a manufacturing plant in Guangzhou to complement his manufacturing plant in Australia. To enable the business to have the best chance at succeeding, it was necessary for him to move here. For us as a family, being together is the most important thing, so we have all relocated.

2) What do you expect will be the greatest challenges?
I suspect the language barrier will be the greatest issue for me. There is only so much gesticulating one can do!

3) What do you think will be most exciting about working in China?
Gaining a greater understanding of the Chinese culture and language. Working with the Chinese means we will really get to understand their way of life at a grassroots level.

4) Any tips you might want to give others who are coming out here?
One of the most beneficial things I did was to undertake a Look-See before I moved to Guangzhou. Without this, the move would have been a lot more daunting. It was especially important for me to resolve some concerns about our everyday living before I brought our children across. As they are only 2 years old and 8 months old, it was vital that I knew where and how to provide for them as soon as I arrived.

5) How has APA helped?
APA have been wonderful in providing practical assistance. In particular, I simply could not have made this move without the assistance of APA's counselor, Elaine Teng. In addition to providing essential advice about day to day living in Guangzhou, Elaine has also provided miscellaneous advice about various other issues such as handy hints about dealing with Chinese people, practical advice about how to get groceries from the city without leaving our apartment.

Continues page 8
From July to September this year it simply won’t be easy to get flights, both in and out-of China, visas, hotel accommodation, temporary accommodation and even hire cars. If you want to reduce stress on your HR and on your assignees, you would be better off to wait until at least mid September, when the Olympics and Paralympics are well and truly over.

With possibly 500,000 overseas tourists, 30,000 media, plus some tens of thousands of providers of Olympic support services flying into Beijing for the July-September period, the first obstacle will be to get into and out of the country. Bookings are already very tight, but if you do manage to get a booking, you next have to consider getting a visa and ideally a work permit and residence permit.

**Visas**

As a recent measure the Chinese Government has announced restrictions on F Visas (Business Visitor visas) as well as tightened up on the place of issue for short term Z visas. This is going to make life more difficult for almost everyone.

Under the new regulations, F visa holders and L visa holders already in Beijing, whose visas will expire over the next two months, can only extend their visas up until July 1st this year. After that date, they will have to exit China to re-apply. Moreover, at least until the end of the Olympics and some say October (whilst others say permanently), multiple re-entry F visas will not be issued and double-entry visas will only be issued under certain conditions – that is that air line tickets and a detailed itinerary are presented at the time of application indicating why a double entry is required. There has also been a cut back in the duration of stay for both single- and double-entry visas. Whereas in the past it was common to get F visas for 60 or even 90 or 180 days, F visas will now generally only be issued for 30 days. On top of all that, holders of passports from Africa, the Middle East and most South and South East countries, will not be able to apply for F or L visa extensions in either Beijing or Hong Kong. Passport holders not from these countries, can apply for extensions but visa issuance times have also slowed down and same day issue seem to be very unlikely. This situation is expected to last at least until October.

These changes will have an immediate effect on short term business visitors who have become accustomed to obtaining multiple entry visas to China to cover their several visits a year and to entering China on visas which last at least 90 days if not longer. They will also affect those companies who have hired young lo-pats on relatively low salaries and have not provided them with work permits or residence permits, but requested them to obtain F visas in Hong Kong which were once renewable every 6 months.

Companies who need to process the paperwork for their employees’ work and residence permits will also find that the process is now more difficult and more expensive. Unless the registered capital of the company exceeds a certain level (please check with your local authorities on this level) it will no longer be possible to obtain a residence permit in Beijing whilst holding an “F” Visa (Business visitor). Instead, the assignee needs to apply for a short term Z visa in their home country (after first obtaining medical clearance and an employment permit in China) before entering (or more likely re-entering ) China to apply for the work permit and residence permit. In addition, Hong Kong will no longer be available as a location in which to obtain the short term Z visa. Unless an assignee comes from a country in the region around Hong Kong (includes Singapore and Thailand) in then they cannot apply for a short-term Z visa in Hong Kong. (The definition of “in the region” has still not been clarified!)

Continues page 9
Serviced Accommodation

If your assignee manages to jump through these hoops, they still need to find a place to stay. Much of the serviced accommodation and five and four star hotel accommodation has been pre-booked for the period of the Olympics and it is already very difficult to get accommodation in July and September. Prices are, in any case, phenomenal: three or four times the standard rate.

For example, The Oriental Plaza, a five star apartment and office complex down town has raised its monthly rentals for a one bedroom apartment (80-85sqm gross area) in August to just under US $20,000 per month and for a 3 bedroom apartment (202 sqm gross) to over US $50,000 per month. Eighty percent of the Oriental Plaza’s 200 units have been booked to date for August.

Another five star serviced apartment complex, the Kerry Centre has raised its August prices for a 2 bedroom apartment from USD 4300 – US$4700 per month and for a 3 bedroom apartment (224 sqm gross area) will rise from over US$6,000 per month to over US$28,000 in August. Prices in June, July and September will attract a surcharge of 20% on their standard prices. Three bedroom apartments at the Ascott are now already fully booked for the Olympic period. A similar situation is reflected all around town.

Assignees who are already here and have accommodation are also finding that they are faced with sharp price increases if their lease is up for renewal. Moreover, some apartment complexes are insisting that lease renewals must be for a minimum of one year.

Cars and Drivers

Companies that provide cars and drivers for their managerial expat staff are also likely to find that it is difficult if not impossible in July and August to arrange this. Cars and drivers who are not already on a long term hire arrangement have been snapped up by the Beijing Olympic Committee, tour companies and the media for the key months. If your assignee arrives in July and needs a car and driver, they will have to wait until at least early September to get one, unless they are very lucky.

“It is already very difficult to get accommodation from July through September”

And, even if they do manage to get one, he/she will only be able to go onto the city roads on odd and even days (based on the last digit of their license plate) from the end of July until the end of the Games. If your assignee has a family and live out in the villas at Shunyi, they will be spending quite a lot of time at home! Taxis won’t be affected by these odd and even restrictions, but with a possible 500,000 visitors in town between July and September, taxis are also likely to be at a premium.

So, if despite all this advice, you still decide to relocate your assignees to Beijing in July/August, do realise that it may take longer for them to settle in and begin to work effectively.

Notice

APA has recently observed a step up in security measures in Beijing and Shanghai leading up to the Beijing 2008 Summer Olympics in August. Local authorities are carrying out random checks on foreigners, and have in some cases visited homes and offices without notice to inspect visas and registration papers. APA would like to advise foreigners of all nationalities to carry their passports, work permits and residence registrations, or at least photocopies of these documents, with them at all times.

Please also be reminded that, in accordance with local immigration regulations, foreign nationals are required to go through a registration procedure at a local police station or residence registration office within 24 hours (or 72 hours in rural areas) upon first arriving in China and whenever they re-enter the country from an overseas trip.

APA’s immigration services include arranging and renewing visas and employment permits, and registration. For more information, please write to info@apachina.com.

If you have any questions or comments, please feel welcome to contact us at info@apachina.com.