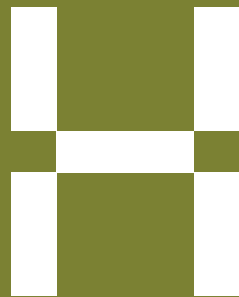


# Buyers Guide



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# Frequently Asked Questions

## Tips For Choosing A Real Estate Agent

It helps to have an expert in your corner to guide you through the process, and also provide you with access to property listings before they hit the general market. Here are some factors to consider when choosing your real estate professional:

- Look for a full-time agent – One with experience in the Mexican and Vallarta market.
- Interview agents: Are they familiar with the area in which you are interested? Do you feel comfortable with them and do they listen to your needs and concerns?
- Ask how much time the agent will have for you.
- Does the agent return your calls or messages promptly?
- Ask for a list of properties they have sold or a list of references.
- Ask about their credentials and education, are they members of AMPI? AMPI members have to complete hours of education to join and then take continuing education every year to maintain membership. AMPI affiliated agents are held to high ethical standards. They also have access to the most extensive Multiple Listing Service (MLS) in the region. There are no licensing requirements to sell real estate in Mexico. AMPI is the most recognizable national association of realtors in Mexico.

## Is There a Difference Between an Agent And A Realtor

Yes, a REALTOR is a professional real estate agent who holds membership in the National Association of Realtors (NAR USA) through membership in the Mexican Association of Professional Real Estate Agents (AMPI).



### **Property Search Basic Questions**

Are you looking for a condo, house, land?

How many bedrooms / bathrooms?

Do you want beachfront?

Do you require a specific view (ocean, mountains, city)?

Does it need to be pet friendly?

Any facilities that are a must have (pool, gym, pet area)?

Require parking?

Are there any special needs they need to be aware of (mobility issues, schools, etc.)?

What area of town would you like to be in?

What is the price range for your new property?

What is your time frame to buy?

Do you need a loan to buy? Have you already contacted any mortgage brokers?

### **Can Foreigners Buy Property in Mexico**

- Yes- In the restricted zones (like Puerto Vallarta), foreigners buying property need to own it through a bank trust referred to as a Fideicomiso.

The Bank Trust is established through a Mexican bank assuring foreign buyers of all the rights and privileges of ownership. As of 1993, the Foreign Investment Law allows these deeds to be established for a term of 50 years and to be renewable upon termination. This process protects the rights of foreigners and makes sure that the transaction is legal and unencumbered. For more than 35 years, many thousands of American and Canadian citizens have used the Bank Trust ownership system in Puerto Vallarta – Riviera Nayarit



area and throughout Mexico's coastal resort destinations. The Bank Trust Fees are to be paid on an annual basis on the anniversary date of the formal closing.

### **Why Do Foreigners Need a Bank Trust to Purchase Property in Vallarta**

- The Mexican Constitution of 1917 designated the area within 100 kilometers (62 miles) of Mexico's borders and within 50 kilometers (31 miles) of the coastline as off limits to direct real estate ownership by foreigners. This used to be known as the "Prohibited Zone" but new beneficial legislation in place now refer to it as the "Restricted Zone". Since 1974 foreigners (non-Mexicans) have been able to purchase property within the coastal and border areas through a "Fideicomiso Contract" or "Bank Trust", established with a Mexican bank.
- A foreigner can purchase the right to hold, occupy, use, improve, develop, rent and sell real estate by purchasing a beneficial interest in a bank trust which holds the legal title to the property.
- The bank acts as trustee while the beneficial interest in the trust is owned by the foreign individual.
- The trustee bank is obligated to deal with the property only for the benefit of the beneficiary.
- The bank takes its instructions from the beneficiary owner only.
- The beneficiary may be a foreign individual or other foreign legal person such as a corporation.
- The trust exists strictly for the benefit of the beneficiary who is for all practical purposes the owner of the underlying property.
- The property may be passed on by will or inheritance, it can be used as collateral for a loan and the property can be freely enjoyed, rented or sold all as determined by the owner beneficiary.

The Foreign Investment Law of 1993 went even further and authorized the out-right ownership of nonresidential real estate in the Restricted Zone by a Mexican corporation which can be 100% foreign owned. This includes real estate purchased for development which will be sold off to foreigners for residential use. The corporation is considered Mexican and therefore the foreign shareholders can own the land directly through this Mexican person.





## **What Is a Mexican Bank Trust or Fideicomiso**

- Any foreigner or Mexican National can constitute a Fideicomiso (the equivalent to an American beneficial trust) through a Mexican bank to purchase real estate anywhere in Mexico, including the Restricted Zone. Trust fees average between 450 and 525 USD a year.
- As part of the closing process for a foreigner, the buyer with their agent requests the Mexican bank of their choice to act as a trustee on their behalf.
- The bank, as a matter of normal course, obtains the permit from the Ministry of Foreign Affairs to acquire the chosen property in trust.
- The Trust term is 50 years and can be automatically renewed for another 50 year period. During this time you have the right to transfer the title to any other party, including a member of your family. If a buyer assumes the existing trust, they can save about \$1000 USD. The permit expires in 50 years. After its expiration, you can renew the permit for another 50 years. We always recommend that if a trust is already created on a property, just assume that trust.
- The bank becomes the trust holder of the property for the exclusive use of the buyer/beneficiary who has all the benefits of a direct owner, including the possibility of leasing or transferring his/her rights to the property to a third party or to a pre-appointed heir.
- The bank ensures precise fulfillment of the trust, according to Mexican law, assuming full technical, legal and administrative supervision to protect the interests of the buyer.
- "Fideicomisos" (Trusts) are not an asset of the bank.
- More Mexican Nationals are opting to purchase with a Bank trust because it clearly states who they wish to become their beneficiaries in the event of death.
- The Trust works as a will and testament for the property purchased and saves time and money by avoiding a lengthy probate case (which can be 2+ years in Mexico).



## **What Documents Do I Need in Order to Buy Property in Mexico**

Apart from having the necessary funds, there are standard documents you will need to present to the Notary when buying property in Mexico as a foreigner:

- Valid passport.
- Valid driver's license (normally 2 forms of photo ID are required).
- Proof of address (at home or here in Mexico) in the form of a recent utility bill.
- Birth Certificate
- Marriage License
- Personal information (full legal name, date of birth, place of birth, address, contact information email and phone).
- If you are a Permanent or Temporary Resident CURP, RFC
- If you are from the USA or Canada your SSN (USA) or SIN (Canada)
  
- Beneficiary information (full legal names, copy of passports of official IDs and addresses).
  
- For Mexican residents INE, CURP, RFC are required.
  
- Escrow account information.  
Proof of address for your home residence (usually a utility bill).
  
- If you won't be attending the closing in person then we will need a power of attorney.

## **The Purchase Process**

For you to understand better how the process works, here you have the steps once you have decided to make an offer on a property:

- The agent prepares the offer for you to sign. A Spanish language sales contract with a courtesy English translation is written up and presented to you for review then initial each page and sign.
- The agent presents it to the selling agent
- The owner will either accept it or counteroffer

Once there is an agreed price and terms and the offer has been signed by both parties,



- The buyer will have a contingency period of about 12 to 15 days to do an inspection and review condo docs, etc. During this period the buyer can review everything and decide if they will move forward or cancel the purchase offer with no penalty.
- Many agents use a A Closing coordinator who will facilitate the sale process and closing for us, at no extra cost to the buyer.
- After the contingency period both the seller and the buyer sign the contract to open an Escrow account
- The buyer will send to the Escrow account (that costs \$750 USD) a deposit of the 10% of the purchase price.
- All sales are conducted through a Notary Public.
- A closing cost estimate will be provided by the agent from the closing attorney and the closing Notary. HOW MUCH ARE CLOSING COSTS: It depends in several factors, such as the price of your property and whether your property is in Jalisco or Nayarit. Closing costs are roughly 4% to 8% of the value of the transaction.
- The buyer will send the closing Notary a wire transfer of 4,000 USD or 80,000 Pesos of the closing estimate as a deposit / downpayment.
- The closing Notary and the closing attorney work on the closing paperwork documents. The normal closing time for a foreign buyer is about 60 days (90 days if the property is acquired through financing).

A few days before the closing:

- The buyer will send the remaining balance of 90% of the purchase price and the balance of the closing costs to the Escrow Services account.

The closing attorney and coordinator will arrange all the documentation with the Notary and the Public Registry office and when we are ready to close the buyers and sellers meet at the Notary for the final signatures

On closing, the buyer is given a copy of the certified deed, but the original registered version can take up to 6 months to get formally registered in the Public Registry office. Once it is ready, the Notary will let the buyer know to come and collect it.

Once the closing takes place and all documents are signed, the closing Notary and the closing attorney will let the escrow company know the transaction was successful and



properly closed. Then the escrow company releases the funds to the seller and the agencies involved. The funds released from escrow normally are sent on the day of closing or the next business day.

### **Can I Buy A Property Even If I Am Not Physically in Mexico**

YES, the process for doing this varies, if this is your first purchase or if you are from the USA, Canada or another country. If you choose to not attend the closing, the closing attorney / Notary will work with you to decide on the best process. Those processes can be assigning rights to the Bank who will issue the Trust or using a Power of Attorney.

- If you are going to create a new trust, some banks allow you to sign a letter of acceptance of the trust. You will have to sign this letter and send the hardcopy via FEDEX, UPS (DO NOT USE USPS). On this acceptance letter you must designate who would you want to become your substitute beneficiaries in case of your death.

- You can give a POA to somebody you trust (a friend, your lawyer etc.). This POA will serve as a vehicle to acquire the property in your behalf. The POA is only valid for the signing purposes of the closing.

### **Do I Need a Temporary or Permanent Resident Card in Mexico**

If you do not plan to stay in Mexico for more than 6 months at any time then no, you don't. If you are planning to stay for more than 6 months in Mexico, then the answer is yes. If you plan on selling your property, then you will have to have Temporary or Permanent Residency and an RFC (Mexican Taxpayer Number).

### **How Do I Get a Mexican Resident Card?**

Both the TEMPORARY or PERMANENT RESIDENT visa are designed for those who want to live in México more than 180 days and those who may want to work or do lucrative business regardless of their length of stay. Privileges are similar for both RESIDENT visas. Either are recommended for those who choose to own property in México. Their suitability depends on your circumstances and have specific requirements to prove financial sustainability. Neither visa status requires you to give up your native citizenship and both visas allow you to apply for work/business activity status.

After four consecutive years, the TEMPORARY RESIDENT VISA can be converted into





a PERMANENT RESIDENT VISA. One may also apply for permanent status right from the initial application and bypass temporary status but, in either case, it requires higher income prerequisites than temporary status. One benefit of the PERMANENT RESIDENT VISA is that it does not require renewal.

The residency process is initiated by setting up an appointment at the nearest Mexican Consulate in your home country.

You need to attend the meeting in person and deliver the requirements they will outline for you. Immigration law being a federal law, the requirements should be the same however please note each Consulate can request less or more paperwork.

As a general guideline, they will ask for:

- Original passport (and photocopy of the page containing the photo and personal data)
- Visa application form (printed on one page, double sided)
- One photograph measuring 3.9 cm x 3.1. cm, face uncovered, no eyeglasses, frontal view, in color, and with white background.
- Payment of fees in cash (please note fees are updated monthly).

For Permanent Residency: Original and photocopy of investment receipts or bank account statements showing an average of monthly balance equivalent to \$100,000 USD (changes yearly) or original and photocopy of tax-free monthly income from pensions for roughly \$100,000 USD (**changes yearly**).

For Temporary Residency: Original and photocopy of investment receipts or bank account statements showing an average of monthly balance equivalent to \$3,000 USD (changes yearly) or original and photocopy of tax-free monthly income from pensions for roughly \$3,000 USD (**changes yearly**).

The process can take up to 10+ days in which they will hold your passport. Once you obtain the visa, you must travel to Mexico within the next 6 months to finalize the residency process.

Once in Mexico, the requirements are:

- Proof of address from Mexico (utility bill). If it is a rental then the utility bill and the rental agreement.



- Photos "infantile" size, face uncovered, no eyeglasses, frontal view, right view, in color, and with white background.
- Original passport
- Original FMM that is stamped in your passport.
  
- Signing the letters and applications (depending on whether you applied for the temporary or permanent residency).

The process takes approximately 8 weeks. Please note that during those weeks you cannot leave Mexico without a special exit permit that has an additional cost of \$150 USD (today's rate) so please plan your travels accordingly.

The fees and expenses vary depending on which visa you apply for. For the Temporary Residency, it can only be issued for one year - after the one-year initial period you can reapply for 2 or 3 years). For the Permanent Residency, there are no renewals on this visa.

### **If You Want to Be A Registered Tax Payer In Mexico, RFC Tax Number**

The RFC is a unique TAX ID number issued to all active and non-active taxpayers in Mexico. This can be obtained in person to the local Vallarta SAT office (Mexican IRS office). You will need your original Passport, Immigration Card and proof of address to obtain the RFC in person at the SAT office.

### **Taxes**

Property taxes have been low and remain low in Puerto Vallarta – Riviera Nayarit. Known as 'Predial' – yearly property tax - the mil rate is .08% of the assessed value of the property, determined at the time of sale. This tax is paid yearly in January, February, or March to receive a discount (15%, 10%, 5%).

Property taxes have historically been low in Mexico because they have never been considered a major source of governmental revenue. This tax law may change in the future.

Property taxes are minimal compared to the U.S. and Canada-usually about \$100 USD per year for every \$100,000 USD of property value. A \$500,000 USD condominium



would pay approximately \$500 USD a year in taxes. If you pay between January and March, you may receive between 5% and 15% discount.

### **What Is Public Registry**

- In Mexico, deeds, usually known as public instruments, can be researched at the local Public Registry of Property which is open to the public.
- The deed must be finalized and signed by a Notary Public.
- The deed will typically list the parties involved in the transaction including the Notary, seller, buyer, and the trustee bank.
- The deed identifies the property.

Once the deed is finalized and signed by the Notary, by the seller, by the bank as trustee (if a bank trust is involved) and by the buyer (who will also be the trust beneficiary if a trust is used), the transaction is considered closed. The Public Registry takes on average 6 months to record the closing and return the registered escritura (deed) back to the notary for the buyer to pick up. A buyer can pick up the escritura (deed) at the Notary but must present their passport.

### **Why Do Property Sales Go Through a Public Notary**

- In Mexico, a Notary Public is a governmental official who reviews all documents of importance with respect to the sale of real estate.
- The training, function and responsibility of Notary Public in Mexico are completely different from North America.
- In Mexico, a Notary Public is appointed by the governor of a Mexican state for life.
- A Notary must be a Mexico licensed attorney.

Becoming a Notary Public involves attending law school in Mexico, obtaining a law degree, passing an exam and being admitted to the bar in Mexico. To hope for appointment, the prospective Notary Public must then work as an apprentice for several additional years with a Notary Public. A Notary does not act as an escrow service. The Notary Public's job is to see that certain formalities have taken place. Although a Notary is always an attorney, it is not the Notary's job to provide any party with legal advice. Any buyer or seller who wants legal advice should hire a separate lawyer licensed in Mexico.



## **Can Foreigners Get a Mortgage in Mexico**

- Currently financing is available for citizens of Mexico, the USA, Canada, the UK and Spain.
- There are financial institutions that work locally and have been improving the quality of service, speed of the transaction and lowering the interest rates to attract more buyers.

If you are considering purchasing property in Mexico, you may be wondering if it is possible to obtain a mortgage or home loan in Puerto Vallarta. The answer is yes, and there are numerous options available to both Mexican nationals and foreign buyers. Mexican mortgages function similarly to those in the United States or Canada, with a variety of terms, interest rates, and payment schedules.

It's important to note that obtaining a mortgage in Mexico may require a larger down payment than in other countries, but the benefits of owning property in such a vibrant and beautiful country are well worth the investment. With the help of experienced professionals, securing a Mexican home loan can be a straightforward process that leaves you feeling confident in your Mexican real estate investment.

Applying for a mortgage in Mexico will require you to provide your credit score and income and debt information just like US and Canadian banks require. If you are a foreigner, your foreign earned income, meaning your US or Canadian income will be used to qualify you.

As mentioned above, you will also be required to put a larger downpayment down than you are used to. This usually consists of 30% of the purchase price, plus 10% for closing costs, totaling 40% up front.

Generically speaking, interest rates range from as low as around 7% and go as high as 18%. These numbers are designed to give you a rough idea. It is important to provide your personal information to the mortgage broker to get a more accurate figure based on your credit score, income, and debt.

Another important consideration, which is different than US or Canadian mortgages is that in Mexico you will be required to carry a life insurance policy. Even if you have an existing life insurance policy back in your home country, you will be required to obtain one here in Mexico. This can be a sticking point for many buyers who do not qualify



based on their age or health conditions, as you may be denied based on certain pre-existing conditions or for being a certain age.

- MexLend - [www.mexlend.com](http://www.mexlend.com)
- Global Mortgage - [www.globalmortgage.net](http://www.globalmortgage.net)
- InterCam (Dream Loan) - [www.intercamdreamloan.com](http://www.intercamdreamloan.com)
- CBI - [info@crossborderinvestment.com](mailto:info@crossborderinvestment.com)

### **As A Foreigner Selling My Property Will I Pay Capital Gains Tax at Closing**

- The simple answer is yes, if you made money you need to pay tax.
- Exemptions, possible? if you are a full time resident and taxpayer (RFC Number) in Mexico. You need a valid Temp or Permanent Resident Immigration Card or a Mexican voter card and all bills in your name as proof of residency.

In Mexico, the concept of capital gains tax does not apply in the sense in which it is determined in the United States. Here, the tax on the gain is 35%.

But you also need to convert the sales price into Pesos at the exchange rate of the closing day and convert the purchase price into Pesos at the exchange rate that was in effect on the day of closing. This is recirded in your escritura (deed) at closing.

However, to determine the gain, the following costs and expenses are deducted from the amount for which the property is officially sold:

- The original land cost and the depreciated construction cost, based on the number of years the property was held and adjusted for inflation according to the official consumer price indexes.
- Additions, modifications and improvements, but not maintenance, made on the property (construction), adjusted as above.
- Commissions paid to real estate brokers by the seller.
- The closing costs, including all expenses, taxes and fees paid by the seller. The Notary will retain the calculated gain after deductions forwarding it to the Mexican tax authorities. The seller will then deduct this amount against his/her annual tax return, which becomes an adjustable tax credit in the U.S.

To ensure you are paying what you should be and not being over charged, we work with qualified legal tax accountants to help us ensure the whole process.





## **Purchasing Property in Mexico – Legal Terms**

**NOTARY PUBLIC:** A Notary Public in Mexico is a government appointed Lawyer given faculties to certify documents, draw up wills, constitute companies, and do land and property transfers. A Notary Public must have been a Practicing Lawyer for at least five years prior to being appointed and must go through a series of exams. His or Her specialty is Civil Law. Dealing with Real Estate transactions, the Notary makes sure the entire process is legal and that all the steps are completed prior to closing. He or she is also responsible for the payment of all taxes and must retain them from the client.

**FIDEICOMISO:** This is a term that you will hear frequently in this part of Mexico. As a foreigner, you must have a Fideicomiso (Trust) to be able to acquire property (handled by the closing attorney / Notary) as it is within 50 kilometers from the ocean. The owners are named beneficiaries inside the Fideicomiso (Trust) agreement. The Fideicomiso has many different names: Trust, Deed, Deed Trust, and Escritura.

**FIRST BENEFICIARIES:** First Beneficiaries are commonly called the “owners” as they are the beneficiaries of the trust that make the decisions. More than one person can be in the first beneficiary position, and it is important that you specify. When there is more than one person in the first beneficiary position they should appoint themselves as each others primary beneficiaries.

**SECOND BENEFICIARIES:** Second Beneficiaries are normally called the “beneficiaries of the owners”. Easy enough, they are the First Beneficiaries’ beneficiaries. In almost all cases in the event of death of one in first position the survivor is the deceased beneficiary. In the event of death of both in the first position the second beneficiaries move up into first position. They normally move into position as you request; all at the same time; with different percentages; one at a time. It is a good idea when assigning this position to keep it simple. Currently, there are no inheritance taxes. To change the Second Beneficiary in the future is a simple process.

**ESTIMATE OF CLOSING COSTS:** The estimate is the list of closing costs. At closing the sale price will be converted to Mexican Pesos.

## **Terms Used in the Closing Cost Estimate**

**APPRAISAL:** An appraisal (from the city) of the property is done for every purchase and is used to establish minimums to pay property taxes.



**TRANSFER TAXES:** Transfer taxes are paid after closing and are approximately 2.3% of the purchase price.

**REGISTRATION:** The registration tax is paid to register the property in the Public Registry. It is not based on a percentage.

**PERMIT:** The permit is issued by the Secretary of Foreign Affairs for foreigners to “purchase” property within the restricted zone.

**REGISTRATION:** Once the trust document is signed, the paperwork gets sent to the city to register the use of the Permit mentioned above.

**BANK FEES:** This is the first-year fee and the acceptance fee. These get paid at closing upon the banks signature.

**FOLIOS AND COPIES:** These are internal Notary fees for copies and legal letterhead

**TITLE CHECK AND CERTIFICATES:** There are three certificates obtained: No debt on Water, No debt on Property Tax, and No Lien on Property.

**NOTARY FEES:** This is the fee the Notary charges to draw up the document, process all the paperwork, request all certificates, request appraisal, request permit, pay all taxes, collect all the signatures, and register the deed.

Closing costs are normally 5-7% of the purchase price of properties.

**DEPOSIT:** A deposit of 4000 USD or 80,000 Pesos of the estimate is needed to begin any documentation process with the closing Notary.

**CLOSING:** Closing takes place usually within 60 days of receiving all the documents needed to process the paperwork.

**THE DAY AFTER CLOSING:** All documents are sent to the city to get registered. This process normally takes 3-6 months. The notary will keep the Title file for the new owners until they can pick it up, or they can also give a written permission to somebody else.

**YOUR RESPONSIBILITIES DOWN THE ROAD:** As a property owner, you will need to pay property taxes. These taxes are paid every January. You will also need to pay your yearly trust fees.



## **SAMPLE OF LEGAL ADVICE ON PRE-CONSTRUCTION**

1. Title (Legal document with which the developer proves to be the sole and legal owner of the lot on which the Condominium will be built)
- 2.- Owner's legal documents, such identification, proof of address, CURP, and Tax Id Number
- 3.- Property tax payments UP TO DATE, paid at the Municipality, with the property tax account: U-XXXXX
- 4.- Condominium Architectural project
- 5.- Descriptive Memory
- 6.- License of construction, alignment and official number, final favorable opinion from the Department of Urban Development and Environment, transport impact study and drawings of each private unit and of the common areas, such stairs, pool, and roof garden.
- 7.- Finishing project
- 8.- Feasibility documents form CFE (Electricity company) and SEAPAL (Water company), confirming that it is possible to provide those services to the condominium
9. Certificate of NO LIENS, CLEAN TITLE with no encumbrances, liens nor domain limitations.

All information herein is deemed reliable and was secured from reliable third-party sources. Buyers and sellers are advised to consult with their real estate agent, attorney, accountant and any other professional for advice. Hogar Realtors is not and will not be liable for any error or omission in any information provided.