



San Carlos Real Estate FAQ

Answers to questions about owning real estate in Mexico

Fideicomiso? That's a Bank Trust.

For over 30 years Mexico's Foreign Investment Law has allowed non-Mexicans to acquire coastal and border property through trusts that are established with a Mexican bank.

The name in Spanish for this type of trust is Fideicomiso.

This mechanism was specifically designed to facilitate ownership of Mexican real estate by non-Mexicans -- and to protect owners rights.

- A Mexican real estate bank trust is not a lease.
- The term of the trust is 50 years, renewable for additional 50 year periods. Under this arrangement, the bank simply holds the deed to the property for you.
- Only federally authorized Mexican financial institutions can act as trustees for real estate bank trusts.
- All rights that you commonly associate with real estate ownership in the United States or Canada -- the right to build, landscape, tear down, rent, sell, etc -- apply to your property held in a Mexican bank trust.
- Your San Carlos property is not part of the Mexican bank's assets, and cannot be subject to a lien or attached to the bank's obligations.
- It was never the intent of the Foreign Investment Law that properties held in a Mexican bank trust pass back to the government at the end of the trust period -- which has been a common misconception and source of unwarranted fear for purchasers from the United States and Canada.
- It is worth noting that many wealthy Mexicans own real estate through bank trusts -- both within and outside the restricted zone -- for tax or financial planning reasons, which is certainly a testament to their faith in the security of the mechanism.



Our Broker / Owner Phyllis Lilischkies prides herself on her relationships with the finest trust-specialists in Sonora State, and her long track record of successful, secure transactions, and happy San Carlos buyers.

We encourage you to contact Phyllis for further information regarding secure ownership of Mexican real estate, and how she can help make your San Carlos real estate property ownership dream come true -- not only for you, but for your children and grandchildren!

Do Americans and Canadians need a bank trust to own real estate in San Carlos?

All real estate along Mexico's borders and coasts -- including San Carlos -- falls within what is termed the Restricted Zone.

The restricted zone is defined as being any real estate that is within 30.5 miles (50 kilometers) of Mexico's coast, or 61 miles (100 kilometers) of Mexico's border with any other nation.

Within this zone non-Mexicans can own real estate, but are required by Mexico's Foreign Investment Law to do so through a bank trust.

The concept of special property ownership rules that apply to coastal and border areas is generally unfamiliar to Americans and Canadians, but for Europeans, not so much -- a number of countries in Europe have similar mechanisms.

Can a non-Mexican purchase real estate in Mexico without a bank trust?

Not in San Carlos / Guaymas -- or anywhere else within the restricted zone.

If the property you are interested in lies anywhere outside the restricted zone (for example: Alamos, Guadalajara, Hermosillo, Mexico City, etc.) you can buy property on a fee simple basis, and it is both legal and common for Americans, Canadians, Europeans and other non-Mexicans to own property in Mexico outside the restricted zone without bank trusts.



Why did Mexico establish the restricted zone?

The restricted zone -- article 27 of the Mexican constitution adopted in 1917 -- was designed to provide a buffer zone that leaders of the time thought would help protect Mexico from possible invasion.

While invasion is certainly a very unlikely possibility today, Mexico has experienced a number of invasions, wars, and tremendous losses of territory in its history, and the different ownership mechanisms used close to Mexico's coasts and borders is really nothing more than a legacy of that history.

From the perspective of a non-Mexican real estate investor considering purchasing property in San Carlos, the important thing to remember is that Mexico's Foreign Investment Law was designed to facilitate the safe acquisition of coastal and border properties by non-Mexicans -- and specifically designed to protect foreign owners rights.

What are the fees and commissions associated with buying real estate in San Carlos?

- If the property does not have an existing bank trust one needs to be created, which usually costs about \$3,000, depending on the choice of bank and attorney.
- If there is an existing trust, it can usually be transferred at slightly lesser cost.

Closing costs should be no more than 6% of the value of the property

- 2% for Notario fees
- 2% for a Transfer Tax paid to the Mexican federal government
- 2% for the creation of paperwork and documentation associated with your purchase including an appraisal, no-lien certification, catastro value, public registry filings, copy of the bank trust, creation and filing of power of attorney, etc.



Why is a "Notario" involved in our transaction?

A Notario is a person with knowledge of Mexican real estate law who is involved in aspects of preparation and validation of paperwork associated with real estate transactions.

There is a notario involved in every real estate transaction in Mexico.

It is important to remember that a notario cannot represent you in your real estate transaction, and not to confuse the role of a notario -- who may offer legal advice, but who cannot represent you -- with your real estate agent, broker or attorney, who are solely your advocates.

What are the annual fees to maintain a Mexican real estate bank trust?

Trust maintenance fees are generally modest, but there is a fairly wide range: Mexican banks in San Carlos / Guaymas charge between \$400 and \$875 annually for holding a real estate deed of trust.

Is it safe for non-Mexicans to buy San Carlos real estate directly from an owner?

In a word, no.

We advise all non-Mexicans shopping for San Carlos real estate to never buy directly from an owner, and always work with an agent and brokerage licensed in Mexico.

Whatever the intent of the seller -- and whether the seller is Mexican or non-Mexican -- Mexican real estate law is simply different from what Americans, Canadians and Europeans are used to.

Add somewhat unfamiliar transaction forms and probable language / communication issues and you greatly increase the possibility of misunderstandings as the transaction progresses (or not...) and for creating issues down the road.



Securing free San Carlos buyers representation from long-established real estate brokerages like Siesta provides buyers sound assurance that all of the due diligence and paperwork related to your real estate is in order, and that your purchase will be completed rapidly and smoothly.

Whether you allow Siesta Realty to represent you or not, it is very important that the brokerage and agent you choose be an accredited member of an established organization of real estate professionals in Mexico.

In San Carlos the real estate professionals organization is A.M.P.I. / SCMAR, the San Carlos Mexico Association of Realtors.

Your real estate agent also needs to be registered with the Sonora Real Estate Agents Registry. It is not rude to ask for proof of registration.

And the best news is that all this great help is free!

What is A.M.P.I.?

A.M.P.I. -- Asociacion Mexicana de Profesionales Inmobiliarios -- is the largest association of real estate professionals in Mexico.

Founded in Mexico City in 1956, AMPI has more than 1,500 broker members who in turn represent over 10,000 real estate professionals throughout Mexico. AMPI members include not only brokers and real estate agents, but appraisers, developers and other real estate professionals.

A.M.P.I. is dedicated to the continuous improvement of real estate practice in Mexico, and works together with federal, state and municipal authorities to refine laws and regulations directly related to real estate transactions.

AMPI certifies real estate agents, brokers and brokerages. It is worth noting that Sonora State has arguably the most advanced certification program in Mexico, and AMPI certification is a legal requirement in Sonora for those brokering the sale of real estate.

Siesta Realty has been a proud member of A.M.P.I. in San Carlos -- AMPI / SCMAR (the San Carlos Mexico Association of Realtors) -- since 2009.