



MEXICO
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YEARS OF KNOWLEDGE AND EXPERIENCE IN REAL ESTATE, BUSINESS AND FOREIGN INVESTMENT MATTERS IN MEXICO.

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PARTICIPANTS IN MEXICO REAL ESTATE TRANSACTIONS

The buyer and seller of real estate in Mexico need to understand the goals, responsibility and usefulness of the parties involved in real estate transactions in Mexico. By doing so, they can better assure themselves that all will go well. They should look at how the parties are paid, what their responsibilities are, and where their loyalties and objectives lie. By doing this, the buyer and seller will better understand how to use these services and how to best interact with the parties.

The Attorney at Law in Mexico. Is the person that has completed law school in Mexico, passed his or her "professional examination" in Mexico and registered at the Federal Mexican Ministry of Education as a practicing attorney. Like most attorneys the world over, those in Mexico will specialize in certain areas of law over an extended time and through personal study and practice become very effective in their certain areas of practice. So license, experience and reputation are important.

The attorney's sole objective is to assure that the client's acquisition or transfer of title is done properly, subject to the client's instructions. He represents no other interest than that of his client. His special abilities are used to review and fully understand title documents, certificates, affirmations, registries, liens, chain of title and much more, with one objective (how to best serve the client in completion of the transaction). The means of compensation for the attorney is payment at a flat fee or per hour, and therefore the attorney's fee does not rely on the outcome of the transaction.

The Real Estate Agent in Mexico. Is the person that has decided to act as an agent for the purpose of real estate transactions. Either as a seller's agent or a buyer's agent. There are no requirements of education, licensing, registry or any other limitation on this activity other than general rules of agency contract to act on some ones behalf. Their goal is to acquire an acceptable buyer (if acting as the seller's agent) or the property wanted (if acting as the buyer's agent). Once this is accomplished, their work is done and they wait to see if the deal is completed. Only if completed they get paid. The real estate agent in Mexico is not normally charged with securing good title, but only making the deal.

There is not equivalent in Mexico to the Arizona Department of Real Estate nor is there any recovery fund available for those that have losses incurred in agent assisted real estate deals that caused harm.

The Notary Public in Mexico. Is the Mexico attorney that specializes in an area of practice known as "notary law" and has been appointed to act as a notary public in a given municipality. They are not necessarily specialists in other areas of legal practice (like real estate) and they do not represent buyers or sellers in the transfer of title. In real estate transactions, the responsibility of the notary public in Mexico is to formalize (protocolize) the real state event (title transfer, mortgage, title trust, etc.) in those terms and conditions the buyer and seller have agreed upon and to assure that the governmental agencies receive their payments and notifications of the event. In most cases the protocolization can then be registered at the corresponding public registry of property. The notary public represents the government in the process and the not the parties that participated. The notary charges his fee and expenses, as well as collects taxes, rights and registry fees, etc.

The Title Insurance Company. Is the company that offers assurances regarding quiet title after the buyer acquires good title to real estate in Mexico. Title insurances is not a Mexican concept and is foreign to Mexico. These companies are either located in the US or Mexico but they all originate form the US. If the buyer acquires good title, then the title insurance company will issue an insurance policy in exchange for a fee. If the title insurance company believes that the title is limited or not vested, then they will either limit the policy or deny coverage. As well, these companies may issue preliminary commitments stating that they will be willing to issue title insurance, when good title is passed and the insurance premium is paid. These companies do not participate in the contractual relationships of the buyer, seller, agents, trust bank, notary public or other persons and they do not normally state how to go about getting good title.

The Appraiser. Is the person that has decided to perform the service of appraising real estate in his local area for real estate transactions. Traditionally there have been no enforceable requirements of education, licensing, registry or any other limitation on this activity. The objective is to get the local notary publics and trust banks to accept his/her ability to appraise, which is done by trial and error to some extent. The appraisal is normally performed to determine a base for collection of taxation by the governmental authorities (through the notary public) and to a much lesser extent for the trust banks to have some basis to calculate their fees (present day, trust banks generally have opted to set fixed fees rather than a percentage on value). It is a rare occasion when their appraisal is used to determine real commercial value. Once the appraisal is accomplished, their work is done and they collect a set fee. In recent time there are individuals that are attempting to gather useful information of prior sales to create a basis of comparison appraising and thereby be able to provide a value on the real estate that might be closer to commercial value (this latter for lenders, sellers and buyers looking for the commercial value).

The Trust Bank. Is the Mexican bank that has a trust department approved by the Federal Mexican government to act as the trustee in title transfer trusts. This is normally where the bank will hold the title for the foreigner that cannot take direct title in their name due to a legal restriction (residential use property in the Mexican Restricted Zone). These banks hold the property in title by permit from the federal Mexican government and perform limited lawful activities instructed of them by the beneficiary (in exchange for fees), provided the acts requested are permitted under law. The bank does not represent the buyer but only holds title to permit the buyer to use and dispose of the property, per the limits of the law and the trust contract.

Government Agencies Approving Subdivisions and Condominiums. There are several local, state and federal governmental agencies performing governmental duties under mandate of law to protect the interests of the public. These agencies, each in their own area of responsibility, may grant some sort or approval, authorization or license to perform an activity on or related to the real estate in Mexico. These agencies represent government and not the parties.