

“MEXICO MARKET UPDATE 2001”

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During the first quarter of this year, it has become increasingly evident that Mexico's real estate market has undergone some significant changes over the past twelve months. Several factors come into consideration that provide both a "good news and bad news" scenario. To prospective U.S. and Canadian purchasers contemplating investment opportunities south of the border, these changes have enhanced the security and comfort of the potential investment. The down side for those in Mexico is the recent decline and economic instability in the United States. The good news about Mexico though, far outweighs the bad! Though Mexico is growing and flourishing under the new Fox administration, developers and sellers of property, along with the real estate agent community, must recognize that during 2001 it may become increasingly difficult to consummate sales. This is due largely to a reduction in U.S. investor liquidity and a further decline in available mortgage financing. Even though real estate acquisitions in Mexico present a viable and potentially lucrative investment strategy, the market must understand that the foreign buying mentality has changed. With this change, sellers must also be willing to alter the way they have traditionally sold real estate.

The biggest negative right now is the woeful plight of our U.S. economy coupled with a volatile stock market and the resulting adverse impact the market has had on U.S. 401(k) accounts. Investors who were interested in buying property in Mexico have become overly cautious and taken a "wait and see" investment attitude. Discretionary income and spending that six months ago were earmarked for foreign investment or vacation homes, have been to a great extent put on hold. Compounding this situation is the fact that buying real estate in Mexico has historically been a "cash" driven market. With a reduction in available capital, buyers have been forced to re-think their investment strategies. A logical and viable alternative to a "lack of cash" would obviously be to finance property acquisitions. However, over the past year, mortgages in Mexico from U.S.-based lenders have nearly become extinct. As recently as several months ago, buyers could consider financing from three or four mortgage companies. Unfortunately for everyone on *both* sides of the border, the financing market for U.S./Canadian purchasers has been reduced to a single entity, that being Collateral Mortgage in San Antonio. At the end of the day, with an extremely tight U.S. economy and little available financing, it's no wonder agents and developers have seen a significant diminishing of their real estate sales activity.

Enough of the "bad news"! Let's focus on the "good news," the positives and the other good changes that have occurred in Mexico's real estate market. Having completed business trips during the first quarter to Puerto Vallarta/Nayarit, Los Cabos and Puerto Peñasco, several observations can be made. First and foremost, these markets have done a "180° about face" over the past three years. That is to say, the manner in which real estate is developed, marketed and sold has changed. In this writer's opinion, the changes that have been made to benefit the foreign buying public. In general, it can be said that property in the beach markets of Mexico is no longer, for the most part, sold with the attitude of "trust me, there are no problems, that's the way we do business here." Why? Because foreign buyers have become better informed about development issues, foreign ownership restrictions, subdivision requirements and title conveyance matters. In short, foreign purchasers have gained a greater knowledge, scope and sophistication when transacting real estate in Mexico to avoid having problems. As has been stated before, no longer is investing in Mexico a "Punta Banda" story (*Arizona Journal*, December 2000). The "margarita syndrome," which has plagued American buyers for years, is slowing going away!

Secondly, Mexican and U.S. developers have recognized the need to do things differently in Mexico. No longer is it acceptable to take purchasers deposits and begin selling real estate without having subdivisions platted, approved and published, or condominium regimes protocolized and filed of record in the public registry. Even the awareness that public reports *must* be filed in states like Arizona to advertise the sale of Mexican residential property are now being observed by Mexican developers. While the real estate market is far from perfect, the observation and statement here is that the practice of “sell now and legalize it later” is no longer the norm as it was in the past. The use of U.S. escrow services and escrow agreements have become more widely accepted and utilized. Even title insurance, a concept this writer and company have championed for eight years, has finally made inroads into Mexico’s real estate market and the notarial community that staunchly rejected it and said it wasn’t necessary. Real estate agents have become more professional and provide a greater level of property disclosure to their buyers like we do in the United States. The mentality of “if it’s gunna kill the deal, don’t tell ‘em” is no longer acceptable with most real estate firms and the brokerage community continues to better itself as a result.

And lastly, with the lack of available mortgage financing, some developers have finally come to grip with the notion that a *fideicomiso de garantia* (guaranty trust) works best for all parties. This mechanism, similar to the U.S. note and deed of trust process, allows for the conveyance of the property in Mexico with a first and second beneficiary established in the bank trust when the seller offers financing. It provides a legally protocolized transfer of the real estate that can be recorded in the public registry of property and is fully insurable from a title insurance policy standpoint. In this manner, both the seller *and* the buyer are protected in this conveyance methodology. In the past, sellers would only transfer the property when they were paid off.

These are extremely important realizations and changes buying public. Mexico presents great investment and property enjoyment opportunities. It is really an incredible market, and Mexico now provides many of the same protections we are afforded when buying real estate in the U.S. Mexico has been successful in enhancing and protect foreign investment in the country’s real estate sector over the past decade. But as a prudent buying public, the onus is always squarely upon us to be knowledgeable, educated and to use our common sense when buying real property. In so doing, never forget to utilize the many resources we have available on both sides of the border that enables the acquisition to meet your expectation.

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