



Allard Realty

INFORMATION FOR BUYERS

Buying real estate in Mexico is very similar to owning property in the USA or Canada. The one exception is that by law the title to land within 50 kilometers (about 30 miles) of the coast or border must be held in trust or Fideicomiso as they are called in Mexico. (usually by a bank), with the purchaser being the beneficiary of the trust.

The beneficiary (you) has all the same rights to the property that you would have if you held the title outright; you can rent or lease it, build on the land and/or expand construction (with the same zoning rules as apply to Mexican citizens), sell it, will it to your descendants, etc.

This is the government's way of getting around a constitutional article which prohibits outright ownership of these lands by foreigners. Trusts are valid for 50 years and are renewable.

The only negative of this trust is that it cost \$500 US a year. The positive about this trust that it also acts like a will as you will be required to disclose on this document who you wish to inherit this property if you pass on. Your will in Canada or the US is not valid in Mexico.

The Capital Gains is usually paid by the seller unless the sale price is below the assess value. In this case then the buyer may be responsible for a capital loss. Gerard will make sure that his clients will know if this exist and what is the amount before you make your decision to purchase.

Down payment on an existing property is usually 10% of the accepted offer which will be wired to an escrow account. If purchasing a new construction unit, then the down payment is larger (35%) and on most occasions will go directly to the developer.

• NOTE •

Some of the percentages below vary depending on the state in which the property is located. The following is based on Nayarit state:



1) TRANSFER TAX

This is a transfer of property tax. This is paid by every purchaser to the local government. In Nayarit it is a flat 2% of the purchase price; In Jalisco it is similar but varies depending on value of property.

As opposed to the US way state and local government collect the property taxes, which, when added are very high, even astronomical in some areas, in Mexico the authorities charge this 2% at the beginning.

In contrast, they do not charge high annual property tax. The notary is responsible to collect this tax; the notary is also personally liable for failure of doing so.

2) REGISTRATION FEE

This is a tariff of around 0.9% paid to the Office of the Public Registry (a State Office). In this office, as per Mexican law, all deeds (including property's deed of trusts) must be registered.

You have in the US something similar. It is the obligation of the notary to do the process of registering your property in this office. The legal aspect of the Public Registry is that, in this way, it is known that you are the owner of the trust rights of the said property, as from a given date.

This way you are protected against claims that the seller may have had prior to the sale of the property. This item is related to the search of liens and encumbrances and its corresponding certificate, as explained below.

In the above two items you have 2.9% of the total percentage (average 5% as mentioned above) that will be calculated as total closing costs.

3) MISCELLANEOUS, CATASTRO (PROPERTY TAX OFFICE) APPLICATION AND REGISTRY OFFICE COPY.

Once you have signed the deed of trust, the documents not only are registered in the Public Registry but also at the Municipal level in the CATASTRO (cadastre)



OFFICE for two purposes: one for census, that is to register new constructions, locations of properties, etc.; but also, for the annual property tax.

The Catastro office is a local office. At the registration they will give you a property tax number (Registro Predial). Yours are to be paid every year at the beginning of the year and is called Impuesto Predial (property tax).

It is important to remember that the city will not send you a bill but it your obligation to go to make the payment. This errand is normally done by the administrator of the condominium as a service, but it is not the administrator's obligation to do so. It remains the owner responsibility and you can arrange this service on a request basis.

The municipality normally offers a discount to the annual tax if paid within the first month of the year.

4) APPRAISAL

This appraisal is done by a bank and municipal authorized Appraiser, normally a civil engineer.

Appraisers are normally chosen by the notary themselves and they may be working with different, if not all, notaries of the area.

The appraisal involved is not for commercial purposes, IE, to establish a market price, rather it is for property tax purposes. The figures given are normally lower than the market values.

For tax purposes, the law establishes that the value chosen by the municipality to base the property tax is the higher of the two of the prices established in the purchase agreement or the appraisal.

So, it may be the case that the property is appraised at 10 pesos, and the purchase agreement established the price of 1 peso, the municipality will take the appraised value as the base for the property tax.

The other way around, the purchase price is 10 pesos, and the appraised value is 1 peso, the municipality will take the purchase price as the base for the property tax.



5) THE CERTIFICATE OF NO LIENS AND ENCUMBRANCES

The notary will do document research in the State Public Registry and municipal CATASTRO office and get a history of the property. This history is written in the deed of trust as background information.

The search is for the purpose of finding liens and encumbrances that may hinder the transfer of the property to third parties that are purchasing in good faith.

The notary will also search at the municipality if the property is current in their property taxes. If there are no liens or encumbrances nor outstanding property tax payment, the deed will be authorized to be issued.

The corresponding CERTIFICATE OF NO LIENS AND ENCUMBRANCES issued by the Public Registry and THE CERTIFICATE OF NO OVERDUE TAXES issued by the municipality are annexed to your deed of trust. Similar certificates are acquired for water and property taxes to ensure there are no past due amounts.

6) THE TRUST FEES

These are the fees related to setting up a trust. The process is as follows:

- a) Previous to drafting the deed of trust, the notary will request a permit from the Federal foreign affairs office to set up, as per the law, a trust and its corresponding deed in the benefit of the named buyer.
- b) The Office will grant the permit and then the notary will request the bank to set up the trust and draft the deed of trust.

This draft will include the certificates above mentioned and the history of the property (antecedents), the information about the seller and the purchaser and all the information about prices, including the text of the condominium regime, the registration of the condominium regime in the Public Registry, etc.



c) The bank will review the draft deed and all the documents when accepted send them back to the notary to have them signed by the purchaser and the seller.

d) Once signed by the seller and purchaser, the bank will sign the deed, which then is registered in the federal office of foreign investment

e) The expenses that are itemized in the trust cost of your closing cost sheet correspond to federal government tariff to grant the permit (10,595 pesos-fixed cost), registration of the trust, the bank review and acceptance of the drafted deed of trust, and the payment in advance of one year of the bank's fee to hold the trust.

7) NOTARY FEES

These are the legal fees that the Notary will charge for the work done on your behalf. Normally, notaries will charge from 0.75% to 1% or more of the purchase value for their own fees. In our case, due to the volume, the notary that gave us the estimate. charges on the low side of the market fees.

8) THE IVA TAX

This is the equivalent of a sales and service tax in the US, which is paid only on the notary legal fees. In Mexico the sales tax is 16%.

Your home in the paradise of Puerto Vallarta will be one of the finest investments you can make, both financially and in the resulting lifestyle. Vallarta has a huge 'ex-patriot' community where you will make new life-long friends amongst not only your fellow ex-pats', but also among the friendly residents who will welcome you to the community! You won't be alone...as we said, Vallarta is already home to THOUSANDS of your compatriots!

I hope you have found this explanation of closing costs to be useful. Please contact me with any questions you may have!

