



## BUYING YOUR DREAM HOME AT FLAMINGO LAKES

### The Legal Process in greater depth

#### Selecting your plot :

Plotfinder uniquely enables purchasers to select their desired plot in a real time environment. The project is being constructed in phases and zones with approximate timings as below

#### **Phase 1:** Located on the bottom ring road close to the site entrance.

- Start July 2008
- 203 villas on 600m<sup>2</sup> plots
- 120 villas on 1,000m<sup>2</sup> plots
- 15 villas on 2,000m<sup>2</sup> plots
- 54 condominiums
- Phase 1 zone A
- Phase 1 zone B
- Phase 1 zone C
- Phase 1 zone D

#### **Phase 2:** Located on the bottom ring road further from the entrance

- Start Feb 2010
- 224 villas on 600m<sup>2</sup> plots
- 362 villas on 1,000m<sup>2</sup> plots
- 26 villas on 2,000m<sup>2</sup> plots
- 126 condominiums

#### **Phase 3:** Located within the top ring road

- Start Aug 2012
- 334 villas on 600m<sup>2</sup> plots
- 111 villas on 1,000m<sup>2</sup> plots
- 115 villas on 2,000m<sup>2</sup> plots
- 90 condominiums

#### **Phase 4:** Located outside the ring roads

- Start Feb 2014
- 462 villas on 600m<sup>2</sup> plots
- 13 villas on 1,000m<sup>2</sup> plots
- 10 villas on 2,000m<sup>2</sup> plots and 108 condominiums



### **The Reservation Agreement and Deposit**

Currently the Reservation Agreement Deposit is:

\$3,000 for the purchase of condominiums and 600 sq m plots

\$5,000 for the 1,000 sq m plots

\$10,000 for the 2,000 sq m plots.

This is a 90% refundable deposit in the event of the transaction not being continued (10% being retained by the sales agent for abortive administrative costs)

### **The Option Contract**

This Contract, legally binding and enforceable in the Mexican and International Civil Courts affords greater flexibility and cost efficiencies if the intention is not to build on the site immediately.

An Option Contract gives the right to legal ownership of a plot of land without the need to take title of the freehold. This is often used in situations where investors are not planning to build on the site they own but may wish to sell on and take a profit. There is no need in this case to take full ownership title to the plot as they can sell their "option" without the time and cost of obtaining the freehold.

- The seller will sell and the buyer will buy the agreed plot free from charge, mortgage or debt (cash purchase).
- Freehold title must be transferred within 60 days at the request of either the buyer or the seller.
- The use of the Option Contract defers any purchase tax and notary fees until such time as title is taken.
- The buyer agrees to build a property on each plot in the phase and zone allocated, or transfer their ownership of a plot to a later phase.
- The buyer agrees to the restrictive covenants, which are simply in place to ensure that the high Resort standards are maintained and residents behave in a neighbourly manner.



- The buyer can assign or sell the Option to a third party, transfer or sell back to the seller or otherwise dispose of the Option with the consent of the seller which would not be unreasonably withheld.
- The buyer not wishing to build a property within the appropriate time frame for the phase and zone can agree to exchange for a plot in a later phase.

### **Taking title**

It is at this stage in the purchase process that a Mexican lawyer needs to be engaged. You will obviously wish to have a lawyer verify the issues involved but this guide should help to give a broader understanding of what needs to be agreed before you and your family can take ownership of your new home.

There is a completely independent bilingual lawyer available who has intimate and detailed knowledge of all the legal processes involved in freehold land and property purchases in Flamingo Lakes whether by a Mexican Resident or a Foreigner that we are happy to recommend. We recommend Merida based Ernesto Arranaga of Inter Lex Mexico [contacto@interlexmexico.com](mailto:contacto@interlexmexico.com) or (0052 9999 268817). Ernesto is independent, very efficient, knows the project well and has negotiated a very good rate for the setting up of the necessary Trust (Fideicomiso) autonomous of the purchase price with Scotiabank.

The advantages of using this independent legal expert who will be directly contracted to you, and be responsible to you, is that he is an expert specializing solely in this kind of work and so is efficient and therefore cost effective. You are of course able to choose any lawyer you wish.



### **The Bank Trust or Fideicomiso**

The Mexican Government actively promotes foreign investment in and ownership of property in their country. It is straight forward for foreign citizens to purchase freehold property in Mexico. However as the Mexican constitution says that no foreign person can personally own property which is within 100km from the border or less than 50km from the coast they have had to establish new laws to make it possible for foreigners to own real estate in Mexico, and to protect the buyer. A modification was made, known as the law of Foreign Investment, which allows foreigners to acquire property in 'the restricted zone' by means of a Mexican trust called Fideicomiso, which is established by a Mexican bank. Your appointed lawyer will make all the necessary arrangements in this matter on your behalf.

Under the terms of the Fideicomiso the purchaser is the sole beneficiary of the Trust. You are the owner of the property which is held in trust by the bank. All the major banks offer this service and it is acknowledged as a straight forward procedure.

The parties involved are the trustor (the original owner), the trustee (the bank) and the beneficiary (the person benefiting from the trust). The Fideicomiso establishes the legal basis by which the bank holds legal title to the property in order to act on the foreigners behalf. This trust deed assures the foreign buyer of all rights and privileges of ownership. The Foreign Investment Law, a Constitutional amendment created in 1973 and amended again in 1994, allows the trust to be established for a term of 50 years and is renewable any time during its existence, forever. The Bank (trustee) holds the trust deed for the person who purchases the property (beneficiary). The property is not part of the bank's assets and cannot be liened or attached for any other obligations. The purchaser is the beneficiary and has all rights of enjoyment of the property including the ability to remodel, lease, and mortgage, bequeath to heirs or sell the property at any time.



### **Total closing costs**

These are approximately 4% to 5% of the purchase price broken down in the following way:

#### **Fideicomiso set up**

- Permit for 50 years (renewable in perpetuity) 12,000 pesos
- One year annual fee in advance (inc. vat) 7,877.50 pesos
- Acceptance of the Contract (inc. vat) 7,877.50 pesos
- Registering of the Contract 3,700 pesos

#### **Other buying costs**

The following example is based on the purchase of a \$200k, 2,200,000 pesos house.

- Acquisition cost 2% of recorded value 44,000 pesos
- Appraisal fee 0.3% of recorded value 6,600 pesos
- Certificate of freedom from liens 350 pesos
- Certificate of no pre-existing tax liability 300 pesos
- Patent owners licence 500 pesos
- Cedula forms 350 pesos
- Rights of public deed 2,078 pesos
- Postage expenses 1,500 pesos
- Public liability gratifications 1,000 pesos
- Rights to register the deed 587.50 pesos

#### **Total tax, Trust and general expenses 88,720.50 pesos**

- Notary fees 0.7% of recorded value 15,400 pesos
- Mexican lawyer fees 17,000 pesos

#### **Total closing costs 121,120.50 pesos**

For a \$500,000 house the percentage closing costs reduce to 4.1%