

Mexico Real Estate FAQ

Written by Vernon Penner

1. Can you do a 1031 Exchange using Mexican property?

[Lic. Vernon Penner] Although the concept of 1031 is USA oriented and directed toward USA taxation issues, (where I am an attorney licensed exclusively in Mexico), I understand it is possible to do international 1031's. That is between properties that are both located outside the USA. There is a company located in Denver, Colorado (1031-International-Exchange) that may be handling these exchanges (www.mega1031.com). We will need to structure the deal correctly and do tax planning in Mexico as well.

2. How safe is my purchase really in Mexico?

[Lic. Vernon Penner] Provided you follow the proper procedure and take title in the proper manner, yes good title is obtainable in Mexico. We need to remember that no one person does all activities (real estate attorney, notary, real estate agent, appraiser, title insurance, etc.) but rather each performs his specific area of effort. You should not ask a Mexico real estate attorney to assist in locating property (that is for a real estate agent) and you should not ask a real estate agent to assist in the title transfer process, contracts, registries, etc, (but rather that is for an attorney and a notary). Since there is no USA style escrow, there is even more need for a Mexico real estate attorney (like we would find back east in the US). Also, please do remember that there is no concept of escrow as commonly used in the USA.

3. Do I get a title or deed to my property?

[Lic. Vernon Penner] If you purchase real estate, you should most definitely get title (deed) to the property. The question should be qualified depending upon where the property is located, what will be the purpose of use, is the buyer a USA or other foreign citizen, a Mexican citizen or a Mexican corporation (with ability to have foreign shareholders) and how big is the land size to be purchased. Depending upon questions like these, your real estate attorney could make different recommendations on how to take and hold title. Also, depending upon whether the property is part of a subdivision, a condominium regime, or a tract of land, the purchase deal might be viewed and structured differently.

4. Why can't the government just take the land back like they did in the Baja region?

[Lic. Vernon Penner] The concept of eminent domain does exist in Mexico, however the concept of private property also exists. The government can not take your real property without just cause (except by debt via court, mutually agreed purchase, or public utility with compensation), very similar to the USA. As well, there is no self help concept in Mexico, like you might find in the USA.