

MEMORANDUM

..... from the office of Mitch Creekmore, Mexico Division



DATE: January 6, 2000
TO: Interested Parties Concerning Mexico Property
RE: Stewart Title Policies Concerning Mexico Land

Stewart Title Guaranty Company (“Stewart”) has been issuing title policies concerning Mexican land since 1993 through Stewart’s corporate office in Houston, Texas. In an effort to “clear up” misconceptions and misinformation concerning Stewart’s ability to issue U.S. title policies concerning real estate located in Mexico, I, as the Director of Business Development for Stewart’s Mexico Division, will address several salient points concerning Stewart’s activities.

- First and foremost, we have been advised that there is no evidence of any legal provision or Mexican law that prohibits Stewart from issuing U.S. title policies to non-Mexican purchasers of Mexican real estate. This conclusion is supported by legal opinions since 1993 from three (3) different and independent Mexican law firms.
- The following standard language is on the face of **every policy** that has been issued to non-Mexican purchasers of property located in Mexico since 1993. “This policy is issued in the United States of America. Stewart Title Guaranty Company is not a Mexican corporation, is not qualified in Mexico, does not do business in Mexico and this policy is not an insurance agreement under Mexican law or regulation. This policy is a contract of indemnity controlled by United States law. It is not a title opinion, abstract of title, or representation of title.”
- Stewart’s title policies have **ONLY** been issued to non-Mexican buyers of real estate in Mexico, i.e., not to Mexican nationals or to Mexican corporations. Stewart insures the title as vested in the “fideicomiso” (Mexican bank trust) or in the Mexican corporation, but the insured under this U.S. title policy is **ALWAYS** foreign to Mexico. That is to say, the insured under Stewart’s title policy is the foreign beneficiary(s) of the trust or the foreign stockholder(s), but **NEVER** Mexican individuals or entities.
- In the event of a law suit or adverse title claim brought against the insured in Mexico, under Stewart’s policy, Stewart has the obligation and duty to defend the insured in Mexico as to matters covered within the title policy. Purchasers of title insurance from Stewart do not seek restitution in Mexico, or under Mexican law or Mexico’s judicial system, nor through Mexico’s National Commission of Bonds and Insurance.
- Stewart’s customers are **NOT** required to purchase a “Direct Access Endorsement” for filing a title claim in the United States nor are they subject to a “Reinsurance Treaty Agreement” between a Mexican casualty company and a U.S. title company. Moreover, Stewart customers deal directly with Stewart on all title search, coverage and policy issuance matters and not through a “triad” relationship of underwriter, reinsurer and exclusive agent.
- Since Stewart’s title policy is a U.S. contract of indemnity, enforceable under U.S. law, the insured has the benefit of selecting the specific state law, as agreed to by Stewart, that will govern the title policy. That means that if the insured lives or is incorporated in Arizona, California or Delaware (as examples), the insured may select the “chosen state” for purposes of arbitration or as the venue of adjudication in the event of suit against Stewart.
- Stewart’s title policy is fully negotiable and can include affirmative coverage’s, endorsements and modifications as agreed to by the insured and Stewart. The insured is **NOT** required to purchase these additional coverage’s from Stewart for their title protection.
- Stewart received approval in 1995 from Mexico’s Comision Nacional de Seguros Y Fianzas as to the form and legal content of Stewart’s Mexico Title Policy for issuance to Mexican nationals and Mexican corporations. During the first quarter of 2000, Stewart anticipates receiving their license from Hacienda to incorporate and thereby create the **first** U.S. or Mexican title insurance underwriter. Upon

incorporation, Stewart Title Guaranty de Mexico, S.A. de C.V., will issue Owner's and Loan title policies governed under the laws of Mexico.

As real estate professionals in the Mexican market place, always put yourself in the position of the buyer you represent and ask yourself this question:

“As a foreign purchaser of Mexican real estate, and particularly as an American buyer, how can I protect my ownership rights in the event of a title dispute or adverse claim of title in Mexico? Am I not better protected with a title insurance policy that provides a contract of indemnity issued from a company that has over 100 years of experience exclusively in the title insurance industry?”

I trust that the answer is apparent. We believe that our title policy and service give purchasers the comfort and security they deserve when buying real estate in a foreign country. Mexico's real estate market is dynamic and ever changing. At Stewart Title Guaranty Company, we strive to be an integral part of this dynamically changing market in the new millennium.

With best regards to all for a prosperous New Year,
Mitch Creekmore

Mitch Creekmore is the Director of Business Development for the Mexico Division of Stewart Title Guaranty Company in Houston and may be contacted at (800) 729-1900, ext. 8753 or (713) 625-8753.