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Mexico Documents to be Considered for the Mexican Real Estate Title Process

I propose for your consideration, the following general list as your “Needed Documents” to give your Mexico real estate attorney what he needs to do his legal due diligence and to assist you through the titling process.

1. Title. You should first request and obtain a copy of the Mexican notary public “public instrument” deed of direct title or title trust (as the case may be) wherein the seller shows he holds the property in question in direct title or the title trust beneficial interest.
2. Letter of Instruction. If the title is in the title trust, then a copy of the seller’s letter issued or to be issued, providing instructions to the seller’s Mexican trustee bank, advising it what to issue instruction (the attorney will help with the details of the letter).
3. Cost Estimates. There will be several costs and expenses involved in this matter. The notary and the trust bank should each issued a statement of their costs, expenses and fees and you should determine which of you (seller – buyer) will pay each one. Please note that there are still other costs and expenses that will occur (Talk to your Mexico real estate attorney).
4. Documentation Creating Title. It is customary for your Mexico real estate attorney to review the documentation that created the lot, the house or the condominium unit. Therefore, if a lot or house, your attorney will need to see the completed and registered subdivision authorization. If the property in question is a condominium unit, he will need to see the Mexican notary public “public instrument” containing the registered (at the local Public Registry of Property) “condominium regime”.

Also, in the case of a condominium scenario, there should be contract made with the condominium administration to verify that there is no money owed to the condominium association (common area costs) related to the unit in question.

5. When Construction Exists. Where there is construction on land, there is an issue of determining that authorization to build was issued and then closed upon completion (construction permit opened and closed, environmental authority authorization granted) and that the social security and related contractor employee issues have been fulfilled. This last point is not directly dealing with title but still it does affect title.

6. Easement of Passage. Where the property you wish to acquire is neither directly part of a subdivision nor adjacent-connect to a public road, then there should exist a formal registered right of passage to a public road (also known as a “servidumbre de paso” – easement of passage) (registered at the local Public Registry of Property). Your Mexico real estate attorney will need to see this and confirm its terms and registry.

7. Certificates. It is also customary to obtain (as part of a title transfer event involving real estate in Mexico) a certificate of “no fiscal debt” (all property taxes are paid up to date); a certificate of “no liens and statement of present owners” (indicating who the owner is and in the case of a title trust who the beneficiary is, as well as a statement that there are no liens or encumbrances on the property in question); and (in the case there is construction on the land) a certificate state that there is “no water consumption debt”.

8. Appraisal. Once the buyer is assured that the preceding is in order, there will be a need for a fiscal appraisal to be issued by an appraiser acceptable to the Mexican notary public that will prepare the title transfer “public instrument”.

9. Draft Title Transfer Notary Document. Your Mexico real estate attorney will need to review (prior to signing) the terms and conditions the proposed Mexican notary public “public instrument” that will contain the buyer’s title. This can be a direct title transfer (when the buyer qualifies), an assignment of the beneficial interest in an existing title trust, or the creation of a new and complete title trust.

10. After title is transferred. The titling document will need to be registered, not only locally but most likely also on a federal level, depending upon the circumstance of the event. Your Mexico real estate attorney can advise.

In conclusion, your Mexico real estate attorney is the only party that goes along with you (the buyer) during the complete process and whose sole objective is to secure the buyer’s interest in his Mexico real estate.

This article was written by LIC. VERNON PENNER (Attorney licensed exclusively in Mexico) a specialist in Mexican real estate, business and foreign investment matters; and also an Arizona Real Estate Broker specializing in Mexico property. He teaches classes at the Arizona School of Real Estate on real estate and business matters in Mexico; and if you have questions or need representation, you can reach him at Tel: (623) 931-3133, www.mexicolaw.com E-mail vp@mexicolaw.com