

## MEMO

To: PUBLIC  
From: Jeffrey Harrington, Esq.  
Date: December 2008

### REAL ESTATE LAW IN COSTA RICA

This memorandum of law was originally prepared for a client, so it focuses on that company's particular situation. Therefore, while this memo provides a concise overview of Costa Rican real estate law and is useful for general application, it is in no way comprehensive nor is it a substitute for individualized legal counsel.

#### 1. Property Transfer

- a. Effectuated via PROPERTY TRANSFER DEED (*una Escritura*);
- b. Deed must be prepared by a NOTARY (*un Notario*) which, unlike in the US, is a fully licensed attorney;
- c. Deed must be PRESENTED (*anotado*) and examined for defects;
- d. The deed may then be REGISTERED (*inscrito*) in the PUBLIC REGISTRY (*Registro Nacional*).
- e. You receive a TITLE REGISTRATION NUMBER (*folio real*);
- f. Taxes & Fees
  - i. Real Estate Transfer Tax (*Impuesto de traspaso*) – 1.5%
  - ii. Registration fee – .05%
  - iii. Documentary Stamps
  - iv. Notary Fees – up to 2% depending on value of transaction. **Note:** These fees are set by law [Decreto Ejecutivo No. 32493-J], so there's probably no room for negotiation.
  - v. **Tip:** Transactions are usually based on the registered value of the property rather than the actual market value, except for the notary fees, in order to save on taxes. This is a bit of a shenanigan, but it's common local practice.

## 2. Encumbrances (Art. 460, Civil Code)

- a. Lis Pendens/MOI (gravamen inmueble). Costa Rica has a single mechanism for encumbering a property, and there is a website for researching recorded encumbrances. ([http://www.registronacional.go.cr/rnb\\_inmuebles/inmuebles.htm](http://www.registronacional.go.cr/rnb_inmuebles/inmuebles.htm)).
- b. Race-Record. First in time is first in right (i.e. earlier recorded items have preference).
- c. Due Diligence. To check for encumbrances, request a PUBLIC REGISTRY REPORT (*Informe Registral*), which is available online. (See above).
- d. Effectiveness. No deed can be registered (*inscrito*) if any encumbrance is recorded.

## 3. Beach Front Property

- a. Maritime Zone Law (*Ley sobre la Zona Maritimo Terrestre*). By law, the first 200 meters of beach front starting at the high tide markers is owned by the government. Of the 200 meters, the first 50 meters are deemed public zones (*Zona Publica*) and nobody may possess or control that area.

## 4. Building

Application for construction must be presented by licensed architect or engineer (Art. 83, Law of Constructions, Art. II.2 Construction Regulations).

Fees – The Associate of Engineers and Architects (*Colegio Federado de Ingenieros y Arquitectos*) sets the minimum that can be charged for each service.

- a. Preliminary Study -- .5%
- b. Pre-project Design – 1 to 1.5%
- c. Plans – 4%
- d. Estimates -- .5% for global estimate; 1% for itemized estimate.
- e. Oversight. There are three levels of oversight to choose from: Inspection (3%), Supervision (5%), and Administration (12%). The architect/engineer will be more or less involved in the project depending on which level you choose.