

A Full Legal Cost Breakdown and Guide to Buying a Home or Property in Costa Rica

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The current pandemic affecting the world generated an unexpected effect on the real estate market in Costa Rica. Despite travel restrictions and new requirements for tourists such as negative Covid-19 test or insurance with sufficient coverage in case of requiring extended stay due to illness; the truth is that the sale of properties has increased in recent months, especially in the areas near the coasts. In these areas it is said that it is currently a Seller's Market considering the number of interested buyers.

The issues that become particularly important are: a. What are the costs involved in buying real estate property? b. What items should the buyer cover and what should the seller cover? c. What steps must be followed to achieve a secure transaction? d. Who chooses the lawyer-notary who will prepare the documents for the closing? e. How is the payment of the sale price made? f. What is required to carry out an adequate due diligence? This article is intended to provide [a guide to help](#) clarify those doubts and questions.

Real estate agent commission. The first thing to consider is the amount of the commission if there is a real estate agent involved. There is no specific amount set by law. However, in practice the amount that is generally used is 5% of the sales price, plus 13% VAT Tax. The commission payment is normally the responsibility of the Seller. In some cases, a higher rate is negotiated, which can reach up to 10%, when it comes to properties located in areas with little demand or that are difficult to access.

Transfer Taxes and Notary fees. There is a transfer tax equivalent to 1.5% of the sales price as well as registration stamps that add another 0.85% so both amounts add up to 2.35%. The Notary fees have a variable rate but in general terms it adds up to 1.25% of the sales price, plus 13% VAT Tax. That covers the transfer deed that is signed at closing. These amounts are usually paid by the Buyer, but nothing prevents the payment of transfer expenses and Notary fees from being negotiated differently.

In Costa Rica, the figure of the Notary Public is different from that of countries such as the United States of America and others governed by the common law system. In Costa Rica only a lawyer can be a notary public and for that reason both terms are often used as

equivalents. If the buyer is paying in cash, then he or she decides which attorney to use. If the buyer is obtaining financing from the Seller, then the Seller selects the lawyer, and if the buyer is obtaining a bank loan, then the Bank selects the professional.

Capital gains tax. Since July 1st, 2019 there is a capital gains tax on the sale of real estate property. Seller is responsible for the payment. The tax will be the one that results from applying the 15% rate, to the amount obtained when the initial acquisition value of the real estate is subtracted from the sales value. However, if the property was acquired before July 1st, 2019, for one time only the seller can apply a 2.25% tariff on the total sales price, which is more beneficial.

If the Seller's personal home is being sold, that transfer is exempt from capital gains tax, even if it is registered in the name of a corporation in which the seller is the legal representative. Nor does this tax apply to donations or inheritances. If the person who is selling has the property registered in his or her name and does not have resident status, the Notary is obliged to withhold 2.5% of the sale price as partial withholding of that tax and pay it using the D-162 form available for this purpose.

Purchase agreement and due diligence. Both Seller and Buyer normally begin by signing a purchase agreement describing the conditions of the negotiation prior to closing, as well as the specific obligations of each party and the procedures in the event of non-compliance or any conflict arising. For this work, separate fees must be paid to the lawyers, which are negotiated according to the required work. There are also very experienced real estate agents who are able to provide such agreements at no additional cost.

It is also especially important to have a reasonable period of time to carry out a due diligence that allows a secure transaction. The cost of the due diligence is also negotiated separately according to the work required; the cost is usually assumed by the Buyer. The Buyer also assumes the extra costs that an inspection of existing buildings may generate, or carry out a survey of the property, the existing boundaries and if it conforms to the recorded plot map.

Some points that are usually part of due diligence are:

- A.** If Seller is a corporation, check that is up to date with annual tax on corporations, the final beneficiary report due to Central Bank and the local municipal property taxes.
- B.** If the house happens to be a luxury home subject to the Luxury Home Tax or Impuesto Solidario, confirm that is up to date with the payment.
- C.** Check the title with the National Registry and the recorded plot map.
- D.** If the property is located within a Condo project, obtain a letter from the management indicating the property is current with all HOA fees. It is also important to obtain copy of the recorded by-laws to see if there are any restrictions of importance that might affect the final decision of the Buyer.
- E.** In case of a lot or land without construction, obtain a letter of water availability. Depending on the area, service might be provided by AyA, the local Municipality or an ASADA

association. Also, obtaining an USO DE SUELO certificate issued from the local Municipality to confirm what can be developed and any zoning restrictions that might apply.

F. It is important to have an architect or engineer performing an inspection of the constructions and disclose any potential risks or repairs needed.

G. A surveyor can be hired to verify that the existing boundaries match with the recorded plot map or plano de catastro. Also, to verify that the plot map is not overlapping another recorded property or invading special areas like indigenous reserves or the restricted zone of the maritime terrestrial zone. This last part might be skipped in case the title reflects the property is located on a scanned area, for which the wording FINCA UBICADA EN ZONA CATASTRADA will appear on the title.

This list is just a guide. Depending on the case, other things might be required to be reviewed.

Escrow agents and direct payments among the parties. Since many foreigners coming to the country to buy real estate property do not have any bank account in the country, the best tool available to send the purchase price is to use an escrow agent, duly authorized by a government entity named SUGEF. For this the parties proceed subscribing an escrow agreement with the selected agent. Next, Buyer needs to provide proper information about the origin of the funds according to a list provided by the escrow agent.

Once everything is cleared, Buyer can proceed wiring funds to the escrow agent account, including initial deposit, final purchase price, transfer taxes and legal fees. When closing takes place, the escrow agent proceeds disbursing the funds accordingly to the Seller, real estate agent, the notary and any other party involved. The cost of the service varies depending of the transaction amount, but in most cases the payments are in the range of US \$1,000 – US \$2,000. The cost normally is split among the parties.

The sales price money should never be sent to the bank account of the lawyer-notary selected, except if is authorized to handle funds from third parties by SUGEF. Also, if the parties agree to transfer the purchase price straight from Buyer's account into Seller's account, then the Buyer needs to subscribe an affidavit explaining the origin of the funds and supplying backup copies supporting that. In this case, the transfer taxes and fees can be wired straight to the bank account of the selected notary.

Paperwork required after closing. After closing takes place the notary proceeds with the registration of the title transfer in favor of the Buyer, something that normally should be completed in the following 10 – 15 days. Seller needs to keep a certified copy of the transfer deed in order to proof the origin of the transaction in front of Seller's bank. Notwithstanding the foregoing, it is important to note that once the transfer documents are registered with the Land Registry, there are other tasks for the Buyer.

The first thing a Buyer, or their representative, should do is go to the local Municipality where the property is located and request a change of ownership in their records. This requires filling out a form updating the value of the property as well as providing other documents,

such as a certificate of ownership, a copy of the plot map, and a copy of the new owner's identification document (cedula or passport.) Thus, the tax payment receipts, and other services will show the name of the new owner.

The same procedure is required to update the owner's name on the accounts of the utilities, such as water, electricity, cable, and the like, who provide services to the property. The new owner's information must be filed with each separate institution providing the services by completing documents that are similar to those to be provided to the local municipality. Usually, private companies tend to ask for fewer requirements and are more flexible than public institutions to record the changes. This is the usual way things are in Costa Rica.

If the property is located within a condominium, it is important to deliver a set of the documents that prove the ownership change to the Condo Management offices. This is important not only to ensure that future bills/receipts will appear under the new owner's name, but also so that the new owner will be informed of all meetings scheduled by the Homeowners Association, where each owner has the right to participate and have a vote in making decisions relevant to the condominium.

Well, here is a guide for buyers and sellers of real estate property in Costa Rica. There are other issues that are not included here, such as the purchase of properties located in the maritime zone, for which a Concession is required; and properties that do not yet have title, requiring a special judicial process called Possession Information. In those cases, being very careful in reviewing documents and due diligence is necessary

About the Author: Allan Garro was incorporated as a lawyer and public notary in 1996. He specializes in Litigation, Corporate, and Real Estate Law. He has also acted as an external legal consultant to Congress. He has been the author of more than 100 published English Language articles and can be reached at [(#)] or by visiting his [website here](#).