



LA COSTA REALTY

Mexico Real Estate Buyers Guide

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Purchasing Real Estate In Puerto Vallarta, Mexico From Beginning To End

You came here on vacation and fell in love with Puerto Vallarta, Mexico. You are not alone by the way! You have looked on-line religiously and think you have asked the right questions, you have actually looked over the geography and narrowed down your options and know the difference between Puerto Vallarta, Mexico and Punta Mita, Mexico. You have checked your budget and you are ready! But – you still have a lot of questions. Read on and hopefully at the end of this article the questions will be mostly answered.

Firstly, make sure that the agent you are working with is competent to get this done for you to your maximum advantage. At the very least your agent should be an AMPI Member. The local chapters of AMPI (The Mexican Association of Professional Realtors – affiliated with NAR) are some of the most pro-active in Mexico in terms of membership and on-going educational requirements. That said, there is no governmental regulatory body that oversees the legal and ethical operation of real estate agents in Mexico. So make sure you are comfortable with the agent you are working with because you are going to be depending upon that agent to cover a lot of ground on your behalf through to the closing.

Not to put too fine a line on this, our agents at Coldwell Banker La Costa undergo thorough training on an ongoing basis and must all pass a rigorous 3 hour exam with a minimum passing grade of 75% before they speak to any of our customers.

The next thing you should be looking for is an agency that has been able to successfully sustain itself through thick and thin over the years and has a strong name in the community. Coldwell Banker La Costa was originally founded in 1986 and was the first of over 70 Coldwell Banker offices in the country of Mexico. We are part of the most recognized name in real estate, Coldwell Banker Real Estate Corporation, while locally owned and operated.

The Purchase Agreement

Although the Purchase Agreement used by most Real Estate agencies in Puerto Vallarta has become fairly standardized over the years, they are still custom documents prepared in double column format – *English and Spanish* – about 12 pages in length.

The agreement covers everything that you would normally expect to be in a well written real estate agreement – *the parties, the price, deposit and payment terms, due diligence, boiler-plate clauses, closing date and signature block. The question is often asked at what price should an offer be made relative to the asking price and how much, if any. The answer is that it varies* – depending upon the current state of the market and the current price of the property.

Your agent should be able to guide you with current market data for Real Estate trends in Mexico so that your offer is treated seriously while not being over-bid. The local **AMPI** Chapter owns and manages a **FLEXMLS** system which is capable of generating a series of statistical information your agent should be sharing with you.

The Deposit

Once the offer has been accepted, it becomes a bilateral binding agreement and there is usually a period of 1 to 4 days within which time for the buyer to make the escrow deposit. Before that can take place an escrow agreement must be completed and signed by the buyer, seller and escrow agent.

The deposit amount utilized in this market has traditionally been 10% of the final agreed upon purchase price. This is more than what is usually provided for in most other North American Real Estate markets however it lines up with the more traditional notion in Mexico that almost always provides for a large amount of the price being paid at contract signing.

The deposit will either be refundable until such time as all due diligence items have been satisfied – usually 10 to 20 days, or longer, after which time the deposit becomes non-refundable.

The Escrow

Escrow deposits managed by independent third party escrow and/or title companies.

The escrow protects all parties to the transaction and avoids the situation where an interested party, agent or other entity is charged with managing the deposit. For what are pretty obvious reasons this is critical to any properly written real estate agreement in Mexico or anywhere else in the world.

These deposits can accrue interest at the option of the parties. In the event of default or disagreement, the wording in the contract will take precedent and failing that and failing the ability of the parties to negotiate the disposition of the deposit between them, the matter will become the subject of a lawsuit – *something that happens only in the most remote cases.*

There is a cost for the escrow which varies with each escrow company in Mexico. Generally, the escrow cost can range anywhere from \$450US to \$800US depending upon who you are dealing with. Coldwell Banker La Costa is of the opinion that these costs should be split between the buyer and the seller as they both stand to benefit equally from the escrow, however these costs are often considered to be to the account of the buyer.

The Due Diligence

The Real Estate Purchase Agreement may often call for some points of due diligence – *everything from boilerplate items such as copy of the deed and copies of the tax and HOA receipts to a full engineering inspection.* All Due Diligence items must have date frames and either methods to cure or provisions for cancellation in the case of catastrophic discoveries, built into the agreement.

Once the Real Estate Due Diligence items have been signed off, the agreement then becomes unconditionally binding on both parties and the closing process can begin.

The Closing Costs

At this point, the agent should provide the buyers, who will be responsible for 100% of the Closing Costs, with a Closing Cost estimate. It is an estimate because the exchange rate fluctuates in Mexico and it can have an effect not only on the fees and expenses but more importantly upon the value of the property which is often 'sold' in terms of US Dollars but always registered in Mexican Pesos. The buyer will be asked to advance about half of the estimated costs to the notary to cover his out-of-pocket expenses, and the balance is usually paid by personal check to the notary at the closing or it can be deposited into escrow and disbursed directly to the notary's account at closing. The Closing Costs in Mexico consist of various fees and expenses and generally total about 4% to 6% of the actual purchase price. These costs are always the responsibility of the buyer. (The seller will bear the cost of the real estate fees and his capital gains taxes, as applicable). These Closing Costs are generally as follows: (these fees – in USD – are to be used as a guideline only and are approximate. They will vary according to the size of the transaction and the exchange rate at the time).

- Transfer tax
2% State Tax
- Appraisal for Future Tax Assessment
The appraisal for Future Tax Assessment in Mexico varies with property size with locally certified appraiser.
- Trust Permit
\$1,000 Department of Foreign Affairs Mexico City
- Non-Encumbrance Certificate
The Non-Encumbrance Certificate from the Land Registry Office (LRO) in Jalisco or Nayarit is about \$15.
- Foreign Investment Registry
\$700 Department of Foreign Investment Mexico City
- Preventative Notice Advices
The Preventative Notice Advices from the LRO are about \$30 (for 2).
- Trustee Bank Acceptance Fee
\$550 Wherever the Trust Division of the Trustee Bank is located in Mexico.
- Registration Fees in the LRO
Registration Fees in the Land Registry Office varies from .5% to 1.0% (Jalisco/ Nayarit).
- Trustee Bank First Year's Trust Fee
\$550 Wherever the Trust Division of the Trustee Bank is located in Mexico.
- Notary's Fee
The Notary's Fee in Mexico varies from .5% to 1% depending upon transaction size.

The Closing

There is a saying in Mexico *that next to God, the Notary's are the most important people in the country*—and there are some that would even debate that! Notaries must pass the Mexican equivalent of the bar exam, they are then required to take two years of extensive study while practicing in a Notary's office following which they are subjected to a 3 day examination program and finally must be appointed by the state to a specific office in a City of which there will be only a predetermined number of Notario offices appointed. *This is much different from the concept of a notary in the US or Canada.* Notaries in Mexico are the only entities that are recognized by the Commercial and Land Registry and are empowered to collect taxes for all 3 levels of government. At the appointed time, the buyer, seller and their respective agents will meet to 'close' or as it is known in Mexico, 'formalize' the Real Estate transaction in the *Notary's office*. One can get a basic idea of the documentation required and the various entities that are depended upon in order to generate these documents.

Over the past 8 to 10 years paralegal Closing Coordinator offices have opened that are typically owned and operated by *ex-employees* of notary offices. The Closing Coordinators have the *skill-set* needed to prepare all parts of the required documentation and are fluently *bi-lingual* (*which most of the employees of the notaries offices are not*). They perform a lot of the work necessary to affect the closing on behalf of the notary's offices, and they are also able to explain and help the Real Estate buyer and Real Estate seller and their Real Estate agents work towards an orderly closing. In addition, they review the draft trust deed for approval by the trustee banks. At the closing, the *Closing Coordinator* will also appear at the notary's office and usually walk through, answer any questions and translate the 40 plus page trust deed to the buyer and seller should they so request. Once the names have been verified as being correct in the document, the identifications have been verified, all taxes have been collected (*from buyer and seller*), the notary himself will appear to observe the execution of the deed after which very politely thank everyone and excuse himself from the room while keys are passed and congratulations are passed around.

Once the Notary has stamped the trust deed, it will immediately be sent together with copies of the certificate of *non-encumbrance* and the preventative notice to the escrow company by the *notary's office*. The escrow company will have previously received a *Letter of Disbursements* signed by the seller and the buyer setting out exactly to whom and how much is to be wire transferred according to the detailed information set out in the *Disbursements Letter*. Upon receipt, the escrow company will execute the disbursements and funds are generally received by bank transfer that same day. While the actual trust deed will not be presented to the *LRO* for probably several days by the notary, everyone is protected from the possibility of any third party charges from being registered by means of the certificate of *non-encumbrance* and the *preventative notice*, both of which are generated by the *LRO* at the same exact time. The preventative notice issued by the registrar freezes the title for a period of 45 days and is obtained at the same time as the certificate of non-encumbrance showing that the property is free and clear and is generally renewed at some time during the initial 45 day period for another 45 day period giving everyone sufficient time to close and present the trust deed for registration. *The actual registration will take between 30 and 90 days and the buyer will be notified by his agent typically as to when it can be collected from the notary's office.*

What Did I Buy?

You are now the proud owner of the beneficial rights of a trust the body of which is the property. Think of a glass of water – *the glass represents the trust and the water the property. You have complete control of the glass. Same thing with a trust – you control it completely. You can sell the property, rent it, gift it or lend it – just so long as whatever it is you are doing with it is legal. You will also be obliged to maintain it and pay property taxes. Property taxes are .08% of the assessed value – which was established when you purchased the property by way of the tax assessment appraisal that was registered with the assessment office (the ‘Catastro’). Property tax rates in Mexico are extremely low as they do not represent a significant source of governmental income and must be held to the lowest common denominator. The trust has a 50-year lifespan. Unlike a lease, at the end of the 50-year period it will become renewable for a filing fee of approximately \$1,000US. Thereafter it is renewable for subsequent 50 year periods in perpetuity. The bank acts as trustee – most banks in Mexico have trust departments to manage trusts (fideicomisos). They charge an annual trustee fee of about \$550US and each bank charges vary slightly. The trusts in the banks are ‘off balance sheet assets’ in that in the event of a bank closure or dissolution (there has never been a bank failure in Mexico – ever), the trusts are not considered assets of the bank and would be assigned to another bank under the auspices of the Bank of Mexico.*

When you sell the real estate, you will become subject to capital gains tax based upon your cost base – *in Pesos* – in your deed, which was or should have been, your actual purchase price at the exchange rate of that day and, the sale price. The capital gains tax at the present time is 36% of the gain and is subject to certain deductions, one of which is the real estate fee. If you have a resident visa (*Temporary or Pemanent*), a RFC tax number and have lived in the property as your principal residence you should be exempt from capital gains *tax - otherwise not.*

Critical Documents

As noted above, your register deed/escritura will be available for pick-up from the Notary’s office approximately 90 days after closing. In addition to the deed you also need to receive from the Notary the following important documents:

1. The Boleto de Registracion – (*the Registration Letter*)
from the Registrar that confirms that the deed was registered on a specific date at a specific time.
2. A factura (tax receipt) – *in xml digital format (via email or delivered on a thumb drive)*
showing the actual amount in Mexican Pesos of the registered purchase price.
3. A factura also in xml format showing the itemized breakdown of your closing costs.

Items #2 and #3 are particularly important because they are the only documents that will be accepted to evidence your cost base as deductions from future capital gains taxes (*36% upon sale*). Failure to be able to produce these digital facturas will mean that the Notary formalizing the eventual sale of your property will only be able to deduct 10% of then sale price.



If you have any doubts or questions, please contact your Coldwell Banker La Costa agent who will be able to walk you through any parts of the above process with ease and get you quick and concise answers.