

Owning Coastal Property in Mexico

Recently an illegal invasion of private property was made by persons who took the law into their own hands and because of this many coastal residents are worried.

To help everyone understand the obligations and rights everyone has in Mexico while being the owner of a personal (Fidicomiso Translativo de Domino, FTD contract) or Real Right (Titulo or Escritura) over property facing the coast, I decided to write the answers to the following questions so as to make sure everyone who would read reports on the incident would know the truth and not some story to sell newspapers...

1. - What are everyone's rights regarding the area called "Zona Federal Maritimo Terreste (Z.F.M.T.) (Federal Maritime Land Zone)?

According to the Constitution of Mexico the area covering 20 meters (72.17 feet) from high tide is designated as property of the nation. This means that every person has a right to access the area. This does not mean that one can trash it, ride it, sleep on it or make a campfire on it, which actions are considered felonies under the law.

2. - How can one gain access to the area (beach or rock coast)?

The answer is each owner of properties in front of the Z.F.M.T, has to provide access.

3. - What does the word access mean?

Access means that a 'path' must be provided. Since we are dealing with private property it also means that a legal right of way must be established. In Spanish this is called a "Servidumbre de Paseo" (Servitude of passage or Right of Way) as per Article 1057 to 1067, 1068 to 1070 and 1097 to 1108 of the Federal Civil Code and its collaterals in the Civil Code for the State of Baja California Sur.

4. - Physically, what would be the "Right of Way"?

According to the law, the Federal organization call SAMARNAT, which is the environmental watch dog" has the authority to establish said dimensions as per the requirements, location and other parameters..

5. - How can one be ahead of the situation?

It is suggested that a "voluntary servitude of passage" be established, as per article 1109 of the Federal Civil Code and its collateral in the Civil Code of the State, in the documents providing the Rights at purchase time.

6. - If this was not done at the time the rights over the property were acquired, can it be done later?

Yes, one can do this after the purchase. But remember that this will generate an additional cost.

6. - What is the procedure?

The Right of Way will be established by having a surveyor establish the physical location where the Servitude of passage will be and, make a plan which will then be instrumented by a “Notario Publico” (contract Lawyer) and registered at the “Registro Publico de la Propiedad Y Comercio” (Public Registry of Property and Commerce)

7. – What happens when one sells the property?

The Servitude follows the property, in other words, it keeps on being active until someone asks that it be removed.

8. – Can one stop someone crossing a private property?

Yes, but better still call the police to do the job, but remember if the person is stopped from getting to the coast he in return can file a complaint to SAMARNAP and PROFECO saying you are negating him his right of access to the coast...

In conclusion, if you are occupying a part of the Mexican Territory located in front the coast there is more to it than just sitting there and enjoying the sound of the waves. You must prepare legally or eventually suffer the consequences. As the song says: You can't run away from the long arm of the Law”...

LIC. JAQUES-EDOUARD BEAULNE, LL.B.

*Abogado / Attorney at Law / Avocat
In Mexico.*

*Ced. Prof # 0086
Law Professor*



This story and photographs are property and copyright 2005, BajaInsider.com and can not be republished without written permission from the BajaInsider& Jaques-Edouard Beaulne