

HOW TO PURCHASE & DEVELOP REAL ESTATE IN PANAMA

**A Foreigner's Guide for Understanding
Panama Real Estate Laws**

By STEVEN RICH

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INTRODUCTION

Many foreigners are fearful about purchasing real estate in a foreign country. The purpose for this manual is to help you understand Panama's real estate laws. With this knowledge, you will be able to purchase or sell real estate in Panama with the confidence by knowing your rights.

Most of these articles were published in popular tourist related English publications in Panama including The Visitor, The Panama Eagle, and Panama Real Estate Magazine. The author, Steven Rich has published more than 40 articles in Panama publications since 2006.

Steven Rich has an MBA degree in Marketing and works as the Marketing Manager for an English-speaking law firm called Panama Offshore Legal Services with offices in Panama City and Bocas del Toro.

Is it Safe to Buy Real Estate in Panama? Yes, buying Real Estate in Panama is safe and secure for foreigners.

Law # 54: Foreign Investor Protection Law

Law 54 clearly states that foreign investors have the same rights as nationals in Panama:

"Foreign investors in Panama and the businesses in which they participate in have the same rights and duties as national or local investors and enterprises, including those that refer to the freedom of trade and industry, and export and import.

Foreign or local investors in Panama are guaranteed the right to dispose of investment profits, the right to repatriate their capital, dividends, interest and profits produced by their investments and the right to commercialize their production.

Foreign investors are awarded a 10-year stability guarantee that all legal, tax, customs, municipal and labor rules will remain identical to those in force at the time of the investment registration."

The U.S. State Dept. verifies this by stating: **"Titled land, and the process of buying this, is similar in concept to that of the U.S., and land deeds are duly recorded with the Public Registry..."**

KNOW WHAT TYPE OF REAL ESTATE YOU ARE BUYING (and the Process of Purchasing)

by: Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Accepted for Publication by WiseNvest Magazine

www.panama-offshore-services.com

(507) 227 - 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

The Difference between Titled and Rights of Possession Properties

There is a lot of confusion when foreigners look to buy real estate in Panama. That's because some sellers have actual "title" and others only sell their rights to "possess" a property. Moreover, deeds of title are different in Panama from the United States or Canada.

Let's clear up this confusion. Panama recognizes three different types of real properties: Titled, Rights of Possession, and Concessions.

1. TITLED PROPERTY

Titled property is similar to "fee-simple" title in the United States and is the most secure form of real property ownership in Panama. The Constitution of the Republic of Panama guarantees the right to own private property. Titled properties measured and properly recorded in Panama's Public Registry office verify one's real property "title". These verifiable, guaranteed rights allow banks to issue mortgage loans for titled properties by registering liens against one's title as collateral.

Purchasing titled property is simple by following these procedures:

- a) Negotiation: If you are dealing through a real estate agent, make sure all of the terms and conditions are clear and in writing. Make sure that the written contract clearly sets forth the payment amounts and dates. If you are dealing directly with the seller, understand all terms before hiring an attorney to prepare the written contract.
- b) Promise to Purchase Contract: Instead of a Purchase & Sale Agreement (common in the United States), the buyer and seller initially sign a Promise to Purchase (the property) Contract. A small down payment when signing a written Promise to Purchase Contract secures the property while the buyer conducts a title search to verify the seller's ownership. In the meantime, the purchaser arranges for financing (if not paying fully in cash) and setting up a corporation (if applicable) to hold title. Register this contract at the Public Registry to prevent the seller from selling the property to another party prior to the Closing.

- c) Title Search: Once you sign the Promise to Purchase Contract, you should hire a competent attorney to conduct an investigation of the seller's title at the Public Registry. The lawyer will also verify that the property is free and clear of any encumbrances, liens, and other issues affecting transfer of title. Title Search also includes reviewing the catastral survey map. In many cases, a professional surveyor will verify the map points on the property to avoid future boundary conflicts. Finally, have your lawyers verify the main utility debts (water & sewer) with the government agency providing them (IDAAN).

- d) Buy-Sell Contract: Upon conclusion of the Title Search, the parties sign a formal Buy-Sell Contract (also known as Public Deed of Title Transfer). The escrow agent pays the seller's final balance and transfers title into the buyer's name. I highly recommend using an established Escrow company to protect both parties.

- e) Title Transfer: This process is known as the "Closing" in the United States. Property ownership officially transfers to the buyer when both parties sign the Buy-Sell Contract (Public Deed of Title Transfer) and registers it with the Public Registry. If title is in a corporation's name and the buyer chooses to, the seller merely transfers the corporation's shares to the buyer without transferring title. In order to facilitate the Closing by assuring the seller will be paid and the buyer will receive full Title; the attorney prepares a "Promise To Pay Letter" from a local bank. This letter guarantees full payment to the seller when the Title Transfer registers at the Public Registry.

Problem Solved: The "Promise To Pay Letter" solves a typical Closing problem. Sellers usually require full payment when they sign the Public Deed of Transfer prior to the actual registration of Title Transfer at the Public Registry. There have been instances when the seller received full payment, but the Deed was not registered (or the government rejected the deed). The buyer did not become the new owner because there was no record of the title transfer in the Public Registry. The "Promise To Pay Letter" guarantees payment to the seller by a local bank while assuring the buyer that payment is not made until actual transfer of title.

2. RIGHTS OF POSSESSION

This is similar to "squatter's rights". This is where government owned property is "occupied" by a Panamanian (or entity) over time. Possession rights granted to the squatter through a simple certification document issued by either municipal mayors, sheriffs, or other government agencies such as the Agricultural Reform Department (Reforma Agraria). There are no property taxes because the possessor does not own the property. However, any structures built on the property may incur municipal and/or national taxes if they

are registered. Possession rights become titled by purchasing the property from the government. However, certain coastal areas, national parks, or islands are “protected properties” where the possessor can apply for an administrative “Concession” over the land guaranteeing use of it.

To acquire possession rights over a property, it is important to follow these steps:

1. Promise to Purchase Contract: Pay a small down payment at the signing of the Promise to Purchase Rights of Possession Contract securing the property and providing enough time for the due diligence. During this time, the buyer coordinates payment arrangements for the closing. Contracts for the purchase of Rights of Possession cannot be registered at the Public Registry; therefore, a public notary should authenticate them.
2. Due Diligence: Unlike titled property that is easily verifiable through the Public Registry, the due diligence procedures on Possession Rights property is more complex. Panama has no central database of Possession Rights properties. Therefore, buyers of Possession Rights should take extra precaution during the due diligence process. Generally, the extent of the due diligence investigation that one can realize on Possession Rights property is the following:
 - a. Verification of Certification of Rights of Possession: The Certification of Possession Rights validly issued from a competent government authority containing the possessors’ name and correct description of the property in terms of location, size (area), limits, boundaries, and neighbors on all sides.
 - b. Verification of Survey: A survey stamped and signed by a professional, licensed, surveyor engineer. This identifies the possessors’ name, location and reflects the same information in accordance with the Certification of Possession Rights.
 - c. Inspection: The main elements to verify are: physical occupation, no opposition by third persons, and good faith. Your surveyor identifies and marks the points of the property confirming these points with the neighbors to ensure that there are no future boundary conflicts. This requires a physical inspection. In addition, the property should be marked and fenced, delineating the boundaries.
 - d. Permit Verification: In some cases, if the buyers’ intentions are to build a certain type of structure or project on the Possession Rights property (for example, a marina, port, hotel, airstrip, etc.), it is necessary to verify if there are any national or municipal regulations prohibiting those activities in the area.

3. Buy-Sell Contract: After verification, the seller expects the final balance at the signing of the Buy-Sell Contract. If you use an escrow agent, payment of the final balance is made once the Possession Rights Certification transfers to the buyers' name. Contracts for the purchase of Rights of Possession cannot be registered at the Public Registry; therefore, a public notary should authenticate them.
4. Possession Rights Certification Transfer: The possession rights over the property officially transfers to the buyer in the Possession Rights Certification. This occurs immediately after each party signs the Buy-Sell Contract. If the possession rights are in a corporations' name, the buyer agrees to purchase the corporations' shares. Then there is no transfer of Possession Rights Certification, only a transfer of the corporation shares to the buyer.

3. CONCESSION PROPERTY

Concession property is similar to a land lease arrangement, common in Mexico or Hawaii. This is where the government grants a Concession to an individual or an entity for a specific purpose, such as a real estate development, hotel, or marina. Most Concessions in Panama are granted for a maximum of 20-year (renewable) periods. However, some Concessions are granted for up to 40 years (renewable) in specially designated areas such as the Amador Causeway where there are commercial and condominium developments currently being sold. Concession Property exists in special coastal or other governmentally protected areas where actual title is prohibited by law. In many cases, real estate developments on Concession properties offer investors time-share or fractional ownership arrangements, which are very common in Mexico and other resort-type coastal areas around the world. Unlike Possession Rights property, the government through a specific contractual agreement guarantees Concession property. Therefore, there is very little risk to the investor. Title insurance companies generally offer title policies for Concession properties.

ACQUIRING TITLE OVER POSSESSION PROPERTIES

"Titling Process" is the official administrative procedure to purchase Rights of Possession property from the Panamanian government. You are buying the property from the government and registering the Buy-Sell Contract with the Public Registry. Island properties cannot become "Titled" according to the Constitution of the Republic of Panama (only mainland can become titled). However, there are some titled Island properties registered before the Constitutional restrictions existed which can be sold. All beachfront titled properties require a 22 meter set back due to high tide.

TITLE INSURANCE

Even though Panamanian laws are setup to protect foreign investors, you should always take precautionary measures to insure your investment. I recommend Title Insurance for every property transaction. This is readily available in Panama through major international title insurers, such as LandAmerica Lawyers Title and Stewart Title. Title policy costs are minimal and the peace of mind is definitely worth the cost.

In Conclusion: Now that you have learned the different types of real property rights in Panama, you can take steps to protect your investments. Look for “titled” properties first. Make sure that you use a competent real estate lawyer to prepare your Promise to Purchase Contract, to conduct a thorough Title Search, and to prepare your Buy-Sell Contract. Hire a good Escrow company to ensure that all documents registered with the Public Registry before making final payment.

If you purchase Rights of Possession, hire a competent real estate lawyer to prepare your Promise to Purchase Rights of Possession Contract, conduct Due Diligence, and to prepare your Buy-Sell Contract. Hire a professional surveyor to verify all-important facts. Protect your original documents from loss because they will not be registered.

Obtain Concession rights for using government property whenever you can. Again, hire a knowledgeable real estate lawyer to prepare your contracts.

Finally, purchase Title Insurance to protect your investments.

With these precautions, you should be able to enjoy full rights of ownership or possession of your new real property purchases.

BUYING A CONDO IN PANAMA

by: Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published by The Visitor/El Visitante

www.panama-offshore-services.com

(507) 227 – 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

So many construction cranes nest on top of the new condominium buildings in Panama City. With more than 107 building permits issued to construct condominium buildings over 10 stories high, **Panamanians wonder if the national bird is a crane instead of the harpy eagle.** Let's educate you about condominiums, otherwise called horizontal properties in Panama, or condos.

Buying a condo in Panama looks easy. However, mistakes and problems loom if you do not take specific steps to protect your purchase.

First, you need to find an honest, reliable, English speaking (if you do not speak or read Spanish fluently) **real estate agent** who looks after your interests. There are real estate agents more concerned about getting a bigger commission than finding the type of condo you desire. Others help the seller rather than the buyer. Since most people showing properties are not licensed real estate agents and not even citizens or permanent residents of Panama; they may not know Panama real estate laws. Don't get me wrong. I am not telling you not to work with a foreigner who wants to show you real properties. Exceptions to Panama's real estate broker laws allow an unlicensed person to show properties as long as they work for a licensed broker. Nevertheless, don't expect them to know all of the laws that affect your purchase rights.

Secondly, you need an honest, reliable, competent, English speaking **real estate lawyer**. Once you want to make an offer on any type of real estate, either have a real estate lawyer write it up or review before you sign. When your offer is accepted, the lawyer can assist you with a formal Purchase Contract, title search, and escrow process.

Confused? Finding the right condo can be perplexing since no Multiple Listing Service (MLS) exists in Panama. The same condos list with 100+ real estate offices at different selling prices because the listing commissions differ. Baffled? Welcome to Panama!

How Much? Once you find the right condo, you need to decide what to offer. Forget about the listed price. Most condo sellers will negotiate the price, amenities and fixtures included in the unit.

Developers Rule: The project developer's office sells most condos in Panama. You may see some architecture renderings, diagrams of typical floor units, sometimes-even drawings or a model of the building. All of these can change prior to completion of the building. This is where the formal purchase contract

becomes critical. If it's not in writing, it just isn't. Verbal agreements are not enforceable in Panama.

Purchase Contracts must be in writing, specific, and signed by someone authorized by the seller. Real estate agents or the developer's salesperson may tell you that the 25th floor is the Penthouse. If it's not in the written contract, the developer may change plans and build five floors on top of yours. They may also tell you that your monthly maintenance fees will only be \$100, but if it's not in writing... "Don't worry; the planned tower in the vacant lot next door will never obstruct your ocean view." Get every oral promise in writing.

Condominium documents prepared by the developer include drawings, plans, condo articles of incorporation & bylaws filed with the Panama Ministry of Housing (Ministerio de Vivienda) otherwise known as MIVI. You can obtain copies of these documents from MIVI in Spanish. Translating legal and construction terms into English requires a competent translator. Read these documents several times because they are always loaded with loopholes in the developer's favor. The condo bylaws are different from the condo regulations & operating procedures. You need to have copies of both of them.

Questions you should be asking. What are the monthly maintenance fees and what services do they include (water, gas, garbage, sewer, security, etc.)? Are all apartments paying equal maintenance fees? Does the developer or owner plan to have commercial space in the building and what maintenance fees will they pay? Does the developer have votes in the condo owner's board and/or elections? Who selects the first condo board of directors (the owners or the developer)? If you are purchasing an older condo, you also need to ask about any assessments (present, past & future) and the amount per unit. How much money is in the condo association reserves? Ask for a copy of the condo association certified audit (not the short income statement). Under Panama law, you are entitled to it as an owner.

Total Condo Size in square meters doesn't mean measuring the interior walls. Total area space includes the outside walls, balconies, even unusable ledges!

Future Assessments will be a problem in Panama City. Who will pay for the new highway expansion across Panama Bay, sewer treatment plants, Panama City road expansions and repairs, and clean up of Panama Bay? The govt. proposes that new condo development projects be assessed taxes and fees to help pay for all of this. That means condo developers will pass on the fees to the buyers. When purchasing a condo in Panama City, your Purchase Contract needs to cover future assessments of whom & how they pay.

Canceling Contracts by developers is becoming common now that prices are escalating. Let's say a pre-construction condo sold for \$150,000. Before construction ends the market value rises to \$250,000. Developers are becoming greedy. They sometimes offer to cancel the Purchase Contract and return the deposits to resell the condo for a higher price. Is this legal? First, look at what your Purchase Contract states. If it doesn't include this event, you

will end up fighting to keep the developer from canceling the contract for a bigger profit. Make sure your Purchase Contract prevents this from occurring.

Seller Non-performance penalties must be included in your Purchase Contract. You need a penalty clause to motivate the seller and/or developer to perform on time.

Flipping like pancakes. Condo resale's prior to completion is becoming a popular sport here in Panama. Speculators bought cheaply a year or two ago are now trying to sell before the occupancy permit is issued requiring the balance on their down payments. Purchase contracts written by developers try to limit resale because they directly compete with the unsold units the developers want to sell. If you intend to flip your condo before completion, make sure the Purchase Contract allows you do it.

Delays and more delays. Too many real estate agents and developers promise that the entire condo project finishes within two years. What can you do if your pre-construction condo is running a year behind schedule? Your Purchase Contract must contain specific completion dates and strict penalties for delays.

What's included? Nothing. In Panama, new condos don't include any fixtures, appliances, air conditioners, water heaters, or furniture. Developers will charge you extra to include fixtures and appliances. A fully equipped kitchen is called "Linea Blanca" in Panama. Beware of cheap fixtures and appliances installed by greedy developers. If you are going to pay extra, make sure that the Purchase Contract lists acceptable brands, models, sizes, etc. installed by the developer prior to occupancy. If it's not in writing, you won't get it. That includes small items you take for granted like toilet paper holders and hand soap dishes. If you intend to install a garbage disposal, make sure the developer installs a kitchen sink with a large enough drainpipe.

Verify Parking & Storage Space location and size. You need to look at the plans to see whether your parking spaces are difficult to access or too crowded.

Air Conditioning is necessary in Panama. If the developer agrees to install, make sure it's suitable central or split air conditioning and energy efficient as electricity can be expensive.

Materials Fee clauses like "Up to 5% for increase of materials cost during construction to be paid by purchaser". Be prepared to pay this because greedy developers will enforce this clause every time. If it's in writing...

Unobstructed Views of the ocean, beaches, mountains, and greenbelt may exist when you purchase. However, you need to research future projects and available land that may eventually block your breathtaking views.

In Conclusion, follow these procedures and hire competent professionals to assist you with your condo purchases. Then sit back and enjoy your new home in paradise.

MORTGAGES for FOREIGNERS in PANAMA

by Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in The Visitor/El Visitante

www.panama-offshore-services.com

(507) 227 - 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Mortgages do not come easy for foreigners purchasing real estate in Panama. Panamanian banks welcome foreigners applying for mortgages. Yet, they require a lot of information and documents before granting a loan.

The easiest properties to acquire financing are titled with improvements, existing infrastructure and located in either an urban or a developing area. If you are trying to buy raw land with little or no infrastructure, no improvements, located nowhere, forget it. Chances are the bank will decline your loan unless you have an established credit history with the bank or substantial assets on deposit with the financing institution.

Down payments are usually around 30% of the purchase price (or appraised value).

Terms and rates are very similar to the United States and Canada. However, the application process differs greatly.

In North America, financing is all about your credit history and ability to pay. In Panama, it is all about your ability to pay and loan-to-value ratio. Panamanian banks require that you provide lots of documentation proving your income and the true value of the property you wish to buy. Since the banks do not know the foreign applicant, expect a long, tedious process requiring lots of documentation and organization.

Be Prepared is the first rule when applying for a mortgage in Panama. Here is a list of typical documents required by Panamanian banks for a mortgage:

- Complete, signed bank mortgage application & agreements
- Photocopy of your entire Passport (Certified copy if not present at bank)
- Photocopy of one additional photo ID (like a Driver's License)
- Recent Utility Bill (showing your name and physical address)
- Credit Report (from companies like Experian, Equifax, or TransUnion)
- Curriculum Vitae (your education & work history)
- Two (2) original bank reference letters
- Two (2) original professional or commercial reference letters
- Photocopy of bank statements for the last 12 to 24 months
- Last two (2) years income tax returns (or audited financial statements)
- Letter explaining your income sources & reason for purchasing the property
- Proof of Immigration status (if in Panama longer than Tourist visa period)
- Appraisal of the property (from a bank-approved appraiser)
- Purchase contract and Down Payment receipt

- Title deed of the property filed with Public Registry before funds released

Most banks require all documents originating outside of Panama be “authenticated” either through a Panamanian consulate nearest you, or by “apostil” which is an internationally recognized form of notary/certified authentication.

Self-Employed applicants are also required to provide:

- Company Information (name, phone numbers, physical address, web URL)
- When & Where company was created
- Type of business the company engaged in and type of market
- Financial Statements for past two years (Audited)
- Reference Letters from two companies you did business with
- Bank Reference Letters for the company (Originals from two banks)

Know Your Customer is the battle cry of banks worldwide, which is why you need the reference letters vouching for your good character.

Life Insurance is also required with the bank being the beneficiary for 100% of the loan amount. Since the policy is based on your life expectancy, it is more expensive the older you are.

Fire Insurance policy on the structures for at least 80% of the loan amount.

Be Patient. It takes time to meet with bankers, complete applications, translate and review agreements, organize the documents, and seek an attorney’s opinion. In addition, you may end up visiting several banks, as some may not provide mortgages in the region you wish to purchase.

Pre-Approval of your mortgage is an easier process in other countries and only recently discovered in Panama. Foreigners opening personal bank accounts with credit cards with a Panama bank establish a credit history. When you are ready to look for properties sit down with the mortgage department or private banking official and go over what type of mortgage the bank can provide based on income expectations, other resources, available down payment, and current mortgage rates. The bank will not guarantee a mortgage but can give you positive feedback regarding the maximum price of the home you seek.

The Process for approving a mortgage entails:

- (a) Filing of the sale deed conveying ownership in the Public Registry with a copy brought to the bank; and
- (b) Filing the loan as a mortgage lien on the property in favor of the bank.

In essence, the bank does not disburse the funds to the seller until the bank’s security is in place.

The Deed's structure is usually like this:

- (a) Release of any existing mortgage on the property by the issuing bank;
- (b) Sale terms in the Deed whereby seller and buyer indicate how much the seller receives from the mortgage and down payment; and
- (c) Mortgage documentation pertaining to the loan the buyer receives and the mortgage amount the bank levies on the property.

Things to Watch Out for in the loan documents include the Late payment penalties. Sometimes, there will be a 2% interest rate increase for a late payment. There are no "grace periods". If you are a day late, you pay. Also, watch out for a clause requiring payments to a "designated branch" instead of by internet banking or auto-debited from your account.

Branch Managers are not reliable sources for information about mortgages. Talk to the loan department at the bank's headquarters.

Higher rates: Commercial properties and those used for businesses will pay a higher mortgage rate than purely residential purposes. Getting a mortgage at the time of purchase will be cheaper than obtaining a mortgage after owning it.

Pre-Payment of the mortgage before the term expires is usually acceptable with banks in Panama. Make sure there is no pre-payment prevention clause in your loan agreement. Most banks prefer a shorter term like 10 or 15 years rather than the 30-year mortgages you see back home.

Foreclosures occur in Panama. The bank will only be entitled to keep the outstanding loan balance plus expenses when foreclosing and forcing the sale of a home.

Even Corporations can get mortgages. Banks will loan money to a corporation owning real estate and attach a mortgage onto the property. If the real property is the only asset of the corporation, the seller only needs to transfer ownership in the corporate shares. This will save money by avoiding the 2% real estate transfer fee. The corporation's principals may have to personally guarantee the loan and take out a life insurance policy naming the bank as beneficiary.

Mortgage Brokers save time. I recommend that you meet with a competent mortgage broker who can assist you with choosing the right lender, understand the rates and fees, and the legal & application process. A little time & effort with the right documentation makes your dream home a reality in Panama.

How to use your IRA or 401K to Buy Property in Panama

Published in Panama Real Estate Magazine
From Panama Offshore Legal Services [*An English speaking Panama law firm*]

www.panama-offshore-services.com

(507) 227 - 6645

Did you know that you could use your IRA or 401K to buy property in Panama? Yah, you heard it right. Most people do not know that they can use their pension funds to invest in property outside of the USA, so we are here to give you the inside scoop on how easy it is!

All you need to do is transfer your IRA or 401K into a self-directed pension fund account with a licensed US pension management company, and complete a few simple forms... it's that easy.

There are various US pension management companies out there offering this service.

We spoke with Pensco (www.pensco.com), one of the largest US pension management companies, and they informed us that the procedure is the following:

1. Transfer your IRA or 401K to a self-directed pension fund account (by completing a few forms).
2. Obtain a title insurance policy on the property you are buying.
3. Provide an English translation of the purchase agreement & property title documents.
4. Hire a reputable local title company or recognized law firm to process the transaction.

Please note that the property title must be in the name of the pension management company, held in trust for you.

ESCROW SERVICES IN PANAMA

by: Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in The Visitor/El Visitante

www.panama-offshore-services.com

(507) 227 - 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Too many foreigners buy real estate in Panama without using an Escrow service. This can be dangerous. Why take the risk with purchasing real property or Rights of Possession without protecting yourself against shams, forgeries, false owners, or sellers who can run off with your money?

Many Canadians and Americans are familiar with Escrow services. Other foreigners are not. Let us begin with the definition of an Escrow.

What is an Escrow?

An Escrow exists when a third party agrees to hold one party's funds until the second party fulfills a promise to perform. When it comes to purchasing real estate, the buyer agrees to pay an Escrow company a fee for holding onto the buyer's funds. Usually a written contract spells out under what circumstances the Escrow agent disburses the funds. These specific "conditions" met prior to disbursing funds normally called "escrow instructions". The Escrow agent only releases the funds upon the completion of all of these conditions.

Real estate attorneys sometimes provide escrow services. There are only a few actual Escrow companies operating in Panama. One of them, Panama Title & Escrow in Panama City (www.panamatitle.com), describes their services as:

1. Provide the seller with the assurance that the buyer has the funds to pay for the transaction, since the escrow company can confirm that the funds are in the escrow account.
2. Provide the buyer with the assurance that the property has had a proper title search completed, a properly executed buy/sell contract, and the legalities of the transaction protect the buyer's interests.
3. Provide the buyer with the assurance that the various parties involved in the transaction are paid according to the buy/sell contract avoiding any after purchase claims.

In essence, the Escrow company collects the buyer's funds and disburses them at the Closing (transfer of Title or Rights of Possession). The funds can be disbursed to the seller, the real estate broker (if a commission is due), the construction company (for property development, if applicable), the attorney (for legal work such as drafting the buy/sell contract & doing title search), and any

other required payments. This assures protection of the buyer and seller's rights.

Duties: Panama does not regulate Escrow agents. There are no automatic fiduciary requirements of Escrow agents. Therefore, you need to have a written contract when hiring an escrow agent laying out the specific agent's duties, requirements and conditions for fund disbursements.

Many Panamanians are not familiar with their functions since Escrow services are relatively new to Panama. Some sellers may insist on a private transaction (direct money for title transfer) or using a bank as intermediary (to hold funds). I do not advise doing this.

Let us cover the types of real property purchases and the role Escrow services play within these different transactions.

Buying Property: There are two types of real property purchases in Panama: Title and Rights of Possession. Titling gives you property ownership while Rights of Possession only conveys the right to use a property. Transfer of sellers rights differ with these two types of purchases.

Transfer of Title: Ownership officially transfers to the purchaser when both parties sign the Buy/Sell Contract (known as Public Deed of Title Transfer) and register it with Panama's Public Registry office.

Problem: A potential problem occurs when the seller demands full payment prior to registering the Buy-Sell Contract. How do you ensure paying the seller when the buyer receives full title?

Solutions: One way to protect both parties is to use an Escrow service. The Escrow agent assures the seller that the buyer came up with the full payment currently held by the Escrow Company. If you do not use an Escrow company, have your attorney prepare a "Promise to Pay Letter" signed by a local bank. This letter guarantees full payment to the seller when registering Title Transfer at the Public Registry office.

Rights of Possession: Sometimes you will only purchase rights to possess a property rather than acquiring actual title. This is a form of Leasehold. Instead of a public deed filed with the Public Registry office, you get a Certificate that is not registered with the Public Registry office. The Possession Rights Certification officially transfers all possession rights to the buyer immediately after each party signs the Buy-Sell Contract. The escrow agent pays the final balance once the Possession Rights Certification transfers to the buyers' name. Protect this Certificate from loss or damage, as it is the only proof of your rights to possess the property.

Title Insurance: Another advantage for using an Escrow company is that many of them are agents for established U.S. Title Insurance companies like Land America/Lawyers Title. You can have peace of mind by insuring against forgeries, fraud, encroachments, boundary disputes, and third party ownership claims for only around 1% of the sales price.

Fees: Attorneys charge various fees for providing Escrow services. Escrow companies have set fees based on the sales price ranging from one-half percent (0.5%) to one percent (1%).

Conclusion: Protect your investment by either using an attorney as an Escrow agent or hiring an Escrow company. It will make the seller feel comfortable while ensuring you will receive title or a certificate of your possession rights upon Closing.

PANAMA PROMOTES TOURISM INVESTMENT

by: Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in Panama Real Estate Magazine

www.panama-offshore-services.com

(507) 227 - 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Law Number 8 (enacted in 1994) is the most comprehensive law for the promotion of tourism investment in Latin America.

The incentives and benefits under this Law are available to natural persons or companies engaged in tourist activities registered at the National Registry of Tourism (Registro Nacional de Turismo) and certified by the Panama Government Tourism Bureau (Instituto Panameño de Turismo - IPAT).

These include public lodgings, tour agencies, tourist transport services, tourist restaurants, discotheques, nightclubs, recreational or theme parks, zoos, convention centers, and marinas.

The incentives for tourism investments include:

- 20 year exoneration from real property taxes (including land).
- 20 year exoneration of import duties of all materials, vessels, vehicles, and equipment used to build and furnish public lodging establishments.
- Exoneration from any tax or assessment on its capital.
- Exoneration of all fees for using piers, airports, or heliports.
- Income tax exemption on interest earned by creditors of public lodgings.
- 10% annual real property depreciation (not including the cost of the land).

Historical Landmarks investments offer additional benefits. The National Institute of Culture (INAC) authorizes enticing benefits for projects with a minimum \$100,000 investment (not including the cost of the land).

These benefits include:

- Ten (10) years exoneration from real property tax on the land, and thirty (30) years exoneration for all improvements.
- Exoneration from income tax on the company's profits during the first five (5) years of operation.
- A one time exoneration from import duties on any equipment and materials used in construction, remodeling, and furnishing.

- A natural person or company can treat as tax deductible any investment in the restoration, maintenance, or lighting of any Historical Landmarks, parks, or public sites made for tourism development.

Development Zones of National Interest are specially designated areas for tourism development. Investors shall enjoy the following benefits:

- Twenty (20) years full exoneration from the payment of real property tax on the land or any improvements owned and being used for tourist development activities.
- Fifteen (15) years full exoneration from the payment of income tax.
- Twenty (20) years full exoneration on import duties and sales tax on imported materials, equipment, furniture, accessories, and spare parts used to construct, renovate, and furnish their establishments.
- Twenty (20) years exoneration from duties, contributions, taxes, or fees on the use of piers or airports built by the company. The Government of Panama may use these facilities free of charges, according to the appropriate regulations.
- Twenty (20) years exoneration from the payment of income tax on interest earned by its creditors from tourist activity operations.

Time Limits to begin your construction, restoration or maintenance are six (6) months from the date you register with the National Tourism Registry unless you get an extension from IPAT.

Law 8 is a big reason why so many first class international hotel chains and resorts are in Panama. This innovative law also encourages the restoration of Panama's historical sights.

LAW 2 OFFERS SECURITY TO ISLAND INVESTORS

by Jorge Portugal G, Attorney at Law & Steven Rich, MBA

Panama Offshore Legal Services

Published in Panama Real Estate Magazine

www.panama-offshore-services.com

(507) 227 - 6645

Panama's pristine islands beckon foreign investors. The islands of Panama are a valuable natural resource. Panama enacted Law 2 of 2006 in order to protect these gorgeous islands while allowing tourism development projects to flourish through regulations for leasing and sale of government properties, the coastal areas, and island properties.

The relatively new "Island Law" (law 2) provides for government Concessions for tourism investment and building residential units as 2nd homes and vacation housing within designated tourism development zones, such as Bocas del Toro, the Pearl Islands and other tourism-designated zones. In addition, the law allows for the sale of government owned island properties for approved tourist projects.

Do you want to know how to develop island properties in Panama?

Tourism concessions are contracts made with the government to lease properties with special rights of possession to conduct specific commercial tourism activities. Hotels, restaurants, marinas, and amusement parks are typical examples of Concessions. A tourism project either acquires a Concession for forty (40) years with thirty (30) year extensions; or for sixty (60) years with thirty (30) year extensions.

The sixty-year Concession requires a minimum monetary investment established by the Ministry of Economics and Finance based upon the potential employment impact on that area by the project.

Public bids are required for the granting of Concessions and the sale of island properties by the government. Anyone can initiate a Concession or island property sale bidding process with a detailed letter to the Ministry of Economics & Finance describing a tourist project in a specific area. The government could also initiate a bidding process for a tourist project it proposes.

Once a developer wins the bid, the tourism Concession process includes:

- A Master Plan for the property;
- Approval of the First Draft of the Construction and Work schedule;
- Approval of the First Draft of the Infrastructure Plan and public services;
- Investigation of the investor's financial capacity and its sources;
- Panamanian tourism institution certification showing that the area of the development is inside a Tourist Zone;
- Environmental Impact Study;
- Listing in the Registry for tourism companies;
- Performance bond equivalent to 10% of the projects estimated construction cost;
- A minimum investment of \$2 per square meter of the total land area for a maximum term of five years.

The Concession must pay a monthly lease calculated by the Ministry of Economics & Finance. The Direccion de Catastro (Panama's government Cadastral agency) is working on a Master Plan for all islands in the country verifying lease payment amounts for Concession rights.

Purchase of Island territories for tourism purposes requires that (1) the area must have special significance for tourism; and (2) the investment generates a large economic impact creating many jobs.

Panama's "Island Law" encourages development of its islands and coastal lands for tourism purposes while protecting its environment.

HOW to DEVELOP PROPERTY in PANAMA

by Steven A. Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in The Visitor/El Visitante

www.panama-offshore-services.com

(507) 227 – 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Let the construction begin! Hundreds of real estate projects begin construction in January with the start of Panama's dry season. I see many foreigners coming to Panama seeking real estate investment opportunities. Some come to only purchase one or two properties. Others come to make serious profits by developing Panama's vast landscape. Whether you plan to develop a small real estate project or a hundred private home lots, you need to understand the laws and process for real property development in Panama.

PERMIT PROCESS: Whether you are building apartments, condominiums, or homes; you still need to go through Panama's Permit Process. The first thing you need to do is hire experts for your project.

EXPERTS: The type of experts you need to hire to get residential lot development permits are:

1. The first step is to get the property surveyed topographically by a Panamanian licensed topographer / engineer.
2. Then you need a Panamanian licensed architect to design the Master Plan.
3. Hire a Panamanian engineer to prepare the construction drawings.
4. You also need a Panamanian licensed environmental engineer to prepare an Environmental Impact Study.

COSTS: This is a good time to inform you of the initial costs for some of these experts. Currently, surveyors charge in the range of \$200 per lot or per hectare (2.4 acres per hectare) for regular linear surveys (outlining the perimeter, size and borders of the property). Topographical surveyors charge from \$150 up to \$500 per hectare, depending on the location of the property, condition of the property, and the specifics needed (such as identifying specific species of trees, depth of rivers, etc.). It is important to hire a surveyor that is reliable, and provides accurate data with computerized surveys (usually done using a program called AutoCAD).

Environmental Impact Studies range in price from as little as \$750 to \$75,000, depending on the size of the project, impact on the environment, and the

environmental engineer you hire for the job. For large developments with high environmental impact, I recommend hiring a top quality environmental engineering firm to handle the Environmental Impact Study. A large firm has the human resources and organization to prepare an approved study under harsh scrutiny. For smaller, non-impacting projects, an individual environmental engineer may suffice. However, please note that the Environmental Impact Study is essential to the permitting of the project, and it is important to hire qualified engineers to prepare your Environmental Impact Study. If the project is rejected by ANAM, you may be forced to wait up to 2 years to re-present the project for approval.

Now you are ready to present your documents to the government agencies.

Government Agencies: The Permit process requires submission of all plans and documentation with the appropriate governmental agencies. Then you must do constant follow-up with them. The eight government agencies are:

1. **ANAM** (Autoridad Nacional del Ambiente - Environmental Enforcement Agency): ANAM is the government organization that oversees environmental enforcement. You must hire an environmental engineer to perform an Environmental Impact Study (EIS) on the project. The EIS takes around one month to complete and approximately 3 months for approval. The cost of this type of study can range from \$5,000 to \$50,000 or more, depending on the magnitude of the project.
2. **IPAT** (Instituto Panameno de Turismo - Panamanian Institute of Tourism): If the project is solely “residential” and not “tourism related” you will not need IPAT. These IPAT approvals are relatively easy to obtain. When the project contains all the studies and other permits, you submit the plans for review by IPAT’s architect. The IPAT application costs are minimal.
3. **MIVI** (Ministerio de Vivienda - Ministry of Housing): The MIVI is the governmental organization that approves the zoning of the project. In very rural areas not having any specific zoning laws, zoning is not an issue. You can get the plans of the pre-project permitted through MIVI quickly for zoning purposes (approx. 1 to 2 months). Please note that this permitting cannot take place until the property is purchased. The MIVI approval costs are minimal assuming you have the architectural Master Plan completed.
4. **MOP** (Ministerio de Obras Publicas - Ministry of Public Works): The MOP is the governmental organization that approves roads, drainage, sidewalks, etc. Usually, once MIVI approves the project, MOP approves it as well. Please note that MOP requires specific details of the road and drainage plans completed by a qualified engineer. The MOP approval costs are minimal.
5. **MEF** (Ministerio de Economia y Finanzas - Ministry of Economics & Finance): The MEF is the governmental organization that oversees taxes and fiscal issues, such as property taxes, income taxes, etc. You need to hire a

licensed economist to prepare a study on the estimated financial projections of the project (cost is approx. \$2,000) submitted to the MEF, who then provides a resolution of approval. This is simple and takes only 2 to 6 weeks to obtain. The costs for the MEF approvals are minimal.

6. **MICI** (Ministerio de Comercio y Industrias - Ministry of Commerce & Industry): The MICI is the governmental organization that oversees business operations and business permitting. The development company needs to obtain a business license as a developer of real estate, which is fairly simple and straightforward. It only takes about 4 to 6 weeks to obtain this. The costs for the MICI license are minimal.

7. **Bomberos** (Fire Chief): The Bomberos of the area reviews the architectural plans (primarily the electrical plans) and makes a physical inspection of the area. Once they determine that there are no fire hazards, they issue a resolution of approval of the project, normally in conjunction with or after the Municipal permits are issued. The costs for the Bomberos permits are included in the Municipal permit costs.

8. **Municipio** (Municipality): The Municipality is the government organization that oversees municipal issues of the city or town where the project is located. Submit the master plan and all construction drawings to the municipality. The costs for the Municipal permits vary with each Municipal office. In general, the Municipal construction permitting costs range from 1% to 2% of the construction costs (of structures or homes), and can sometimes be negotiated down with the Mayor. If you have the right contractor with the right connections with the municipal offices, the construction tax can be very low as they declare a lower value of construction costs.

With Permits in hand, you are now ready to begin construction of your project.

TAXES: In order to reduce your income taxes, there are specific steps you should take before developing your projects. This is a subject requiring more space than allowed here. Contact a competent real estate & corporate attorney for further information regarding this.

NEW LAW REGULATES DEVELOPERS

Law 6 of 2006 is a law intended to prevent fraud in advertising in the construction industry. It took many months for the Ministry of Housing (MIVI) to issue regulations enforcing this law.

On May 16, 2007, MIVI created regulations preventing developers and their promoters from advertising or selling properties before the Master Plan has been approved. Fines totaling 1% of the entire project's value could be levied against the developer.

The law also requires that each municipality, where a project is being proposed, form various committees of professionals and laymen to review and approve the project.

Panama's Consumer Protection Agency is also accepting and investigating complaints against developers and real estate agents regarding false advertising and breach of contracts.

In Conclusion: With the right experts and following the correct procedures, you can develop your property in Panama taking advantage of the current real estate boom.

PANAMA REAL ESTATE AGENTS

by: Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in The Visitor/El Visitante

www.panama-offshore-services.com

(507) 227 – 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Panama's real estate boom brings thousands of foreigners looking to invest, live and retire in this beautiful country. Every Panamanian knows someone selling properties.

One gets the impression that everyone is profiting from the numerous real estate sales and investment opportunities.

Real estate agents are popping up everywhere to take advantage of this boom. It seems every tour guide, taxi cab driver, bartender, hotel worker, and barber is now a part-time "real estate agent".

Beware: This is where a real danger exists. Buyers are falling victims to swindles, frauds, forgeries, and malpractice committed by these so called "real estate agents" who are not licensed.

This article will educate you regarding real estate agents in Panama.

What is a Real Estate Agent? Panama's real estate broker law defines a real estate agent as one who habitually and professionally operates as a mediator, intermediary, agent, or representative in real estate transactions. A commission is a payment to one who extends the above-mentioned services between a property owner and third parties. The law excludes people who work as promoters, administrators, rent collectors and maintenance providers who work under a licensed real estate broker.

Is He Licensed? A real estate agent is an intermediary in a transaction earning a commission for bringing a buyer and a seller together to sell real estate. Every Panama real estate agent must be licensed. This requires studying applicable laws and regulations, and passing a written examination, to receive a license by the government to represent property sellers or buyers for a commission. Licensed real estate agents must carry a card identifying them as such. Most people claiming to be "real estate agents" in Panama are not licensed. This is where the danger lies. When someone shows you properties, you always ask questions about the property's features, purchasing process, financing, and real estate laws. An unlicensed "real estate agent" will not have taken the hours of courses, read the books on the real estate laws & regulations, nor passed a written test. You need to ask, "Are you licensed?" Most of the time you will be told "No".

There Are Exceptions. Instead of calling someone hired to show properties a “real estate agent”; they are called “consultants”, “representatives”, “promoters”, “property showers”, or even “negotiators”. They are paid a salary or fee instead of a percentage commission. Their paychecks will say something like “marketing” or “professional services”. Because they work for a licensed real estate broker, the law exempts them. Developers can also hire people to sell their own projects without a license. Sellers can sell their own properties without a license.

What Does It Take? To become a licensed real estate agent you must:

1. Take courses and pass a written exam administered by the Ministry of Industry & Commerce.
2. Obtain a \$10,000 bond to cover malpractice claims.
3. Obtain a Power of Attorney presented by an attorney to a notary public.
4. Pay Fiscal Stamps (Timbres Fiscales) annually of \$25.
5. You must be either a Panamanian national or a foreigner with 5 years residency.
6. Obtain a Police record showing you never committed a felony against the nation, public faith, justice, or honor (whatever that means).

How Should An Agent Act? Under the law, an agent should act in good faith when dealing with their clients (buyers and or sellers), and inform them of all factors that affect the property as it relates to Sales, Contracts, Zoning, Financing, etc. Agents must make sure they complete their activities within a practical time and do so in a professional manner. They should avoid all illegal practices in relation to buyers, sellers, other colleagues, and third parties. This includes avoiding: Fraud, False Representations, Misleading Advertising, Exaggerations, and Malicious Practices - that can damage the public and the image of the profession. Agents cannot offer or market a property without previous authority to do so. Agents must maintain strict confidentiality of all information provided by clients.

What, No MLS? Another problem with Panama’s real estate industry is that a Multiple Listing Service (MLS) is just beginning to form. A MLS allows real estate offices to share their exclusive listings with other offices and split the total sales commissions with the agents who bring buyers. Until the newly created MLS grows, we have an “every man for himself” type of non-exclusive listings. There are hundreds of real estate offices in Panama all competing against each other for an open listing where “the first come with a deposit and a Promise to Purchase Contract wins all” commission system. Thus, with no incentive for

professional cooperation, it truly is every man or woman for him or herself. In spite of this bigger shark eats littler one system; there are some real estate offices cooperating and sharing listings with others. However, these are just a few small pockets amongst the big pool of sharks. Therefore, when you visit different real estate offices you will see many of the same properties and condominium projects for sale. Sometimes the prices will be different because some sellers only offer a “net” listing where the seller gets a set price and the agent is free to add whatever commission desired on top. Thus, you can find the same property for less at a different real estate office.

It Seems Everyone Distrusts the Others. Everyone for himself commission system breeds distrust, dishonesty, and unethical behavior. Panama has seen plenty of real estate agents stealing sellers, buyers, and property listings from other agents.

Sellers Can Be Dishonest Too. The legitimate owner is not selling many properties advertised for sale. There are outright frauds, forged documents, frauds, misrepresentations, illegal boundaries, and embezzlement of down payments and even final payments.

Where Did the Time Go? Any real estate agent can tell you war stories of the many times they have negotiated, written up contracts, and followed up with the Closing process. Many times after all this work either the deal fails to Close or the buyer and seller make a side deal to reduce the sales price and split the difference in the commissions which won't be paid. Indecisive buyers who say they want one type of property (like mountains & rivers) but change their mind after days in the mountains and now want beachfront are common in this industry.

A Frustrating Profession. Real estate agents are in a unique position trying to get buyers and sellers to agree on price and terms. Sort of a “middle man” caught between conflicting interests and parties sometimes generated by pure greed, which is very frustrating. Sellers often try to get out of paying the commission. Buyers sometimes pretend to show no interest in a property and later approach the seller for a discount with no commission to the agent. Whom can you trust?

Will I Be Paid? The going rate for real estate commissions in Panama is 5% for homes and condominiums and 10% for land. While there is no MLS, many agents will equally split the commission. Half of 5% is better than nothing. As mentioned above, an agent ends up working free many ways.

Realtors in Panama? Most foreigners think that the majority of licensed real estate agents in Panama are Realtors. That is not true. A licensed real estate agent must first become a member of the Panamanian Association of Real Estate Brokers and Developers (ACOBIR) and then apply to be a member of the National Association of Realtors (NAR). After sending in a form and paying

an annual fee of \$50, the agent is now a Realtor. The vast majority of Panama's real estate agents do not become Realtors.

Can I get an Exclusive? Unlike Canada and the U.S., most Panama sellers do not sign Exclusive Listing Agreements. Real estate agents only earn a commission if the property sells within a stated time. At best, an agent might get a limited commission agreement where the agent competes against the seller and other real estate agents to see who finds a buyer first and earns the commission. A real shark eats shark world. Buyer's agents are also uncommon here. That is where the agent gets a buyer to agree in writing that s/he will only use this agent to buy property in Panama.

Free Tour Guides: Some foreigners come to Panama wanting to save money on tour guides. Therefore, they simply call up a local real estate agent and pick the best tourist spots they want someone to drive them to and explain all the features for free. Pity the poor real estate agent who ends up becoming a free tour guide, pays for the vehicle's gas, and runs up cellular phone bill to boot. Some real estate offices charge a \$100 fee to show properties with credit towards any purchase in order to get around becoming free tour guides.

Unusual Websites? Panama real estate websites vary from the plain & simple to the flashy, 3-D & video panoramic bells & whistles. Buyers complain about poor English, misinformation, incomplete descriptions, and sold properties remaining as available listings. Real estate offices justify keeping sold properties on their websites because they are representative of the types of properties they specialize in comparing prices with other similar available properties.

They Don't Return My Calls! This is a typical complaint in a real estate boom where every real estate agent is running on overdrive. Foreign buyers expect prompt, reliable service. They will certainly get it if Panama's real estate market dips, but for now, expect delays in a hot real estate market.

Like Flipping Pancakes: This market is so "hot" that speculators come in droves to invest. Sometimes properties are bought and resold within days. Other times a buyer puts a 10% or 20% down payment to hold the property while looking to resell it before the Closing where the balance becomes due. Hoping to make a fast resale (flip) is the name of the game with these foreign investors. Some properties are waiting to get through the Public Registry on the first sale with one or two more "flips" to follow.

Buyers Jitters: Panama's strong coffee isn't what's making some freshly arrival potential buyers nervous. The rapid fast flipping of properties makes the ones coming from a depressed real estate market very jittery. While real estate markets in the U.S. are plunging and stagnant, Panama is vibrant with rising prices. Take too long to decide and you will lose the opportunity. Look at too many properties and the first one you liked (but afraid to buy too quickly) will be sold. Making quick and decisive decisions takes its toll with these incoming

buyers. Real estate agents should carry bottles of acid indigestion for these newcomers.

Where to Complain: Licensed real estate agents are required to carry a \$10,000 bond covering malpractice. The government can fine unlicensed agents up to \$10,000 for each instance. Illegal agents can also be charged with a crime under Article 286 of the Penal Code with jail time between 6 months to 2 years. The Ministry of Commerce and Industry (Ministerio de Comercio e Industrias) is responsible for issuing real estate licenses under their Technical Real Estate Board (Junta Tecnica de Bienes Raíces). Anyone can denounce an agent by calling (507) 360 – 0600. Their offices are located in the Edison Plaza building on Tumba Muerto in Panama City. There is also an Ethics Tribunal, which resolves complaints of unethical conduct between licensed real estate agents. If a licensed agent is a member of the two voluntary real estate brokers associations in Panama, you can complain to those groups: The National Union of Real Estate Agents (Unacobin) and ACOBIR.

MLS Is Coming: As this manual gets published there is an attempt to organize a Multiple Listing Service (MLS) in Panama. You can visit their website to learn more about their benefits and membership at: <http://www.panamericanmls.com/>

Conclusion: While not every so-called “real estate agent” is licensed, there are exceptions in the law allowing for promoters and consultants to show properties. However, only a licensed real estate agent (or a licensed attorney) can write legally binding contracts for purchasing real property in Panama. Yet, a property developer can hire anyone to show, negotiate, and write binding contracts for purchasing project properties. Everyone else is limited to making referrals and showing properties for a fee. Most real estate agents work hard yet waste time on either sellers who cheat them out of their commissions or buyers who just want to “look around”. The real estate profession seems romantic and exciting; but it takes education, dedication, a good vehicle, and persistence to earn a good living even in this hot market.

PROPERTY MANAGEMENT IN PANAMA

by Nelly Vargas & Steven Rich, MBA

Panama Offshore Legal Services

Published in Panama Real Estate Magazine

www.panama-offshore-services.com

(507) 227 - 6645

Thinking of investing in rental properties in Panama? Maybe you want to purchase a 2nd home that rents while you spend your summers back at home.

Property management is a service required by every property owner living outside of Panama. Normally full service property management costs between 20% - 30% of the rental price. Property management in Panama is similar to the United States, Canada, and Europe.

Bank Account: The property manager collects the rents on time and visits the properties ensuring everything is in good shape. The rents are collected and deposited into a mutually agreed upon bank account where fees and expenses are paid. You should open your bank account with a minimum of \$1,000 for emergency repairs.

Repairs: With required repairs, the tenant calls the property manager who handles contacting repairmen and paying them from the bank account. You must establish the relationship between your tenants and the property manager ahead of time guaranteeing smooth communication between them. The property manager is responsible for fixing problems. A good property manager maintains a list of handy men performing all types of maintenance and repairs (like plumbing, electrical, roof repairs).

Taxes: Another duty for the property manager is paying the property taxes on time.

New Tenants: The property manager must also locate good tenants and check their references and credit. When a tenant vacates the premises, the property manager must inspect the property, make a complete report and determine refunding the deposit or using it to make repairs deducting the costs from the deposit.

Deposits: Collect the last month's rent and security deposits equivalent to two months rent when the tenant begins occupation.

Reports: The property manager should provide monthly reports itemizing all expenses and problems to the owners.

Maintenance: Rental properties need re-decorating every two years including painting, curtains, repairing cracks & chips, and cleaning & maintaining appliances and the air conditioners.

Expedient: Using a property manager saves you the time and expense to return to Panama to evict bad tenants, make repairs, or find new tenants. The true value of property managers is the fewer trips you make to Panama to fix problems that a professional can fix.

Equity: Property managers not only save you time and expenses from not returning to Panama, but they keep your investment safe. Repairs and regular maintenance increases a property's value. In essence, property managers help you increase your equity while saving you from the stress that landlords usually endure.

HOME INSURANCE IN PANAMA

by Steven Rich, MBA

Marketing Manager for Panama Offshore Legal Services

Published in Panama Real Estate Magazine

www.panama-offshore-services.com

(507) 227 – 6645

Steven Rich's E-Mail: marketingposi@yahoo.com

Homeowner's Insurance protection is available in Panama. You need to insure the building and its contents with separate policies. We have Fire insurance for the structures and Multi Risk for its contents.

Fire insurance is available for most structures throughout Panama with similar policies found in Canada, Europe, or the USA. A basic fire insurance policy covers fire, explosions, earthquakes, windstorms, lightening, flood & water damage, falling objects, and debris removal afterwards.

The rates for fire insurance vary depending on the type of construction and location of the home. Cement structures pay the lowest rate. Cement & wood composite pays a slightly higher premium. A wood structure pays the highest rates. Buildings located in or near major urban areas will pay a more favorable rate. Buildings located in the islands, rural areas, or even Bocas del Toro charge a higher rate.

The Homeowner's Multi Risk policy covers fire, theft, explosions, earthquakes, hurricanes & windstorms, floods, smoke and water damage. While Fire Insurance only covers your structure, Multi Risk covers your contents. Your electronic equipment and theft coverage are based on a percentage of the basic sum insured policy. Assault committed against you or your family is covered up to \$250 cash. General liability is covered up to \$100,000. Ambulance service coverage is also provided. You also can get fire legal liability coverage for damages to your neighbors' properties caused by a fire originating from your home.

"Depreciated Value" of the insured items is what the normal coverage provides. That means older items will depreciate in value with age (except for fine wines, of course). You will need to save all of your receipts in a safe place in case you have to make a claim.

Premiums for a Multi Risk policy for a cement structure in an urban area are around \$65 + 5% per year for every \$10,000 insured. Some companies offer a 5% discount if you pay the full premium within 30 days.

As you can see, the premium rates are very reasonable in Panama. For such a small cost, it is better to be safe than sorry if a catastrophe should occur.

UNDERSTANDING PANAMA'S TAXES RELATED TO REAL ESTATE

From Panama Offshore Legal Services [*An English speaking Panama law firm*]

www.panama-offshore-services.com

(507) 227 - 6645

Panama has many types of taxes. In the following pages, we will provide you with a summary of the major types of Panamanian taxes. Prior to relying on these summaries, consult with a Panamanian tax lawyer or accountant.

INCOME TAX

Panama's personal income tax is based on a sliding scale, ranging from a minimum of 2% after the first \$3,000 to a maximum rate of 30% over \$200,000.

The income tax only applies to Panamanian-sourced income. This is regardless of whether you are a Panamanian citizen or a temporary resident.

Taxable income includes wages, salaries, business profits, pensions & bonuses, income from copyrights, trademarks, sales of stocks, bonds, and other securities.

Deductions can be made for all medical expenses incurred in Panama, charitable donations, home mortgage interest, education expenses, and loans for home improvements.

Foreigners Temporarily Working in Panama: Foreigners who remain in Panama for 180 days or more in a calendar year are considered residents for income tax purposes, regardless of their immigration status. They must pay income taxes. If the individual remains in Panama less than 180 days in a calendar year, they are taxed at a flat 15% rate, plus pay an education tax at a 2.75% rate.

RENTAL INCOME TAX

If you receive rental income on your property, you will be liable for income tax up to a maximum of 27% (on rental income greater than \$30,000).

Exception: However, if you invest in one of the special "tourism zones," you may be exempt from income tax for 15 years.

TOURISM ZONE EXEMPTION

Income from the operation of a tourism project, approved by the IPAT (Panamanian Institute for Tourism) and located in a "Tourism Development Zone of National Interest" is granted a 15-year exemption from income taxes.

This does not apply to housing projects. It does apply to a hotel, golf course, tennis courts, restaurants and discotheques attached to a hotel.

TOURISM INVESTMENT LAW

In 1994, Panama passed Law No. 8 the most modern and comprehensive law for the promotion of tourism investment in Latin America and the Caribbean. The law regulates public lodgings, tourism agencies, tourist transport services, tourist restaurants, discos, nightclubs, specialized tourism centers, recreational parks, theme parks, zoos, convention centers, marine complexes, and tourist development zones of national interest.

Since the law was enacted, dozens of the world's largest hotel chains have swept in to take advantage, including the Marriott, the Radisson, Holiday Inn, the Sheraton, and the Intercontinental.

Nevertheless, Panama's attractive tourism investment laws are not just for big business.

With a minimum investment of \$50,000 anywhere in Panama's interior, you can benefit from:

- A 20-year exemption of any import taxes due on materials, furniture, equipment, and vehicles.
- A 20-year exemption on real estate taxes for all assets of the enterprise.
- Exemption from any tax levied for the use of airports and piers.
- Accelerated depreciation for real estate assets (except the land) of 10% per year.

The investment amount does not include the price of the land. For projects in the metropolitan area, the minimum investment requirement is \$300,000.

Process to Qualify: Once an interested party or corporation has completed the necessary forms, they must be submitted to IPAT (Panama Tourism Institute), where IPAT's Board of Directors will review them. This board meets once a month, at which the Minister of Commerce serves as the Chairperson. Upon approval, the benefits are granted to the developer.

INHERITANCE & GIFT TAXES

Inheritance taxes in Panama have been completely abolished.

However, taxes on gifts (inter vivo) of properties located in Panama are in effect, and the rate varies from 4% - 33% depending on the degree of relationship between the donor and the donee. This does not apply to property owned anywhere outside of Panama.

REAL PROPERTY TRANSFER TAX

Sellers pay a real estate transfer tax when title is transferred to the purchaser.

The tax rate is 2% of either the updated registered property value or the sales price --- whichever is higher.

The updated registered property value is the original purchase price (or value submitted to the Public Registry) plus 5% per annum of ownership.

Tip: If the property is owned by a corporation, the corporation's shares can be sold (instead of the property), eliminating the need to pay the transfer tax.

Offset: The Real Estate Transfer Tax can be offset as a direct credit against the income tax levied on the sale's Capital Gains.

Option:

(1) The taxpayer may select between paying the 2% real estate transfer tax over the sales price, increased by 5% per year of ownership, or

(2) Paying income taxes at a 5% rate of the purchase value of the property, increased by 10% for each year of ownership.

If the taxpayer selects the 2nd option, no further taxes on the Capital Gains will be levied.

PROPERTY TAXES

Property Tax is paid every year based in a percentage established in the law. Property Tax is only paid if the registered value is above \$30,000.00. Properties with a registered value of more than \$30,000 should pay Property Tax according to the following combined scale (according to the Article 766 of the Fiscal Code):

Property Tax: Registered value of Property:

- 1.75% (Property Tax) - from \$30,000 to \$50,000 (registered value of Property); plus
- 1.95% (Property Tax) - from \$50,000 to \$75,000 (registered value of Property); and
- 2.10% (Property Tax) - on values above \$75,000 (registered value of Property).

Example, a property valued at \$100,000 would have the following annual tax:

Registered value of Property: Property Tax:

From \$30,000 to \$50,000: $(\$20,000 \times 1.75\%) = \350.00 , plus

From \$50,000 to \$75,000: $(\$25,000 \times 1.95\%) = \487.50 , plus

From \$75,000 to \$100,000: $(\$25,000 \times 2.10\%) = \525.00

Total yearly Property Tax = \$1,362.50

The article 34 of the Law 6 of Feb.2, 2005, modified the article 766-A of the Fiscal Code, as follows:

The progressive combined alternative tariff of this tax is the following:

- a. 0.70% of the amount exceeding \$30,000 to \$50,000.
- b. 0.90% of the amount exceeding \$50,000 to \$75,000.
- c. 1% of the amount exceeding \$75,000.

Example, a property valued at \$100,000 would have the following annual tax:

Registered value of Property: Property Tax:

From \$30,000 to \$50,000: $(\$20,000 \times 0.70\%) = \140.00 , plus

From \$50,000 to \$75,000: $(\$25,000 \times 0.90\%) = \225.00 , plus

From \$75,000 to \$100,000: $(\$25,000 \times 1\%) = \225.00

Total yearly Property Tax = \$590.00

The progressive combine alternative tariff will be applied to all real estate that is paid up to date in property taxes.

The properties that are not up to date in property tax will pay according to the tariff of the article 766 of the Fiscal Code.

OPTION 1: TITLE TRANSFER TRANSACTION:

TITLE TRANSFER TAX: Title Transfer Tax is paid every time a Property Title is being transferred at the Public Registry of Panama. The Title Transfer Tax amount is 2% of the registered value or the transaction value, whichever is higher.

CAPITAL GAINS TAX: Capital Gains Tax is paid every time a Property is being transferred at the Public Registry of Panama, based on the difference between the transaction value and the registered value. The Capital Gains Tax is 10% of said amount (the difference between the transaction value and the registered value).

OPTION 2: SHARES TRANSFER TRANSACTION:

SHARES TRANSFER TAX: Shares Transfer Tax is paid every time Shares of a Corporation are being transferred. According to the Law, it is the obligation of the Buyer to "retain" (deduct) from the Shares sales price the 5% Shares Transfer Tax, and "pay" to the Ministry of Economic and Finance said Shares Transfer Tax.

CAPITAL GAINS TAX

Panama has Capital Gains taxes. The rates differ between individuals, real estate dealers, and corporations.

Individuals: Individuals who are not real estate dealers (not in the business of buying & selling) will pay a flat 10% Capital Gains tax rate. You are allowed to sell real estate on an occasional basis without being classified as a professional real estate dealer who pays the higher rate.

Real Estate Dealers: Individuals who are in the business of buying & selling real estate are considered "real estate dealers". Dealers will include the Capital Gain as normal income in their annual tax return and pay whatever level s-he is being assessed as income taxes. This could be up to a 27% maximum rate.

Corporations: Corporations who sell real estate will pay a flat 30% Capital Gains tax rate.

Taxable Base: Capital Gains taxes are determined by using a formula called "Taxable Base". The costs incurred with purchasing and making improvements on your property are called "Cost Basis". You determine Cost Basis by adding the purchase price + costs of improvements + Closing costs (purchase & sale). If you acquired the property by inheritance or as a gift, the Cost Basis is the official Public Record of land value + value of the permanent structures on the day title transferred to you.

Here is another way of putting it: Capital Gains are determined by the difference between the sales price and the property's Basis + sales expenses.

Payment: If you qualify for the flat 10% rate, you must pay it before the title transfer is registered with the Public Registry.

REAL ESTATE FAQs

From Panama Offshore Legal Services [*An English speaking Panama law firm*]

www.panama-offshore-services.com

(507) 227 - 6645

Q: Is it safe for foreigners to buy property in Panama?

A: Absolutely. Buying property in Panama is very safe. There are over a dozen laws in Panama established specifically for protecting foreign investments, not to mention that private property in Panama is protected by the constitution of the Republic of Panama. Thousands of foreigners own property in Panama, and we process Panama real estate transactions for foreigners every day without a problem.

Q: Is it legal for foreigners to buy property in Panama?

A: Yes, it is legal for foreigners to own titled property in Panama in their personal names, although we normally recommend that clients hold all property in the name of a Panamanian corporation for asset protection and income tax reasons. Panama "possession rights" (as opposed to titled) property, however, should always be held in the name of a Panamanian corporation, where the foreign person is the shareholder (or a Panama private interest foundation or trust can be appointed as the shareholder in place of the foreign person) of the corporation.

Q: What are the procedures to buy real estate in Panama?

A: The first step is to find a Panama property you like, and negotiate the price and terms of the sale with the seller (or Panama real estate broker).

Second, you should seek a qualified attorney in Panama to handle the due diligence and title search on the property, putting your Panamanian attorney in contact with the seller (or real estate broker) to gather copies of the property title documents and survey (if available).

Third, have your attorney prepare a written Promise to Buy/Sell Contract to lock in the property sale and secure the terms agreed upon (a deposit of 10% is usually required by the seller upon signing the promise to buy/sell contract), plus this gives you time to do the due diligence and get your funds into the escrow account (see www.panamatitle.com).

Fourth, once the attorney has confirmed the property title is clean, and then the final closing is scheduled, where the buyer/seller signs the final Buy/Sell Contract.

Fifth, payment is made to the seller, broker, and attorney from escrow (in some cases, buyers/sellers agree that payment is made after the public deed of the property is transferred and registered into the buyers name).

Sixth, the Buy/Sell Contract is registered at the Public Registry where they transfer the property title ownership from the previous owner to the new owner.

Q: Is it safe to buy a Panamanian corporation's shares that hold title to property in Panama?

A: Yes, as long as a proper due diligence investigation is done on the corporation and a proper title search is done on the property that the corporation holds, then it is generally safe to buy property this way in Panama. It is important to hire qualified attorneys to handle the due diligence, and put the proper clauses in the Buy/Sell Contract of Shares of the corporation, such as; (1) a clause that guarantees the buyer that the corporation does not have any pending debt or liability other than that established in the contract and indemnifies the buyer from any such liability, (2) a clause that makes the seller responsible for any liability for previous actions of the corporation and/or its directors, and (3) a clause that guarantees the buyer that the purchase is for 100% of the corporation's shares as well as for 100% of the property title number xxx (with the description of the property), which is duly owned by the corporation, whose shares are owned by (the seller).

Q: Are there any government taxes or fees for transferring property titles from the seller's name to the buyer's name?

A: Yes. The Panamanian government charges a 2% property title transfer tax. The 2% is based on the registered value (the value established in the registered deed of sale). In addition, there are other fees charged by the Public Notary and the Public Registry, which total in the range of \$200 to \$300 for registering a buy/sell contract for the sale of real estate in Panama.

Q: Who normally pays for the property title transfer tax in Panama, the buyer or the seller?

A: It is standard practice in Panama for the seller to pay for the title transfer tax, however, in some cases, depending on the negotiation between the buyer and seller; the seller may insist that the buyer pay the title transfer taxes.

Q: Who normally pays for the closing costs on Panama real estate transactions, the buyer or the seller?

A: Generally, each party pays for their own closing costs. For example, the seller pays his/her attorney to review the buy/sell contract, and the buyer pays his/her attorney for drafting the buy/sell contract, doing the title search, title transfer, and escrow services. However, in some cases, buyers and sellers negotiate special terms whereby the buyer or the seller pays all closing costs, so it really depends on the particular negotiation between buyer and seller.

Q: What are the average closing costs for Panama property transactions?

A: The closing costs vary depending on the particular transaction. For example, if the property is held in the seller's personal name, and the buyer is transferring the property title to a Panamanian corporation (most recommended), then the closing costs would include: (1) the legal property transaction fee of US\$1200 (includes: title search, buy/sell contract, closing, & property title transfer service), (2) public registry title transfer fees of approx. US\$250 to US\$350, (3) escrow fees from 0.5% to 1% of the transaction amount (vary depending on

amount of transaction, see www.panamatitle.com for details), and (4) incorporation fee of US\$1000 + tax to setup the Panama corporation. However, if a Panama corporation already holds the property, and the buyer is purchasing the shares of the corporation, then the transaction is relatively simple because there is no registration of title transfer, meaning that there is no title transfer tax, and no public registry title transfer fees. In this case, the closing costs would include: (1) the legal property transaction fee (includes: title search, purchase of shares contract, and closing for US\$1200), (2) change of directors / resident agent of the corporation (approx. \$350), and (3) escrow fees from 0.5% to 1% of the transaction amount (varies depending on amount of transaction, see www.panamatitle.com for details).

Q: How long does it normally take to register a property title transfer in the Public Registry of Panama?

A: In some cases, it can be done within 2 business days, if we pay extra for quick expediting. However, in normal circumstances, it takes from 1 to 3 weeks, depending on the volume of transactions at the Public Registry.

Q: How long does it normally take, from start to finish, purchasing property in Panama?

A: The period from start to finish is normally about 6 weeks, however, it really depends on a variety of factors that are dependent initially on the buyer and the seller, the negotiation between buyer and seller, and subsequently dependent on the attorneys and the public registry. Generally, property transactions have the following procedures: (1) The buyer and seller to agree on the price and terms (time frame can vary depending on the negotiation), (2) seller provides our firm with all the due diligence documentation on the property title so we can do the title investigation (time frame depends on the seller), (3) attorneys do initial title search & draft the promise to buy/sell contract (time frame is approx. 1 day assuming we have all the required information from buyer and seller), (4) buyer and seller review the promise to buy/sell contract and agree to set a date to sign (time frame varies depending on the buyer and sellers), (5) buyer sends payment for down payment and legal fees to escrow (time frame depends on the method funds were sent), (6) buyer and seller sign promise to buy/sell contract and down payment is paid to seller from escrow, (7) final title search is completed (time frame is approx. 5 days), (8) buyer sends final payment to escrow (time frame depends on the method funds were sent), (9) attorneys draft final buy/sell contract (time frame is 1 day), (10) closing takes place and buyer/seller sign final buy/sell contract (time frame is 1 day), (11) contract is registered at the Public Registry for title transfer procedure to begin (time frame ranges from 2 to 30 days, depending on the Public Registry's volume), (12) attorneys receive deed from Public Registry, draft official English translations, and prepare final documents to send to buyer (time frame is approx. 5 business days).

Q: What are the normal legal fees for property transactions?

A: Panama Offshore Legal Services offers a standard property transaction package, which includes the title search, buy/sell contract drafting, transaction closing, and title transfer for a total of US\$1200 in legal fees. The notary and public registry costs are additional, which total up to approximately \$250 to

\$350 depending on the particular transaction. The seller normally pays title transfer taxes. Escrow fees (if an escrow company is used), is normally paid by the buyer, and range from one half of one percent (0.5%) up to one percent (1%) of the transaction. Our escrow company is Panama Title & Escrow Inc. (see www.panamatitle.com for details on escrow fees).

Q: Are escrow companies normally used in Panama for property transactions?

A: Escrow services are relatively new to Panama, so Panamanians are not very familiar with the term "escrow", although it is quickly becoming a standard for real estate transactions nationwide with more and more Panamanian realtors selling to foreigners who are accustomed to using escrow companies in property transactions. Panama Title & Escrow Inc. (www.panamatitle.com) is one of the first escrow companies in Panama, duly registered at the Public Registry, and has been in operation for over two years now, handling hundreds of property transactions for clients all over the world.

Q: Do purchase contracts for Panama real estate transactions need to be in Spanish, in order for them to be legally enforceable in Panama?

A: No. The law does not require a buy/sell contract to be in Spanish to be legally enforceable; however, if there is ever a dispute over the transaction in a court of law in the Republic of Panama, then the court will require that an official (licensed) translator of that language translate the contract to the Spanish language. When we prepare buy/sell contracts, we always prepare the original in Spanish, and we provide our clients with an official English translation of the contract.

Q: What is normally accepted as a down payment for purchasing property in Panama?

A: Generally, sellers will accept 10% as a down payment upon signing the promise to buy/sell contract. The down payment is shown as "good faith" on behalf of the buyer; so the seller knows that the buyer is serious. However, the down payment really depends on the particular transaction and the negotiation that takes place. In some cases, sellers will demand as much as 50%, and in other cases, sellers will ask for as little as 5% or less.

Q: If I am a US citizen, can I use my IRA or 401K money to buy property in Panama?

A: Yes. There are several financial companies in the USA, such as Pensco, who offer retirement account services that facilitate movement of your IRA or 401K funds into self-directed retirement accounts, through which you can then invest in property anywhere in the world. If you would like to receive an updated list of these financial companies (such as Pensco), please contact us for details.

Q: Is it legal to buy options on property in Panama?

A: Yes, it is legal to buy options on property in Panama, however, it is an uncommon practice in Panama, and most sellers do not understand the concept.

Q: Are options available on property in Panama?

A: Yes, you can buy options on property in Panama. However, most sellers in Panama do not understand the concept of options on property; therefore, it requires that you educate the seller in this concept so that they agree to offer you an option to purchase their property.

Q: Do sellers offer owner financing or leases with purchase options in Panama?

A: Yes, leases with purchase options are common in Panama, although most sellers are interested in simply selling, not lease optioning. However, please note that rental or lease contracts must be registered with the MIVI (Ministerio de Vivienda), which is the "Ministry of Housing" in order for the lease to be legal in Panama.

Q: Is it legal to block public access to the beach if I own beachfront property?

A: The laws in Panama offer public access to all beaches, oceans, lakes and rivers in Panama. Unless there is access within 1000 meters from your property, you must allow public access, according to the law.

Q: What is the liability for real estate investors that "flip" (buy & immediately sell) properties?

A: The liability for real estate investors in Panama is limited. The main liability for real estate investors is capital gains taxes, which some people avoid with Panamanian corporations. As long as you deliver what is promised according to the terms of the buy/sell contract, buying and selling property in Panama is virtually liability free.

SECTION 2: TAX RELATED QUESTIONS FOR REAL ESTATE IN PANAMA.

Q: Are there property taxes in Panama, if so, how much?

A: Property taxes are only levied on properties that have a registered value of US\$30,000 or more (registered value is the value stated on the public deed that is registered at the Public Registry). The maximum annual property tax is 2.1% for any property valued above \$75,000. For further information, see our section on Panama Taxes. Possession Rights properties do not incur property taxes, since the property technically belongs to the government of Panama.

Q: Are there property title transfer taxes in Panama?

A: Yes, the government of Panama charges 2% of either the updated registered property value or the sales price --- whichever is higher. This is why most sophisticated investors utilize Panama corporations to hold ownership to property, so that when they sell the property, they simply sell the shares of the corporation as a whole, therefore avoiding a title transfer, and avoiding the 2% title transfer tax.

Q: Are there capital gains taxes on the purchase and sale of real property in Panama?

A: Yes, there are Short-Term and Long-Term Capital Gains tax rates in

Panama. The rate also differs between individuals and corporations. See our section on Panama Taxes for more information. The capital gains tax is triggered upon the transfer of the title at the Public Registry.

Q: Is there a way to minimize capital gains taxes on property sales in Panama?

A: Up until the tax laws were changed in 2006, real property owned by a Panama corporation could be sold avoiding the capital gains by simply selling the corporate shares instead of the real estate itself. Since the corporation still owned the real property, real estate title didn't transfer to the buyer who merely bought the corporation and all of its assets. That loophole has been abolished. There is still another loophole available and we can discuss that with you in person.

Q: Is there self-employment tax for real estate investors in Panama?

A: There are no "self-employment" taxes for real estate investors in Panama, however, local real estate investors are taxed on their income the same way any other person would be taxed on locally generated income, and they are required to file annual tax declarations. Please note that income taxes on real estate purchases and sales can generally be avoided through certain structuring techniques using Panamanian corporations and private interest foundations.

Q: Are there inheritance taxes in Panama, whereby the Panamanian government would keep a certain percentage of my beneficiaries' inheritance?

A: No. Inheritance taxes have been completely abolished in Panama.

Q: Are tax lien certificates available in Panama?

A: This is an area that we are currently researching, however, currently, we have no information about tax lien certificates in Panama.

Q: If I am a US citizen, can I apply a 1031 exchange to buying property in Panama, thus deferring my US capital gains taxes?

A: This is a question for a US tax attorney or US CPA. Panama Offshore Legal Services does not offer US tax advice; however, if you contact us, we can refer you to a licensed US tax attorney who can answer your questions about US tax laws. LandAmerica Lawyers tax attorneys responded to this question as follows; "Assuming the case that a client is looking to relinquish a U.S. Property and purchase a replacement property in Panama, then the 1031 Exchange would fail, because foreign property is not considered to be "Like-Kind" to U.S. property under the IRS code. However, if the client is relinquishing foreign property, then an exchange into the Panama property might be possible. Of course, a tax-deferred exchange would only make sense in that situation if the client would be subject to U.S. Capital Gains tax liability for the relinquished property transfer because only U.S. taxes be deferred using Section 1031."

Q: If I wanted to buy and flip (sell) my Panama property, what sources should I use to advertise my property to find a buyer in Panama?

A: If you are seeking a local Panamanian buyer, you can advertise in the local

newspapers, such as La Prensa, La Critica, and Panama America. If you are seeking a foreign buyer, you might consider print advertising in Panama Real Estate Magazine (visit www.panamarealestatemag.com), The Visitor newspaper (a tourist information newspaper), or advertising on the internet on websites such as www.escapeartist.com, or with Panama Real Estate Group (visit www.panama-real-estate.com). You also might consider presenting your property to as many realtors as possible in Panama.

SECTION 3: FINANCING & INSURANCE IN PANAMA.

Q: Are financing sources readily available for foreigners (non-Panamanians) to get mortgages on property in Panama?

A: There are many banks in Panama that offer financing to foreigners (non-Panamanians) to purchase property in Panama, some of these include: HSBC Bank, Scotia Bank, BAC International Bank, Banco Cuzcatlan (Panabank), Banistmo, Banco General, BBVA Bank, Banco Continental, Credicorp Bank, Multi-credit Bank, Banco Nacional de Panama, and others. However, unless the loan is collateralized by some other liquid asset such as a bank deposit, then most banks have the following limitations for financing property to foreigners: (1) the property must be titled through the Public Registry of Panama, (2) the property must be located in approved regions, normally in urbanized regions or on approved development projects in rural areas, (3) the property must have improvements, such as a house, building, etc. with value, (4) the bank will only finance up to 70% of the purchase price, and (5) the bank will require that the purchase price be no more than the appraised value (appraised by a respected appraisal company).

Q: What documentation is normally required for foreigners (non-Panamanians) to obtain financing on property in Panama?

A: Most banks in Panama that finance foreigners require the following documentation for the applicant(s) of the loan: (1) complete photocopy of passport (all pages of passport), (2) photocopy of one additional form of ID, such as a drivers license, (3) two original financial reference letters, (4) two original commercial, professional, or personal reference letters, (5) photocopy of utility bill showing physical address, (6) curriculum vitae (personal education/work resume), (7) last 2 years financial statements, (8) last 2 years personal income tax returns, (9) photocopy of property documentation (registered title deed & registered survey), (10) original recent certificate of title deed from the Public Registry, (11) appraisal on the property by an approved appraisal company.

Q: What are the interest rates for financing property in Panama?

A: The interest rates are generally right in line with those offered in the USA, however, interest rates really depend on a variety of factors, including: (1) type of property (personal residence, commercial property, investment property, etc.), (2) age of construction (new construction, old construction), (3) term of the loan (short term, long term, etc.), (4) applicants age and status (retired, etc.), and (5) additional collateral offered to the bank as guarantee on the loan.

Q: Are there any special financing deals available in Panama, for retirees?

A: Yes. If you have obtained a Pensioned Visa (this is a type of resident visa for foreigners who have proven that they receive a lifetime pension of at least US\$500 per month) in Panama, and you are of a certain age, then you qualify for special discounts for interest rates on mortgages.

Q: Are there any special financing deals available in Panama, for first time buyers?

A: Yes. There is a law called the "preferential interest law", which offers special low interest rates, under the following conditions: (1) the buyer must be a first time buyer, (2) the property being purchased must be newly constructed, (3) the unit must be for residential purposes, (4) the amount being financed must be in the range of US\$25,000 to US\$62,500, after the down payment, (5) the financing cannot be more than 95% of the appraised value, (6) the property must be titled, and (7) the loan must not exceed a 15 year term. This is regulated under Law No. 50 (October 27, 1999), which partially amended Law No. 28 (June 20, 1995) and Cabinet Decree No. 44 (1990), stipulates that the benefits to the lending institutions are as follows: (a) 4% discount (also a tax credit to the financial institution) off the maximum fixed interest rate, which is established by the Superintendent of Banks, will be awarded if the loan value is for more than \$25,000.00 but less than \$62,500.00, (b) 5% discount (also a tax credit to the financial institution) off the maximum fixed interest rate, will be applicable if the loan is for less than \$25,000.00.

Q: How much do property appraisals cost in Panama?

A: Property appraisals in Panama generally range between US\$150 up to \$1000, depending on the particular property. For example, a simple 3 bedroom home in Panama City would probably cost around \$100 to \$150, however, a 300 acre farm located in the interior of Panama, with 2 homes, barn, horses, cattle, and other property improvements could cost \$1000 for an appraisal due to the complexity of the appraisal as well as the transportation costs and time frame involved.

Q: How much do home inspections costs in Panama?

A: Home inspections in Panama can range between \$50 up to \$300, depending on the particular property.

Q: Is title insurance available for property in Panama?

A: Yes, title insurance is offered by reputable international title insurance companies on literally all types of property in Panama. Contact us for details.

Q: Is title insurance required for financing property in Panama?

A: No. Title insurance is not generally required for financing; however, fire insurance is always required for buying property with construction improvements (house, commercial building, etc.).

Q: What does title insurance cost in Panama?

A: The cost for title insurance in Panama depends on the insurance company and the property you want title insurance. Generally, title insurance costs around 1% of the value of the property, with a minimum of around \$1000

insurance premium. The title insurance is a one-time payment with most insurance companies.

Q: What insurance agents do you recommend in Panama?

A: We recommend Kevin Bradley, who is a licensed, bonded insurance agent that speaks perfect English, and is part of a large local insurance group. He offers all types of insurance including; health, auto, life, homeowners, fire, travel, disability, etc. For more information, please visit www.panamakevin.com. We also have other insurance agents we work with in the event that you need a second quote, so feel free to contact us for details.

SECTION 4: DEVELOPING REAL ESTATE IN PANAMA.

Q: Is it possible for foreigners to enter in the real estate development business in Panama?

A: Absolutely. The Panamanian government welcomes foreigners to develop real estate in Panama.

Q: If I buy a large plot of land, what are the procedures to get residential lot development permits with the Panamanian government?

A: The first step is to get the property surveyed topographically by a Panamanian licensed topographer / engineer. Second, you need a Panamanian licensed architect to design the master plan. Third, you need a Panamanian engineer to prepare the construction drawings. Fourth, you need a Panamanian licensed environmental engineer to prepare an environmental impact study. Fifth, you present the project to and get it approved by the ANAM (Autoridad Nacional del Ambiente), which is the equivalent of the Environmental Enforcement Agency in the USA. Sixth, you present the project to the municipal engineer to get the construction permits. Depending on the project, there may be additional steps necessary in terms of permitting.

Q: What is the time frame and cost to obtain permits for developing residential lots in Panama?

A: The time frame and cost depends on the size of the project, and the region you are developing. Some projects can take years to obtain permits and cost upwards of US\$50,000, others can take as little as 3 months and cost a few thousand dollars. It really depends on the specifics of the project, where it is located, and the impact it will have on the environment. Usually, once the environmental impact studies are approved by ANAM, the other municipal permits are relatively quick.

Q: What are the costs for surveying property in Panama?

A: Currently, surveyors charge in the range of \$200 per lot or per hectare (2.4 acres per hectare) for regular linear surveys (outlining the perimeter, size and borders of the property). Topographical surveyors charge from \$150 up to \$500 per hectare, depending on the location of the property, condition of the property, and the specifics needed (for example, if you want special information included, such as identifying specific species of trees, depth of rivers, etc.). It is important

to hire a surveyor that is reliable, and who will provide accurate data, as well as computerized surveys (usually done using a program called Autocad).

Q: What do environmental impact studies cost in Panama?

A: Environmental impact studies range in price from as little as \$750 to \$75,000, depending on the size of the project, impact on the environment, and depending on the environmental engineer you hire for the job. For large developments with high environmental impact, we recommend hiring a top quality environmental engineering firm to handle the environmental impact study, as they have the human resources and organization to prepare a study that will be approved under harsh scrutiny and difficult circumstances. For smaller, non-impacting projects, an individual environmental engineer may suffice. However, please note that the environmental impact study is detrimental to the permitting of the project, and it is important to hire qualified engineers to prepare your environmental impact study, otherwise, if the project is rejected by ANAM, you may be forced to wait up to 2 years to re-present the project for approval.

CONCLUSION

As you can see from all of this information, I have provided you with above, Panama's real estate laws can be complex.

However, using competent, English speaking lawyers will save you time, prevent stress, and money in the long run.

It doesn't matter whether you are selling, buying, developing, or holding onto real property as an investment; **Panama Offshore Legal Services** can help you.

Call them at (507) 227 – 6645

or e-mail Steven Rich at: marketingposi@yahoo.com

or visit his informative website at: www.posi-inc.com