

## **The History of Mexican Land**

To really understand how ownership in Mexico works, it is important to understand the history of property ownership and its evolution in Mexico. If you picture a country that has been dominated by foreign owners since the early 1500's, you will begin to see why Mexico is so protective of its most valuable resource...land.

In 1517, when Hernandez de Cordoba sailed from Spain to the Yucatan Peninsula, foreigners laid claim to Mexican lands. Spain decided that since they had landed here, it was now theirs. It was not until 1822 that Mexico declared its independence from Spain, much like the U.S. declared independence from England, but even with this new independence, the lands of Mexico were still owned by wealthy foreigners, the Mexican upper class and the Church. Porfirio Diaz, a former President of Mexico for over 30 years, nearly sold all of Mexico to foreigners during his term.

The end result was the Mexican Revolution, which cost over one million lives and was the basis for the Federal Constitution of 1917. The new constitution imposed new laws and restrictions on foreign ownership and ownership of lands by the Catholic Church. Article 27 of the constitution allows Mexican Nationals and Mexican Companies to own property, however it restricts foreigners from owning land with the restricted zone. It is also said that the U.S. was involved in this new zoning in an effort to prevent the installation of foreign military bases on our borders or near our coastlines. This "restricted zone" is defined as property within 60 miles from any Mexican border or within 30 miles of any Mexican coastline.

Not until the 1930's did the Mexican people truly see the property being returned to them. President Lazaro Cardenas disassembled the large property holding and distributed them in the form of cooperative farms or "Ejidos". The people were given ownership of these properties and were allowed to farm and cultivate them and receive the profit from their efforts. After nearly 4000 years, over 50 million acres of land was back in the hands of the Mexican people, however, it was still owned by the Federal Government.

Even though the people were allowed to farm the properties and profit from their work, it was not until 1992 that they were allowed to sell the properties. The 1992 Agrarian Law recognizes property rights within the Ejido and allows for the owner of record to sell or lease the property to a non-Ejido member. The property can be removed from the National Agrarian Registry (removed from Federal Control) and placed in the public land registry allowing it to be sold or leased. Today, thousands of acres are being removed on a daily basis from the Ejidos, added to the public lands and being sold or leased. There are well over 50 million acres of land that will go through this process to be either leased or sold over the coming years.

## **Mexican Property Trusts (Fideicomiso)**

In 1994, amendments to the Constitution permitted foreigners to purchase and own real estate in Mexico located within the "restricted zone" which is all land within 60 miles of a national border and within 30 miles of the Mexican Coast. This Law permitted ownership through a land trust or "Fideicomiso".

A "Fideicomiso" is a Mexican Trust. The way it works is the Mexican Government issues a permit to a Mexican Bank of your choice, allowing the bank to act as purchaser for the property. The bank acts as the "Trustee" for the Trust and you are the "Beneficiary" of the Trust. The "Beneficiary" rights are very similar to Living Wills or Estate Trusts in the U.S.

The law authorizes Mexican banking institutions to act as trustees. A trustee takes instructions only from the beneficiary of the trust (the foreign purchaser). The beneficiary has the right to use, occupy and possess the property, including the right to build on it or otherwise improve it. The beneficiary may also sell the rights and instruct the trustee to transfer title to a qualified owner.

Many people refer to the trust arrangement in Mexico as a lease agreement... this is not true. The home or property that you buy will be put into a trust with you named as the beneficiary of

the trust - you are not a lessee. You have all the rights that an owner of property in the U.S. or Canada has, including the right to enjoy the property, sell the property, rent the property, improve the property, etc.

The initial term of the trust is 50 years. An investor can renew the trust for an additional period of 50 years within the last year of each 50-year period, and this process can be continued indefinitely, providing for long term control of the asset.

## **Investing in Mexico**

Mexico offers the foreign investor an attractive investment opportunity in an economy that is undergoing dramatic improvement and growth. Following the country's inability in 1982 to service its escalating foreign debt, Mexico introduced structural changes in its economy designed to move the country toward an open economy with more direct foreign investment. Among the most significant changes were (1) Mexico's accession to the General Agreement on Tariffs and Trade, (2) a government willing to work with the International Monetary Fund and other sources to restructure the country's foreign debt,(3) the liberalization of policies concerning foreign ownership of Mexican companies, and (4) the encouragement of tourism development.

In an effort to promote foreign investment, Mexico enacted new regulations designed to relax the restriction on foreign investment, which formerly limited foreign ownership of Mexican companies to 49 percent. Under the new regulations, foreign investor's can now own up to 100 percent of a large number of enterprises, including hotel companies, development companies, etc. without prior authorization from the Foreign Investment Commission. Thus, foreign investors in these enterprises have been put on equal footing with local investors and are no longer required to engage a Mexican investment partner.

The Mexican Federal Corporate Income Tax ranges from 25 to 38 percent. Provisions in the income tax code have also been established to offset the detrimental effects of inflation on monetary assets and liabilities, inventories and depreciable assets.

Mexico will continue to offer foreign investors close proximity to the world's largest market, a solid communications infrastructure, ample supplies of energy, low labor costs, and skilled and trainable labor resources. The liberalization of the foreign investment rules is a clear indication of the very favorable attitude the government has taken towards foreign investment. The combination of a rapidly improving economy and stable profitable base foretell and excellent ongoing investment environment.

The Mexican government has stated that it aims to double the number of foreign tourist arrivals into Mexico, representing foreign exchange revenue of \$5 billion plus annually. A key to achieving the government's goal of ten million visitors a year is to develop new tourist destinations with modern facilities and infrastructure.