

BUYING BEACHFRONT PROPERTY in Costa Rica

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Are you one of those beach lovers who want to own a piece of paradise along the beach front? If you answered yes, here is an explanation of the legal aspects for owning beach front property in Costa Rica.

THE TERRESTRIAL MARITIME ZONE OF COSTA RICA

The 200 meters of the Terrestrial Maritime Zone are subdivided into a Public Zone and a Restricted Zone. The Public Zone consists of the first 50 meters measured from the high tide, with the following 150 meters forming the Restricted Zone. The Restricted Zone is under the administration of the Municipalities, as well as under the surveillance of the *Instituto Costarricense de Turismo* ([CT). However, there is titled land in front of the beaches, which is an exception to the rule. These titled properties exist from the colonial times when the Spanish Kingdom issued title to property in the name of an individual who claimed the land. They also exist in cases in which the owners followed the procedures of registering the land prior to the designation of the Maritime Terrestrial Zone. Because there is some titled land currently ,within the Restricted Zone of the Maritime Terrestrial Zone, there are exceptions to the rule. By law the land in the Restricted Zone is under the administration of the Municipalities with the surveillance of the *Instituto Costarricense de Turismo* (ICT). Also by law, the ICT must approve the concessions submitted by solicitors to the municipalities, and also ICT is the agency that classifies as a Tourist Interest a specific beach or site in the terrestrial maritime zone.

In order to apply for a concession, you must have the occupancy rights to the beachfront property, or buy the rights from another person who has them. Then you must present the application along with the public deed to the Municipality having jurisdiction over the site, and if the Municipality gives you the concession, it has to be approved by ICT. Before buying any occupancy rights ask the seller where he bought the public deed , and also ask the Municipality to certify the ownership of the occupancy rights and the person or company renting the land from the Municipality. These documents are not always available.

NATIONAL CONCESSIONS REGISTER REGISTRO NACIONAL DE CONCESIONES

After approval of the concession by ICT, the property can be registered in the National Concessions Registry, which is located in Zapote. at the National Registry. It is best to have the concession recorded because the information about title (ownership), location and property description are located there.

Requirements to obtain a concession!

- Hold the occupancy rights on a land parcel located in the Restricted Zone.
- Have markers (mojones) on the beach front property designated and established by the *Instituto Geográfico Nacional* (IGN).
- Have a Zoning Plan (Plan Regulador) that specifies the land use for the various areas of the beachfront (i.e. commercial, residential, industrial). Most of our beaches do not have Zoning Plans. A private firm can make Zoning Plans Those

companies can be contracted by the public sector or government through the ICT, or contracted by people from the private sector interested in adjusting their occupancy rights to the law and obtaining the concession. An effective and efficient way to apply for a concession is for landowners of adjacent properties, or interested investors, to organize themselves and request an overall, comprehensive land use Zoning Plan. Upon completion, the plan is submitted to the ICT for approval. The ICT coordinates their approval with the *Instituto Costarricense de Vivienda v Urbanismo* (INVU).

As the ICT endeavors to enforce the law, it maintains a policy not to permit the Municipalities to authorize construction on properties in the Restricted Zone unless there is an approved Zoning Plan, however, most affected land currently has no Plan.

After the Zoning Plan is approved the ICT and the Municipality that has jurisdiction can authorize the development as specified and approved. Adhering to the Zoning Plan will ensure that the development of beach front area is done according to a preplanned scheme.

OCCUPANCY RIGHTS

Prior to this time, owners with Occupancy Rights in the Restricted Zone have been transferring them by a public deed of cession, drawn up by a Notary Public without mentioning the payment of a price. This deed of cession should include the measurement, location, boundaries, and sometimes details of transfers of previous occupancy rights and also refer to the existing Municipality file for that land parcel. With the deed of cession and a "croquis" or plot plan, the buyer can apply for the concession at the Municipality. The local government will then open a file for the application and submit a resolution to lease the land to the owner or buyer of the occupancy rights, charging a "canon" (rental fee) in accordance with the value of the lot, and also land tax (0.25%). Keep in mind that the municipalities administer land in the Restricted Zone, but to apply for the concession and obtain ICT approval, there must be IGN landmarks and a Zoning Plan. According with the Law and the legal opinion of the Government Attorney General the Municipalities are not allowed to charge the lease or canon if there is no Zoning Plan and Concession, but some Municipalities still do it.

THE FOLLOWING ARE NOT PERMITTED TO OBTAIN CONCESSION ON A PARCEL IN THE RESTRICTED ZONE.

- Foreign residents until they have a minimum of five years residency.
- Corporations with bearer shares.
- Corporations or entities domiciled outside of the country.
- Foreign companies and Costa Rican companies with fifty (50%) percent or more of the stock owned by foreigners.

CONCESSION LIFETIME

The concessions are given for a minimum of five and a maximum of twenty years. It is necessary to file an application for the renewal of the concession before the end of the concession period. That is done before the Municipality.