



the settlement company®

REAL ESTATE CLOSINGS

MAKING THEM SIMPLER!

by Linda Neil

Once you have selected that great property in Mexico, and you and your agent have negotiated a successful offer.....what is next?

How can you be sure that you are going to have a title to the property, and that it will be done properly?

In any country a real estate closing requires a thorough review of the title documents, the property tax payments, the liens on the property. If there are liens, if property taxes have not been paid, these must be taken care of and paid prior to transfer of title.

If the property is residential and is located in the "restricted" zone, a permit for a Mexican bank trust must be obtained, or arrangements made for assignment of the existing trust. A thorough review of the trust document is required in order to determine which is best in each case.

A major benefit of buying property through the Mexican bank trust is that you can name beneficiaries to succeed you upon your death. Naturally this selection needs to be done carefully so your instructions are clear and not subject to misinterpretation. Another important item: is property to be taken in joint tenancy or tenancy in common? The words have to be correct and understanding complete in your deed.

All of these matters can and should be handled by a disinterested third party closing company with attorneys on its staff and experience in the field. The real estate agents representing buyer and seller can oversee the closing process but, generally, their efforts are better spent in promoting and selling properties, not spending time in detail activities.

A real estate closing on Mexican properties has similarities to a closing in the United States and Canada. There are the same two main parties: the buyer and the seller. There are however, two additional parties to a Mexican closing; one is the Notary Public who is legally responsible for drafting the deed and calculating the taxes on the transaction and, if the property is located in the "restricted zone" (along the coastline or near the borders), the bank trustee who

must approve the terms of the trust (*fideicomiso*) contract and sign before the notary public.

Trying to arrange a time and a place for all four parties to come together to sign the deed of transfer can be a challenge. The buyer may live in New York state, the seller in Alberta, Ontario, the bank trustee may have his main office in Mexico City, Monterrey or Guadalajara and the Notary Public may have his office almost anywhere!

With internet, e-mail, courier service and bank wire transfer services around the globe, there is absolutely no need for the parties to congregate in one location on a specific day, at a specific time and in a specific place.

The Virtual Closing is the solution!

Instructions can be signed by both buyer and seller authorizing the completion of necessary tasks such as the appraisal, the lien certificates, the title investigation, the request for the foreign relations permit, and so forth. Funds for the purchase can be deposited in escrow accounts and paid out per specific instructions. Funds for the closing costs can also be deposited in escrow and paid out pursuant to instructions.

The deed, be it *fideicomiso* or fee simple, when drafted, can be sent to the parties for review and approval. Rather than trying to coordinate a simultaneous signing, the trustee bank can sign when convenient without making a special (and possibly expensive) trip to the notary office. Buyer and Seller, if their signatures are required, can provide powers of attorney to the closing company supervising the transfer.

This keeps buyers happy, and on the beach or doing their thing at home and accomplishes the goal of the operation.....a deed to the property purchased!

Author Linda Neil is the founder of The Settlement Company. It is the original escrow company in Mexico, and is dedicated to processing the trusts and title transfers of Mexican real estate for foreign buyers and sellers for properties located ANYWHERE in Mexico. Ms. Neil is also licensed as a Real Estate Broker in California, is an Accredited Buyer Representative through NAR, and has over thirty five years of hands on experience in all aspects of Mexican real estate. She holds membership in AMPI, NAR and FIABCI and PROFECO Certificate 00063/96.

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