

LEGAL UPDATE

BY ALLAN GARRO N.

Popurri of Legal Advice II

This is the second part of the article printed in the January-February issue of El Resident Magazine. There are more short topics with helpful information for members of the International Community about the Costa Rican legal system, but in this article are secrets that may help in dealing with Costa Rican governmental and Public Institutions.



Saving on territorial taxes. Local Municipalities tax all properties in Costa Rica. The yearly tax rate is equivalent to 0.25% of the property value registered in the municipality. For example, a property with a registered value of USD \$100.000 has to pay USD\$250 per year in territorial tax. Many people ask if there is a way to save money by reducing this tax - the answer is both yes and no. Yes, because the law says those owning only one property in their personal name (corporations are excluded) can apply for an exemption of an amount equal to 45 base salaries or less, which currently represents about USD \$30.000. If the property has a higher value, this amount can be deducted from the total and tax paid only on the balance. No, because if you do the math the total yearly saving will represent only \$75, and the process of applying for the exemption can be time consuming and stressful.

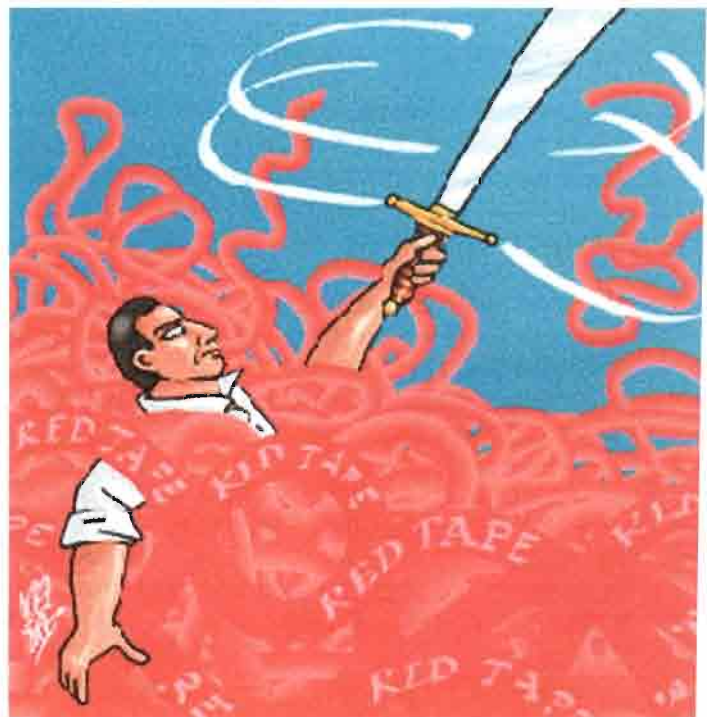
If the property owned is classified as producing agricultural land it is possible to get a certificate from the Cattle and Agricultural Ministry stating that the land is being used in accordance with approved environmental standards, and then apply for a 40% yearly exemption from the Territorial Tax. A large farm owner can save big bucks. Keep in mind that municipalities can legally adjust the value of a property where a mortgage is registered against it for an amount

higher than the current registered value.

Cutting the red tape. People forced to deal with Public Institutions usually get frustrated by huge lines and endless lists of requirements required for administrative matters. It is not unusual to submit requested information or forms only to find more information or forms are required in what seems to be a never-ending process. Well, there is a law that can be used as a valuable tool to fight the system. Law number 8220 the Law to Protect Citizens from Excess of Requirements and Administrative Procedures basically states:

- The law applies to ALL public Institutions in Costa Rica.
- Once a person files documents with an Institution those documents can't be requested again for the same process.
- Public Institutions can't request documents or information they handle. For example: INS can't request a copy of the car's Marchamo, since INS is the institutions that issues that document.
- All Institutions are required to provide information through public media as to the exact requirements for the procedures they handle, and exactly which legal authority gives them the right to set these requirements. Most show this info on their websites
- Once a person submits the requested requirements public officers are allowed to request additional

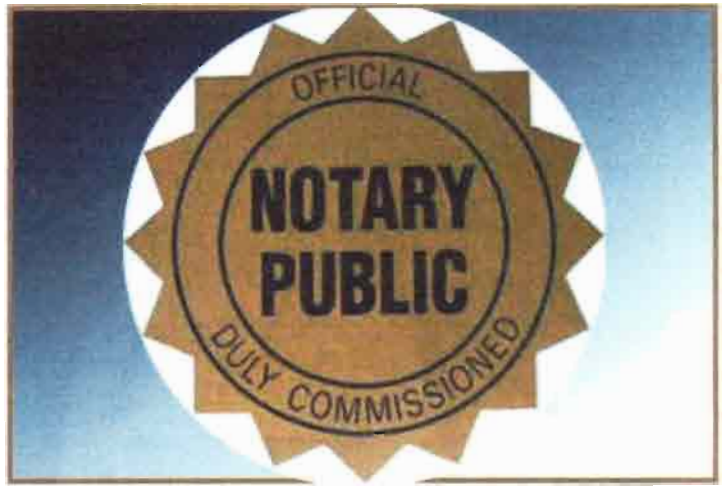
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requirements only once. In case they demand more on three or more occasions, the person can refuse and request that disciplinary action be taken against the public officer for disregarding this law.

- In some specific cases such as permits, licenses or authorizations, once all required documents are submitted the public Institutions involved must provide an answer within 1 month, otherwise the Petitioner can consider the request approved through a legal right called Positive Silence. In this case a Notary will have to issue a document acknowledging all requirements were met and that the Institution did not answer on time. The exception to this rule is when the permits, authorizations or licenses are related to environmental matters.

In all processes involving Government Institutions, if excessive time is taken to make a decision, the Petitioner can file a relief suit or *amparo* before the Constitutional Court claiming violation of the right to Prompt Justice contained in article 41 of the Constitution. In this case the Supreme Court can order the Institutions involved to make a decision within a specific period of time, plus order them to pay damages the delay may have caused. It's important to remember that articles 27 and 30 of the Constitution grant the right of Petition and Answer. Those articles force Officials to answer citizen's applications, doubts or information requests promptly otherwise help from Constitutional Court can be requested, too.



printed, the document will show a certificate number that can be checked by an Officer within 15 days on the same website to confirm its validity. This could be especially useful to those needing to obtain *personerías* or certifications proving the right to legally represent a company. This is an essential requirement to represent a company when dealing with most institutions because it proves who has the current right to legally represent the company.

Allan Garro N., Attorney at Law
law@licgarro.com



A notary at your home. For years the National Registry has offered to the public information from all Public Registries such as Property, Vehicles, Boats, Corporations and Cadaster Plans on the website www.registronacional.go.cr. However, this information is exclusively for consultation purposes since only certifications obtained from Registry offices or issued by a Notary can be used as valid documents to submit to private and public Institutions. Based on the *Digital Government Program*, BCR Banco de Costa Rica and the National Registry recently launched the website www.rnpdigital.com where valid certifications can be obtained anytime. It's necessary to apply to be registered by providing required personal data and then obtaining an access password to purchase certificates through a procedure similar to those purchases made on amazon.com. Average cost of a certification is 2.800 colons—a little more than USD \$5. Payments are made through any valid credit card. Once