

# MLSVallarta's Real Estate Buyer's Guide





# Puerto Vallarta Real Estate 101

It is a common misconception that foreigners cannot own real estate in Mexico, but the reality is that they can. Buying real estate in Mexico is perfectly legal for a foreigner or foreign corporation to acquire any type of real estate, holding the property as a direct owner, with the exception of properties located in the Restricted Zone.

The Mexican Constitution regulates the ownership of land and establishes that "... in a zone of 100 kilometers along the border or 50 kilometers along the coast, a foreigner cannot acquire direct ownership of the land". These areas are known as the "Restricted Zones" or "Prohibited Zones".

Nevertheless, the latest Mexican Foreign Investment Law, enacted December 28, 1993, provides a solution. Within the Restricted Zone, a

foreigner or foreign corporation can obtain all the rights of ownership with a bank trust, known as a Fideicomiso.

## The "Fideicomiso" Trust

Any foreigner or Mexican National can establish a Fideicomiso (the equivalent of an American beneficial trust) through a Mexican bank to purchase real estate anywhere in Mexico, including the Restricted Zone. For practical reasons, even in unrestricted zones, many foreigners and Mexican nationals prefer to hold their property under a Fideicomiso.

To do so, the buyer requests a Mexican bank of his choice to act as a trustee on his behalf. The bank, as a matter of normal course, obtains the permit from the Ministry of Foreign Affairs to ac-

quire the chosen property in trust.

The Fideicomiso can be established for a maximum term of 50 years and can be automatically renewed for another 50-year period. During these periods you have the right to transfer the title to any other party, including a member of your family. The bank becomes the legal owner of the property for the exclusive use of the buyer/beneficiary, who has all the benefits of a direct owner, including the possibility of leasing or transferring his rights to the property to a third party.

The trustee is responsible to the buyer/beneficiary to ensure precise fulfillment of the trust, according to Mexican law, assuming full technical, legal and administrative supervision in order to protect the interests of the buyer/beneficiary. Fideicomisos are not held by the trustee as an asset of the bank.

Another alternative is to purchase non-residential property through a Mexican corporation, which under certain conditions can be 100% foreign-owned, with a provision in its by-laws that the foreigners accept being subject to Mexican laws and agree not to invoke the laws of their own country. Also, they agree that the real estate acquired be registered with the Foreign Affairs Ministry and be used for non-residential activities. In other words, under these conditions foreigners can directly acquire properties destined for tourist, commercial and industrial use.

## The Real Estate Industry

The real estate industry in Mexico is similar in many ways to that of the United States, which is probably the most advanced in the world. It is developing quickly, taking advantage of today's technology; however, it seems to be paralleling the system as it exists in the US.



## Licensing

The Asociación Mexicana de Profesionales Inmobiliarios (Mexican Association of Real Estate Professionals), or AMPI, is a reputable national professional real estate organization with many chapters throughout Mexico. This organization is similar to the National Association of Realtors (NAR) in the US, and in fact has a joint venture with the NAR, such that AMPI membership automatically confers membership in the NAR, as well. In the Vallarta area, there are three AMPI chapters, AMPI Vallarta, AMPI Riviera Nayarita and AMPI Compostela. At this time, there are no government license laws regulating real estate brokerage and sales in Mexico. Anybody can, in effect, offer properties for sale. Therefore, caution should be taken to select an established and reputable real estate company. A potential buyer may want to have a look at [www.mlsvallarta.com](http://www.mlsvallarta.com), which lists most of the real estate agencies in the region, as well as providing ac-

cess the Multiple Listing Service (MLS).

## Financing

Historically, due to lack of capital markets and high Mexican interest rates, most transactions were made in cash. That is changing rapidly, however, and many local and foreign banks are now offering financing options. Loan terms can vary significantly, so it pays to shop around a bit. There are a few mortgage brokers in Puerto Vallarta who can explain in full the terms and conditions, and pre-approve you to determine how much financing you could obtain.

## Multiple Listing Service (MLS)

MLSVallarta has been providing MLS service to real estate agencies, developers and the public since 1989. It was the first and is currently the longest running MLS in Mexico. As well, the real estate association, AMPI, has an MLS service

that's available at [www.vallartanayaritmls.com](http://www.vallartanayaritmls.com).

## Escrow, Title Insurance and Home Insurance

It is recommended to use an escrow account for real estate transactions. There are a few companies available that provide this service. They also offer title insurance, which is relatively new to Mexico. Many insurance companies provide full home coverage. Your broker can recommend some good options.

## Purchase-Sale

Most real estate transactions are "opened" after a written purchase offer is accepted by the seller and when a purchase-sale agreement (promissory contract) is signed by both parties. A deposit is required by the broker to transmit the offer to the seller. (If the transaction is being conducted

directly with the seller, it is highly recommended that a real estate broker or lawyer be consulted before signing any papers or handing over any money). It is common practice to deliver to the seller, as an advance payment, the equivalent of 10-30% (including the initial deposit) of the total price upon signing the purchase-sale agreement, which should contain a penalty clause applicable in case there is a breach of contract by any of the parties. Normally, when signing the escritura (the official deed, which needs to be certified by a Public Notary) the balance is paid and the property is delivered. This should not take more than 45 days. It is recommended that an escrow account be used for all real estate transactions.

## The Notary Public

A Public Notary is a government-appointed lawyer who processes and certifies all real estate transactions, including the drawing and review



of all real estate closing documents, thus ensuring their proper transfer.

Furthermore, all powers of attorney, the formation of corporations, wills, official witnessing, etc. are handled and duly registered through the office of the Public Notary, who is responsible to the government for the collection of all taxes involved.

In connection with real estate transactions, the Public Notary, upon request, receives the following official documents, which are required by law for any transfer:

- A non-lien certificate from the public property registry, based on a complete title search;
- A statement from the treasury or municipality regarding property assessments, water bills and other pertinent taxes that might be due;
- An appraisal of the property for tax purposes.

### Closing Costs

It is common practice that the buyer pays the transfer of acquisition tax and all other closing costs, including the Notary's fees and expenses, while the seller pays his capital gains tax and the broker's commission.

Previously, the real estate transfer tax was 2% nationally. But in 1996, the law changed, giving individual states the right to set this tax level. The range now varies from 1-4% of the tax appraisal value, which is generally less than the sales value.

The rest of the closing costs, which exclude the transfer cost mentioned above, vary from 3-5% or more of the appraised tax value, depending on the particular state. These percentages are applied to the highest value of the following:

- The amount for which the property is sold,
- The value of the official tax appraisal,
- The value designated by the property as-

essment authorities.

### Cost of the Fideicomiso

Based on the present tariff, the bank charges the person desiring the Fideicomiso an initial fee (\$400-500 USD) for drawing up the agreement and establishing the trust, plus a percentage based on the value of the property. In addition, the bank charges an annual fee to cover its services as a trustee.

### Real Estate Broker's Commission

Real estate companies charge a commission (plus tax), calculated on the sale price of the property, which usually runs between 6-8%.

### Capital Gains Tax

The laws regarding capital gains taxes in Mexico seem to change every year. To obtain the latest information available, check out this article by local Mexican lawyer David Connell, who keeps it regularly up-to-date.



# 15 Good Reasons to Choose Puerto Vallarta

While Los Cabos and Cancun seem to always be in the news as appealing destinations in Mexico, Puerto Vallarta has been keeping a low profile in the background. And while the spotlight's on them, it is actually Puerto Vallarta that has created this country's largest resort real estate market —more Americans own homes in "PV" than in the other two cities combined! It offers mountains as well as ocean, more marinas and golf courses, the best dining of any Mexican resort, and more variety in the pricing, type and style of the real estate offered than either of the other destinations. All that, and yet the cost of real estate is much less expensive in Puerto Vallarta!

### Why Puerto Vallarta?

Since the early '60s Americans have been coming to Puerto Vallarta, not only for a holiday, but to stay in their vacation homes. And since

those early years the area has grown to where the American community is now more than 35,000 strong, Puerto Vallarta much more than a sleepy little fishing village today. Vallarta now encompasses a coastline of over 150 miles that includes many other small coastal towns, large residential resort developments and spectacular beaches.

While there are numerous reasons one should consider Puerto Vallarta for a primary or vacation home, listed below are some important ones:

### Pricing

The market is definitely hot, but pricing is still seen as very reasonable, especially when compared to similar markets such as Los Cabos or Hawaii or along the California coast. Prices start at around \$100,000 USD, which is the low



end of the market, and go up to nearly \$10 million for luxury beachfront properties. With the most popular price range between \$200,000 to \$300,000.

## Financing

Up until recently obtaining financing was virtually impossible in Mexico. However, that is quickly changing. Today there are both American and Mexican mortgage companies offering financing at reasonable rates for up to 20 years. Many real estate developers also offer financing, but it is usually short-term.

## Cost of Living

It is still less expensive to live in Mexico than in the United States and most likely will continue to be. Property taxes are a fraction of what they are to the north and the cost of support staff for your home is very reasonable.

## Location

Puerto Vallarta is just a two- or three-hour flight from most locations in the southern US, making it very accessible. Many second-home owners are known to commute for the weekend; returning on Sunday or Monday. Some people actually prefer to drive down from California, Arizona and Texas, so if you don't mind the 24-hour trip, that's an option. Puerto Vallarta is less than four hours from Guadalajara, Mexico's second largest city, which offers great home decoration shops, galleries, workshops, and a fascinating world of colonial architecture and heritage.

## Topography

Situated within one of the largest bays on the Americas' Pacific coastline, the South Shore is draped in dense tropical forest as the Sierra Madre mountain range meets the coast. Prop-

erties here offer spectacular views of the city and bay and easy access to Vallarta. The North Shore is less mountainous and the climate dryer; some years little or no rainfall is recorded. Further north still, the landscape returns to tropical forest, with dramatic hillsides backdropping pristine coves and beaches.

## Variety

Puerto Vallarta is blessed with a variety of real estate opportunities and there really is something for everyone. Because of its unique topography it offers homes and condominiums on the hillside overlooking the bay, beachfront properties all along the coastline to the south of Puerto Vallarta, and marina and golf homes and condominiums in the central part of the bay. The most recent expansion has taken place to the north, with small, boutique condominium projects and high-end luxury homes.

## Appreciation

Real estate prices have continued to rise as demand has increased. Strong appreciation in value has been realized in nearly every market sector since the early '90s. Beachfront properties, of course, have seen the strongest growth.

## Stability

Mexico's economy is strong as Mexico has one of the world's largest oil reserves. This, along with a strong trade with its neighbors to the north and a robust tourism market, have helped sustain Mexico's economic growth.

## Restaurants

Puerto Vallarta is said by many to have the finest restaurants in the country outside of Mexico City. And the large full- and part-time American population supplies a strong client base. Vallarta is famous both nationally and internationally for



its exceptional culinary variety and quality, the town's prestigious gourmet festival every November drawing epicures from around the globe.

## Art Galleries & Performing Arts

The color and magic of Vallarta is a magnet for artists, allowing numerous galleries to prosper. The art from these galleries can be seen featured in many Vallarta homes. During the high season art walks, very popular social events, are held each week and usually followed by dinner out on the town. Over the past few years Vallarta has blossomed with numerous live theatre performances taking place throughout the high season, involving both locals and foreigners, on the stage and in the audience.

## Society

Where Acapulco is famous for its nightlife Puerto Vallarta is more subdued, people preferring to socialize over dinner at the many fine restaurants in town, relaxing afterwards at a lounge to enjoy Latin jazz or classical music.

## Golf

There are nine golf courses with more planned

short-term. Three are in the immediate Vallarta area, three in the central area of the bay shoreline in Nuevo Vallarta, and three at its northern tip at Punta Mita. Vidanta now has a second course on their property that borders along the Ameca River. Visit here to see a directory of Vallarta/Nayarit golf courses.

## Boating

There are three major marinas within the bay, with another in the building stage. Puerto Vallarta offers more dock space than any other destination in Mexico. The bay is wonderful for fishing and diving and good sailing winds are available all year round.

## The People

If you were to ask Vallarta homeowners what the best reason is to choose this area, many would tell you it's because of the people. Vallartenses are happy and giving, which creates a wonderfully welcoming community atmosphere where foreigners and expats really feel like they belong.



# Commonly Asked Questions about Vallarta Real Estate

Below are some of the more commonly asked questions regarding the buying process for real estate in Mexico.

## Can I actually own land in Mexico?

Yes. Although the restricted zone specified in the Mexican Constitution prohibits a foreigner from acquiring direct ownership of land within 100 kilometers along the border or 50 kilometers along the coast, you can obtain all the rights of ownership in the restricted zone via a bank trust known as a “Fideicomiso”. Since Vallarta lies within this zone, you need to use a trust here if you are not Mexican, but for all intents and purposes, it’s just like getting title.

## What is a “Fideicomiso Trust”?

Because of the restriction mentioned above, a buyer can request a Mexican bank of his choice to act as a trustee on his behalf. The fideicomiso (trust) can be established for a maximum term of 50 years and can be automatically renewed for another 50-year period. The title is transferable to any other party. The bank becomes the legal owner of the property for the exclusive use of the buyer/beneficiary, who has all the benefits of a direct owner. For more information read this article.

## What is the MLS system in Vallarta?

There are two primary systems in the region providing MLS service. MLSVallarta was the first and is currently the longest running MLS in Mexico, combining properties for sale by both individual homeowners and real estate developers. The real estate association AMPI also has an MLS system, called Flex, which can be viewed at [www.vallartanayaritmls.com](http://www.vallartanayaritmls.com).

## What is MLSVallarta and what are its services?

MLSVallarta was started in 1989 and for many years it was the official MLS for the local real estate associations. Today, it is independent and strives to assist people who are interested in real estate in the Puerto Vallarta / Riviera Nayarit region. MLSVallarta does not sell real estate, it is simply an objective intermediary, striving to make the process of obtaining information about the real estate market and what currently

is for sale, as simple, informative and easy as possible.

## Should I be working with a real estate agent?

Yes, you should, whether you are buying or selling. The process is not as simple or straightforward as it is in the USA and Canada and there are potential obstacles that a guide can help you navigate through (unless you speak Spanish, you’re at an immediate disadvantage). They also have access to marketing tools, such as the MLS, that allows more extensive searching, that sellers are not privy to. Here’s an article that explains more.

## Is there a RE association and are realtors licensed?

AMPI, the Mexican real estate association, has



three chapters in Puerto Vallarta that provide traditional real estate services and also ensure that realtors are behaving according to the highest professional standards. There is no mandatory licensing currently for realtors in Mexico; however, in Puerto Vallarta AMPI has stepped in to fulfill a similar role as best they can. More information regarding the local real estate association can be found at [www.vallartanayaritmls.com](http://www.vallartanayaritmls.com).

### **So how do I find out what's for sale in Vallarta and Riviera Nayarit?**

They are a number of ways you can go about this.

Work with a real estate agent. Find one you are comfortable with who can help explain what the different popular regions are and what they have to offer, what type of real estate is available and walk you through the purchase process. There's a list of agencies featured here.

Do your homework. Get to know the different regions around the bay. Each community is quite unique. Spend some time to review the areas features under Regions. Be sure to also check out the regions section as well inside the Map Search function –here you can visually see each region, sub-region and obtain information about each one. You'll want to be familiar with the regions and sub-regions before you start using the MLS Search.

Review the Resources section, where there is a large collection of articles about real estate in Vallarta.

Start using MLS Map Search. It offers plenty of information on properties that are currently for sale in Vallarta and Nayarit. There is also a "Quick Search" that is very easy to use and can take of most of your needs. You will also find a wealth of information about real estate projects under the "Developments" tab, with descriptions, images, pricing and current inventory.

### **What type of real estate will suit our needs?**

There are a number of different types of vacation real estate, beginning with timeshare, then fractional and full-time ownership. With these, any of them could be a condominium, apartment, townhouse or a single family dwelling. What works best for you depends where you are in your life and what your current finances will allow. You can always move up or down, as your needs change, into something that would work better for you. Check out this article for more information about property types.

### **What Community would best suit our needs?**

Vallarta and Nayarit offer myriad of options when it comes to where you may eventually choose to live. You can be on the beach, in the mountains, along a golf course or in a marina. You can be right in downtown Vallarta or one of the small towns situated further out. For more information regarding community options, visit this article about popular neighborhoods and communities around Banderas Bay.

### **What are the closing costs and how much do they usually entail?**

Whenever a real estate purchase takes place in Mexico, a number of additional closing costs are involved and should be taken into account. These can vary in amount and complexity, depending on the type of transaction and whether a trust is involved, and are determined by the notary office of your choice, along with the real estate agency handling the transaction.

### **How much are property taxes and other regular home expenses?**

Property taxes are low compared to the USA and Canada; however, condos charge additional fees, such as homeowners' association and master homeowners' association charges. Utilities are reasonably priced, and household staff, such as maid, chef and butler, is extremely affordable.

### **Is financing available?**

Yes. This process is easier than ever, and interest rates are lower than in the past. Many banks currently have English-speaking divisions, and many realtors are bilingual. Established realtors often have their own mortgage broker who can pre-qualify purchasers. If you will be needing financing, it is recommended that you contact a mortgage broker to better understand the financing available and how much you would qualify for.

### **What are the advantages and disadvantages of condo living?**

Advantages:

- When it's time to leave, you simply lock the door, making it more secure than a private home.
- Sharing maintenance costs with the other residents lowers monthly expenses. Condos often offer a better view if you live on a higher floor.
- Because 80 percent of the product inventory in Vallarta is condos, there are properties available at all price points, with a wide variety of locations and styles to choose from.

Disadvantages:

- Sharing your costs means living in close proximity to others.
- Decisions about the property are made by group majority and may not reflect your preference.
- Homeowners' association meetings can be challenging, particularly for those who've

never lived in a condo.

- This article provides additional information regarding the pros and cons of condo living.

### **What is the role of the homeowners' association (HOA)?**

The HOA is responsible for maintaining and administering the common areas of any project or development. They collect maintenance fees from the owners, provide reserve funds, pay the bills and work with a board made up of homeowners. A well-run association can keep your costs down, but it's a good idea to find out how it's functioning in any property you may be interested in. This is something that is too often overlooked when prospective purchasers are considering a property.

### **What are the advantages of buying pre-sale vs. re-sale?**

When purchasing a re-sale property, you know exactly what you're getting; however, if it's an older home or condo, it may require maintenance or upgrading or may be missing the stylish amenities a new unit may offer. Pre-sale purchases often involve purchasing over floor plans, models and artist renditions, which may leave some aspects up for contention later. Sometimes, though, it turns out even better than the buyer expected, but not always! Also, in challenging economic times, a developer may cut back on quality of finishing, in order to save money. But with a pre-sale property, you get the advantages of sometimes better pricing and stylish, new amenities. And it's new, so serious maintenance should not be needed for some time. More information regarding buying pre-sale, from a lawyer's perspective, is available here.



# Puerto Vallarta's Most Popular Neighborhoods

You've made the decision that you'd like to own a second home or perhaps retire full-time in Puerto Vallarta. But where, exactly, as there are so many different Vallarta neighborhoods and communities around the bay, each offering their own unique benefits and advantages. Over the past 30 years, Vallarta has evolved from a single destination to one that offers a multitude of regional options, each unique unto itself. Before beginning to look for a new home, you really should identify your needs to narrow down the search criteria, making the buying process much easier in the end.

This article provides information about the most popular regions, but you may also want to check out:

The Regions section of this website, as it provides photos, maps and descriptions about all the regions of Vallarta and Riviera Nayarit. The Search Map, where you can visually see

where each region is located on a large map, with photos and descriptions.

## Vallarta/Nayarit Regions

If all you know is that you want a two-bedroom near or in Puerto Vallarta, you'll discover there are literally hundreds to choose from. Most people know the type of property they're interested in —be it a condo, home, townhouse or residential lot— and how many bedrooms it should have, along with desired amenities. But what they may not realize are the advantages and/or disadvantages each neighborhood —colonia in Mexico— provides.

MLS Vallarta divides the Vallarta/Nayarit region into nine regions and a number of smaller sub-regions. It is important you have a rough understanding of where these regions are situated so that when you start searching for properties it makes more sense to you. You can find our more about the regions and sub-regions, with maps, in our website.

## Downtown Vallarta

If you want to be where the action is, downtown Vallarta is the place for you. The two most popular areas are Gringo Gulch, (Central North) which is on the hillside above town and overlooking the Cuale River, or on the south side, (Central South), from the Cuale River and along Los Muertos Beach, commonly known as Emiliano Zapata. In these areas, you can get around quite easily without owning a car, with markets, restaurants and shopping close by. Gringo Gulch is mostly made up of single-family homes and small condominium projects, nearly all offering views overlooking the city and bay. Across the river, however, real estate inventory is mostly made up of condominium projects of all sizes, the most popular situated along the shore, providing unobstructed views and easy access to the beach. In both areas, the disadvantage can be noise from city living, something you may have to put up with in order to have easy access and close proximity to most of downtown Vallarta.

## The Hotel Zone

The Hotel Zone, which extends from the marina to the northern edge of downtown Vallarta, has seen a considerable amount of development over the past 10 years, with the building of high-rise condominium projects that provide spectacular panoramic views of Vallarta and Banderas Bay. If high-rise living is your style, this area provides easy access to town and the airport, as well. Many shopping centers are situated nearby, just across the main road that leads into Vallarta. Or if it's a home you're looking for and you don't mind giving up having a view, there's the relatively new development of Fluvial or the older, traditional neighborhood of Versalles. Having a home here is like living on the outskirts of the main downtown area.

## Amapas and Conchas Chinas

Just south of Vallarta, the foothills of the Sierra Madre Mountains hug the coastline, creating a steep vertical backdrop that has become popular for condominium developments, offering even more spectacular views than the developments along the shoreline below. Leaving Vallarta, Amapas is first, catering mostly to small and medium-size condo projects. Conchas Chinas is a little farther south and offers older luxury homes on either side of the highway, along with some newer condominium projects. Living here, however, one does need a vehicle, as the hills are steep and there is little in the way of shopping or restaurant options. If you're a golfer, be ready for a drive to get to the courses, as most are located either east of Vallarta or along the northern shoreline.

## Marina Vallarta and Nuevo Vallarta

On both sides of the international airport are two mega developments that were designed to provide a little something for everyone. They are large enough that you'd still want to own a vehicle, but for some, a golf cart may be enough. Marina Vallarta and Nuevo Vallarta/Flamingos are large residential areas built around marinas and golf courses, offering a variety of single-family homes and condominium options. Each has shopping centers and a good selection of restaurants, and both are situated along the shores of the bay, providing access to the beach, as well. Large condominium projects stand along the beach, while mostly smaller condo projects and single-family homes line the fairways of the golf courses. They tend to resemble residential areas you may be familiar with back in the USA or Canada, rather than traditional Mexico, but those who live there will find most everything they need available close by.

## Sayulita and San Pancho

If you're looking to get away from it all, to have a place to escape the hustle and bustle of city







and hosts a St. Regis and Four Seasons hotel. There are numerous surf breaks around the point, lovely beaches with beach clubs and a very large and well outfitted tennis club, as well. Living there is seriously out of Vallarta, and many homeowners rarely visit Vallarta, making it only as far as the airport when heading south. Both luxury homes and condominiums are available along the shoreline or golf course fairways.

The variety of real estate options is wonderful, in that there really is something for everyone; however, it can be a little overwhelming if you aren't sure exactly what it is you're looking for. Take a good look at the lifestyle you desire, and be sure to take into consideration what may be most desirable not just now, but perhaps in five to ten years. You may even decide to rent for a while in different locations, to really get a feel for what each neighborhood has to offer.

living, then you may want to look to the north, in the state of Nayarit, in small towns such as Sayulita and San Francisco (most commonly known as San Pancho), or along the southern shore of the bay, toward Boca de Tomatlan. To the north, there are also options in La Cruz and at the point of Punta de Mita, as well as residential developments situated between these two popular villages. These towns offer some smaller condominium projects, mostly along the shoreline, with single-family residences located behind, in the streets of these small towns. Sayulita and San Pancho have more hillside behind them, so most homes have ocean views. Heading south from Conchas Chinas, one can find beachfront homes and condos, as well as exclusive developments built into the lush tropical hillside that offer luxury single-family living or, most recently,

new condominium developments.

### **South Shore**

The highway cuts inland at Boca de Tomatlan, and for the most part, land farther south along the coast is not deeded and does not have road access. However, if you are really looking to get away from it all and experience Mexico, you may want to visit El Tuito. There are no condominium projects there, but there are single-family homes and residential lots at reasonable prices, a brand-new ecologically sound development and nearby access to some exceptional beaches.

### **Bucerías and La Cruz**

Back inside the bay again, Bucerias was once

the place to escape to as Vallarta transitioned into a large city and service center for Banderas Bay, but it, too, has seen quite a bit of growth and is now the second largest town around Banderas Bay. Real estate options are mostly single-family homes or small condominium developments. Bucerias offers easy access to the bay's longest beach, and the golf courses of Flamingos and Nuevo Vallarta are just minutes away. And if you enjoy boating, there is the relatively new marina in La Cruz to moor your boat, also just minutes away.

### **Punta Mita**

The most upscale development is located on the northern point of the bay, called Punta Mita. It is built around two Jack Nicklaus golf courses



## What type of vacation home is best for you?

The Vallarta vacation-home market has been continually evolving to meet the needs of consumers and their families, so that today's marketplace provides potential homeowners many different and unique buying options. When selecting a Vallarta vacation home that will best suit your lifestyle needs, it's important to first educate yourself about market terminology and options available, and then assess your vacation preferences, travel goals and budget. You also should obtain relevant information online, and talk with a real estate professional located in the region.

### Five Vital Factors

Five main factors, which most affect the cost of a vacation home, need to be considered to ensure you obtain what best fits your needs.

**Location:** As they say, when it comes to real estate, the three most important factors are "location, location and location", and the situation is no different here in Vallarta and Nayarit. Where the property is located will affect the sales price, type of view and proximity of the amenities most important to you. Vallarta and Nayarit offer a wide variety of options when it comes to location; you can be in the city, a small out-of-the-

way village, a gated community, mega-development, high on a hillside overlooking the bay, on the beach, within a marina or along a golf course fairway. The types of property here are greater than anywhere else in Mexico.

**View:** In warm-weather places such as Vallarta, where considerable time can be spent outside on the terrace, having a nice view is worth considering. On the south side of Vallarta, the foothills of the Sierra Madres provide spectacular bay and city views. But there are other views to consider, such as golf fairways (someone else mows your backyard), marinas (easy to keep an eye on your boat) and lush jungle (quite spectacular).

**Size:** How large a place will you need? Will friends and relatives be visiting, and do you want them to stay with you? Usually, a second room that serves as an office/TV room/guest room is a good idea. Regarding condominium living, how big a building/project do you want? Usually, the larger the project (more units), the more amenities provided.

**Amenities:** If you have a strong interest in boating or golf, you'll probably want to be located as close to a marina or golf course as possible. If you enjoy dining out and socializing, you won't want to live somewhere remote. If you surf, swim or enjoy long walks on the beach, you'll want easy access to the ocean and surf breaks.

**Time:** How much time will you actually use your vacation property? If you're only vacationing a couple of weeks a year, do you even need to consider ownership? Perhaps a property rental or condo/hotel would suit your needs best for now. Or you could consider one of the popular alternative forms of vacation ownership mentioned below. If you're spending any more than four months, however, you probably will want your own place and will go with full-time ownership. Another option, if you plan to use your

property for just a few weeks a year for now but intend to spend more time here in the future, perhaps even retiring here, is to purchase and then rent out the unit when you're not using it, using the income to pay maintenance costs and part of the mortgage (if there is one). Demand for rentals has been strong recently, so you may be able to rent out your place frequently, especially if it positively incorporates these four factors: good view, location, size and amenities. Keep in mind, however, that there are only four to six strong months for rentals each year and that dealing with coordinating the rentals can take up a lot of your time.

### Traditional Forms of Vacation Ownership

The traditional forms of vacation ownership in Puerto Vallarta involve full-time home or condominium living, condominiums making about 80% of this market. There's a wide variety of options available for nearly every potential vacation homeowner. Most of the current market is made up of re-sale properties, as the new-product market slowed during the past five years. That is changing, however, and developers are building once again, most offering a product that matches a different buyer than in the past: one looking for something smaller, less expensive and with fewer amenities, basically to keep ongoing and initial investment costs low. A downside to new-product purchasing is not always knowing what you'll eventually get; however, on the upside, whatever it is will be "new" and built with the latest building products and designs. Purchasing existing real estate may be safer in some respects (you know what you're getting), but there's nothing quite like buying a brand-new property that you can participate in designing and decorating. With traditional forms of vacation ownership (vs alternative forms), there's also the potential added benefit of appreciation.

Traditional second-home ownership appeals to those seeking a vacation setting to share with



family and friends and/or use for business whenever they choose. Owners, however, have full responsibility for maintaining the property, which may include hiring a management company.

### **Full-time Condominiums**

For most people, condominium living is the way to go. It's simpler to maintain and easy to lock up and leave when you return home. Yes, you have to put up with neighbors, perhaps on all sides (consider that when selecting a unit), and yes, you have to share the responsibilities of repair and maintenance with others (the good: you share the costs; the bad: you don't always get what you want but what the majority wants). Condominiums can be tall towers offering spectacular views. They can be situated right downtown, making it easy to get around. But it is communal living; you need to realize that and be willing to live with the good and not-so-good.

### **Full-time Homes**

There are both new and re-sale houses, but the selection is more limited than it is for condominiums. And it currently is even more limited if you're looking for a developer-built home. If you want to create something of your own, however, you can buy a lot and build your dream home and get exactly what you want. With home ownership, concerns regarding neighbors are less, and you certainly won't have anyone above or below you. But the cost of operation is solely your responsibility. You don't have to share the pool or garden areas, so you'll have much more privacy, but you alone are paying for the maintenance. View properties are a little harder to find, unless you're looking at the South or North Shores of the bay, where there is more elevation. Most vacation homes in Vallarta are found along golf courses or waterways, such as in Nuevo Vallarta. They are inside gated communities, which provide more security, if that's a concern.

### **Alternative Forms of Vacation Ownership**

For those who only want to invest for the amount of time they actually will be vacationing, there are alternatives that involve purchasing just a portion or fraction of the weeks' or months of the year. This can involve receiving actual title or deed, or it can be a right-to-use, commonly 25 to 30 years. This form of vacation ownership is best for those anticipating usage for the full term of the ownership, as re-sales rarely reflect the original purchase price and capital gains are not common.

#### **Timeshare / Vacation Ownership**

Timeshare ownership may be purchased through deeded property ownership, right-to-use or a more flexible points-based program. Owners purchase a condo or villa for one or more weeks use within a fixed or "floating time" system, which allows scheduling each year's vacation during the most convenient week within a specified season. With timeshare, consumers have the opportunity to purchase time at resorts offering a wide range of amenities at different destinations. While most vacation ownership villas have two bedrooms and two baths, floor plans range from studios to three or more bedrooms. Ownership is a one-time purchase, which often is developer financed, owners then paying an annual maintenance fee based on the unit size, location and amenities. Timeshare is not intended to be an investment opportunity, rather an alternative to traditional vacation accommodations and a way to hedge against "vacation inflation". Pricing varies considerably based on the five factors mentioned above, but usually ranges from \$15,000 to \$50,000 USD per week. Puerto Vallarta was one of the first and most successful timeshare destinations in Mexico and offers a wide variety of different types of products, plans and pricing.

### **Fractional Ownership**

#### **Private Residence Clubs**

A step above timeshare is fractional ownership, which usually comes with a recorded deed and title. Fractional ownership has the benefits of second-home ownership, but for a fraction of the cost and without the maintenance responsibilities. Considering the average vacation-home buyer uses the property just three to four weeks a year, fractional ownership tends to be more in line with the actual use of the vacation home. Additionally, fractional properties are generally affiliated with high-end hotel companies or high-end boutique operators, so owners have the benefits of personalized services and amenities. Fractional interests can range from \$60,000 to \$650,000 USD per interest, based on floor plan, location and size of the fraction. In addition to the purchase price, there also are annual maintenance fees to consider. Fractional ownership has not been as popular as timeshare in Vallarta and Nayarit, but there are programs available.

#### **Destination Clubs**

Members of a destination club are not buying a specific property, but rather the right to use any of a portfolio of homes owned or operated by the club company. With few exceptions, they offer a non-equity-based membership emphasizing a broad selection of vacation-home experiences. Most destination clubs also offer members concierge services.

The average length of stay at destination clubs ranges from one to nine weeks, and costs include a one-time fee ranging from \$20,000 to \$1.5 million USD, which is typically between 80 and 100% refundable if they choose to exit the program. Annual dues range from \$1,500 to \$30,000 USD. The club may also charge a nightly fee while guests are in residence.

#### **Condo Hotels**

Condo hotels offer a portion of their hotel room inventory for sale to the public. The owner may

use it for vacation or corporate housing needs or place it in a rental program, typically managed by the hotel. Owners then receive proceeds from the rentals. Buyers enjoy the benefits of owning real estate in a desirable location coupled with hotel amenities and services. Annual dues also apply. Condo hotel pricing varies by real estate market trends; however, currently there are few options available for condo hotels in Vallarta. When it comes to vacation ownership, especially in and around Puerto Vallarta, there are myriad options available to you. Getting exactly what you want will involve first knowing what your needs are, obtaining as much product information as you can on what meets your needs, and then weighing one against the other. Spending a little time now to think it fully through can ensure long-term enjoyment for many years to come.



## Buying “Pre-sale” Properties

A “pre-sale” purchase exists when a buyer enters into an agreement with a developer to purchase a unit that has not yet been built or finished. This type of purchase is inherently risky. In Mexico over the last 10 years the real estate market has seen a major boom, especially in developed or developing coastal areas. Between 1995 and 2005 prices skyrocketed and fueled an increased number of new projects, the majority of which were sold as “pre-sales”. The first of these projects brought great returns to the buyers, who often times purchased at a 30% dis-

count off the finished sales price. Furthermore, many of these projects went up in value 20 or 30% per year prior to being delivered, which made the investment even more profitable. When the real estate boom started many investors thought long and hard about the terms of the pre-sale agreement before signing. Many did not sign these agreements as they presented too much risk and were too favorable to the developer. In short there was no guarantee a developer would finish a project or return the buyers’ funds if they could not deliver.

However, as the boom gained speed, people were more willing to accept a less protective agreement in order to secure deals and get in on the “great investment opportunity”. As the real estate boom continued, fewer and fewer people were concerned about the terms of the agreements they were signing and more were concerned with signing quickly so they would not lose the unit to another buyer.

The recent downturn in the world economy and the roller coaster stock market have seriously changed the outlook of every single buyer I have spoken with who is currently holding a signed agreement with a pre-sale project that has not yet been delivered. Just about every buyer that I speak with today who has invested in a pre-sale project that is not finished is asking me “Is the developer going to finish the project?”, “Can I get my money back?” and “How can I protect myself if the project fails?” This article will go over where the pre-sale market is today, the risks of investing, and what you can do to limit those risks.

First and foremost, everyone must understand and have in mind that developers, more than anyone else, want to finish their projects and deliver the units. An unfinished, undelivered project means losses and no developer is in business to lose money. In most cases developers are the ones that have put up the initial millions of dollars in seed money to get the project going. Do “pre-sale” developers use your money to finance the projects? The answer is yes, they do use pre-sale money to finance or leverage their projects. However, everyone must also understand that in most cases they have put up hundreds of thousands of dollars, if not millions to get the project going.

This article will look at:

- The general types of “pre-sale” projects

that exist

- What you should negotiate for
- What happens if the developer disappears and no one is on the project

### Types of “Pre-Sale” Projects

There are principally two types of “pre-sale” projects. Please understand that there are many variations of the two principal types, but they all seem to fall into one of the two following classes:

#### Class One: Financed Pre-Sale Projects

These projects are financed by banks or private equity groups who fund the project “based on sales projections being met”. As a very general example, a developer will put up 20% of the initial funds to get the project moving, then as certain numbers of sales are made, the bank or private equity group will release funds to the project to move it forward. Based on an “absorption rate” (in general a speculative number of sales per month or quarter), the lender will release more funds to advance the project along. Obviously the “first round” of financing is usually the most difficult to get as the bank wants to see a “healthy” absorption of the product into the market. If they can see that 30% of total sales are reached, they are usually willing to release that really important first round of financing to get the project off the ground.

If you pick up a real estate magazine from a few years ago you will see several advertised projects that no longer exist. Why? Because they did not get enough “absorption sales” to kick off their first round of financing.

Most of these financed pre-sale projects are the bigger, more well-known outfits. These outfits are usually better prepared to deal with problems in the market, but they are not completely immune to sharp downturns in the number of sales. So where do the risks lie in these projects?

Principally they lie in the developer making initial sales projections to get first round of financing approved but then not making further benchmark “absorption sales” to get the second and third round of financing. Recently some developments are experiencing very low sales numbers and what is worse, they are having clients default on existing agreements, lowering their number of sales to below the minimum required for financing to be in place. If this happens the developers usually opt to do all or some of the following:

Ask for advanced or final payments. Most pre-sale agreements are very one-sided in favor of the developer and contain language that allows the developer to ask for final payment before delivering the product.

Slow the construction down to the bare minimum. This is to cut costs until cash flow increases or sales number are met, triggering the next round of financing.

Extend financing terms and sometimes pass them on to the buyers.

All of these options mean that you are going to be asked to pay more for your unit or it is going to be delivered later. The developer is looking at the economics of the project. You also need to be looking at this.

If you have invested in this type of pre-sale project and see the developer slowing down on construction or proposing any of the options above, you need to move as quickly as possible to renegotiate or force a settlement on your agreement. The first people to negotiate or force a deal will usually get a better deal than those who wait.

### **Class Two: Non-Financed “Pre-Sale” Projects**

These are the projects that do not have any type of formal financing and are speculating on making enough sales to generate cash flow for construction costs. These are usually smaller proj-

ects.

Needless to say, these types of project are higher risk projects because when the sales stop, so does the project. If the sales stop for any length of time, these projects are more susceptible to legal action and to having the developer “disappear”. Once the developer disappears, everyone loses.

Furthermore since a financial institution or bank is not involved, there is usually no “contingency” or risk plan established in case the project fails. When a bank loans money to a project, they almost always include provisions to take over the project in the case of failure as well as a plan to inject the necessary capital to finalize the project. Smaller, self financed projects do not have these contingency plans.

In these smaller types of “Pre-sale” projects, if sales are not met usually one of two things happens:

Construction comes to a virtual halt. Maybe a handful of workers are kept on to maintain the appearance of progress, but for all intents and purposes the project is stopped.

The developer asks for advance payment or increases the price of the units.

Smaller projects are more susceptible to going under. It is extremely important to be aware of this and, if any of the warning signs mentioned above appear, to take immediate action to protect your investment. Action, in this case, would mean getting a written and notarized agreement from the developer as well as full disclosure on the finances of the project. Legal action may also be needed. Verbal agreements or promises mean absolutely nothing unless the person making them is willing to sign off on them.

### **What should you negotiate for?**

If you can, you need to turn the emotions com-



pletely off and the math skills on. There is a whole range of questions that need to be answered in order to find the mathematical and economic solution that is best for you. Some of the general questions we go over with our clients are:

What is the developer offering? Any offer the developer is giving is a starting point. You need to build your arguments around this starting point. What percentage of the total price have you paid? This is the liability of the developer as well as your exposure.

What are you willing to lose? This is a hard question but you have to understand that if you are not flexible, your ability to reach a negotiated resolution is not good, and litigation is expensive.

What legal options do you have and what are they going to cost? There are legal options besides litigation which can force a developer to come to a more reasonable solution. All of these options need to be explored.

How much more would you be willing to pay to have a finished unit vs. litigation?

Is there a group that has a professional common representative? The developer wants to resolve as many problems as he can. Groups of buyers will get priority attention over individual owners. We must understand that a developer is in an economic bind if he is slowing down or stopping

the project. His options are limited and he will do whatever he needs to in order to make the project not fail and avoid a lawsuit. The developer is not your friend nor is he your enemy. You are both investors in a project that is in trouble due to a world economic crisis. Finding or forcing a solution is better for both parties so you need to work with the developer or force him to work with you.

### **What if the developer is gone and no one is on the project?**

This is the worst case scenario, and you need to do some immediate research on what happened too see if there are any groups working to negotiate, find the developer, or file action against the developer. Do not walk away from your investment. Even if you only recuperate 30% of what you invested, it is better than walking away and allowing someone else to take all of your investment. Get good advice, talk to other people in the development, review your options, and get moving to protect your investment.

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