

The Role of the Closing Agent in a Mexican Property Transaction

by Linda Jones Neil

Every transfer of title to a Mexican property MUST, by law, be made before a Mexican notary public.

The Mexican notary public is required to have a degree in law. He must have a minimum of five years of legal practice, pass a rigorous examination and then be appointed by the governor of the state in which he/she resides. The notary is legally responsible for the review of the prior deed and the tax and lien certificates. The notary must draft the new deed, calculate the taxes due and pay them. Also very important, the notary is accountable for his/her actions through the state and national notary associations.

It is commonly believed that an attorney, in addition to the notary public, is required when buying property in Mexico. This is not necessarily the case. In fact it may make more sense to seek out a CLOSING AGENT to handle the many details of the transfer, such as ordering and reviewing the title investigation; obtaining the certificates and trust permits, interfacing with the buyer and seller, answering their questions and concerns in their native language, explaining the nuances of the transfer process; overseeing the payment of funds for these services and expenses; reviewing the deed to be sure names and addresses are correct; being sure it is registered in the public registry of property; making sure it is delivered to the buyer; providing tax receipts to the seller.....and more!

When these matters are left with the Notary Public to handle, they may not all get done, or get done slowly due to the work load of most Notaries. When these matters are handed to another attorney to perform, they may be sandwiched in between criminal complaints, court appearances and other more remunerative activities.

A good Closing Agent can be an attorney with expertise in title transfers, or it can be a company with experienced closing officers and attorneys on its staff for consultations in the event there are title issues. More and more there are closing agents throughout Mexico. They are specialists in titles and transfers.

The role of the closing agent

An experienced Closing Agent is a key person in the real estate purchasing process. Hiring a good Closing Agent who understands the ins and outs of the Mexican legal system and the requirements of the law as it relates to foreign investment will make the real estate transaction go much smoother.

The closing agent should be involved in drawing up a promise contract and reviewing all documents including title, certificate of no encumbrances, and

permits. A closing agent can also order a complete title search before the transaction reaches the notary public, which will save the buyer valuable time and money should there be a problem with the title.

The prudent buyer will always insist upon using an independent third party closing agent to protect his or her interests.

Professional Closing Agents will have bi-lingual and experienced closing officers on staff to review the legalities of the transaction and to ensure that all the documents received are in order. Prudent buyers also enlist the help of the Closing Agent, who can oversee the permit process, review the draft of the deed being used in the transfer of title and order the title investigation, identifying any problems before the title has been transferred and money exchanged.

Finding a Trustworthy Closing agent

Clients should never hesitate to ask for details of the professional experience and references. This is even more important when the real estate agent in the transaction is representing BOTH buyer and seller. This is dual agency which is still common in Mexico. In this case the buyer should definitely seek out his/her closing agent.

Questions to Ask a CLOSING AGENT: What exact services will you provide? What areas of law or real estate are your specialties? Can you provide an estimate of taxes and closing cost expenses? Will you order or conduct a title search? Can you provide at least three references? Do you have experience with transfers to foreigners, Mexican bank trusts and foreign investment? How long have you been offering Closing Services to the public? How do you handle the funds you receive for closing expenses? Do you prepare specific instructions for the disbursement of funds?

Closing Agents do not have to be specifically licensed in Mexico to be able to supervise the transfer process of Mexican property. It is important to be cautious and do the same homework as when researching a real estate agent. Ask for credentials and references. The more experienced the staff and in-house counsel the company has in handling foreign investment transactions, the more protection and safety the buyer should have in a Mexican property purchase.

Copyright, 2010-2014 Consultores Phoenix, S.C. Reproduction prohibited without permission.

about the author

LINDA NEIL is the founder of The Settlement Company®, which specializes in real estate transfers and escrows, specializing in the Virtual Closing®. The company does business throughout Mexico. Licensed as a California real estate broker, Ms. Neil has pursued her profession in Mexico for more than thirty years. Her skills in negotiating contracts between parties from three distinct cultures have placed her services in demand as a consultant and for speaking engagements on

Mexican law and customs in Mexico, the United States and Canada. She has been widely published on the subject of real property in Mexico. Memberships; FIABCI, AMPI and NAR. Linda is a former member of the National Advisory Council of AMPI and has served as AMPI Coordinator for the state of Baja California Sur. Additionally she is co-founder of Global Mexico Real Estate Institute, dedicated to education the real estate professional in Mexico.

*For reprints or further information, please contact
The Settlement Company®:
E-mail info@settlement-co.com, website: <http://www.settlement-co.com>*