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Contact: Amy Linert
Fusion Group USA
602-279-0281
amylinert@fusiongroupusa.com

PURCHASING REAL ESTATE IN MEXICO: *IT'S STRAIGHTFOWARD AND SECURE*

Most people mistakenly believe that property ownership in Mexico is off-limits to foreigners. Reality check: Mexican real estate is not only obtainable, it's a wise and exciting purchase option today.

Considering a Retirement or Vacation Home?

Mexico's close proximity to the U.S. poses a great benefit to the vacationer or retiree. The lower cost of living, availability of quality homes at comparatively lower prices to those sold in the U.S., and top-notch medical facilities make living in Mexico more attractive. Several flights are available to destinations such as Mazatlan, and beautiful locations such as San Felipe are within a two-hour driving distance of the Mexican-Arizona border.

What Types of Ownership can a Foreigner have in Mexico, and What is the Acquisition Process?

On the Mexican mainland, a foreigner can purchase property fee simple (direct deed), except when the property is located in the restricted zone: 50 kilometers (32 miles) from the shoreline or 100 kilometers (62.5 miles) from the borders.

However, buyers can acquire residential properties located in all of the Baja Peninsula, coastal and border areas within the restricted zone, through a Mexican Bank Trust called a Fideicomiso. The bank, for an annual service fee of \$300 to \$400, serves as a trustee that holds the legal title to the property for up to 50 years. The cost for the permit to establish a bank trust is less than \$1000 U.S. dollars. To purchase through a Fideicomiso, a foreigner must first register at the Secretariat de Relaciones Exteriores for a permit to establish the trust. Upon receipt of the permit, the trustee bank sends instructions to a Notario (a governor appointed attorney), who prepares the deed (Escritura) to the beneficial rights. Applicable taxes are paid (two percent of purchase price), and then the deed is recorded in the local municipality.

The foreigner, as a beneficiary of the Fideicomiso, has the right to use, improve, lease, sell, mortgage, and will the property. When the owner dies, the estate becomes the beneficiary. A second beneficiary to the trust can also be named through a Mexican will. Co-owners can be listed on a Fideicomiso to avoid probate. Upon expiration, an owner can indefinitely extend the Fideicomiso in 50-year periods by paying the renewal fee. Buyers can establish a new 50-year period if they purchase a property that was already in a Fideicomiso.

Buyers can purchase commercial or non-residential property in the restricted zone fee simple with 100 percent foreign capital as a Mexican corporation, without the need for a Fideicomiso—but through an application process through the Secretariat de Relaciones Exteriores.

Escrow arrangements in Mexico do not typically exist as in the United States. Some American-based real estate companies work with a hybrid type of escrow, incorporating the closing customs of Mexico and California for buyers in the United States.

Where to Find Financing to Purchase Homes in Mexico?

In Mexico, buyers purchase most residential real estate on a cash basis. Financing of homes in Mexico has been customarily done through a home equity loan on a U.S. buyer's primary residence. Developers usually offer some type of financing, and some will carry back a portion of the note. Mexican banks and finance companies have begun to offer loans to foreigners. Mortgage companies based in the United States are offering long-term, fixed-rate financing with as little as 20 to 30 percent down.

What about a Title Insurance Policy? To Buy or Not to Buy?

Definitely, buy! Questions of the title may be resolved through the title company rather than through the Mexican Courts. Things may go wrong with the title in the U.S., and in Mexico as well, so it is prudent to obtain a title policy. The title insurance policy issued for Mexico is 99 percent similar to an American Land Title Association (ALTA) policy. There are differences in the law and the language, i.e., there is no Spanish equivalent of "marketability." Ejido rights and agricultural reform have a part in the Mexican policy. In addition, in Mexico, mineral and water rights belong to the federal government, not to the owner of the land.

Fidelity National Title and Stewart Title Guaranty Company are examples of American companies offering title policies in Mexico.

This information was condensed from an article written by Fabiola Thébaud, a licensed real estate agent with Prudential California Realty Real Estate Services. The above is provided as general information and is not guaranteed.