

# **YOUR FREE REPORT**

## **HOW TO NAVIGATE THE PURCHASE OF REAL ESTATE AND UNDERSTAND THE BUILDING INDUSTRY OF COSTA RICA**

A special report brought to you by [www.CRBuilders.com](http://www.CRBuilders.com)



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# Welcome!

Clicking to receive this report may be the best favor you ever do for your family, for your dream of living in Costa Rica and for yourself.

The next 30+ pages are packed with valuable tips and insights that will save you time, trouble and a great deal of money... guaranteed!

What's even better is that we've made this information available to you with no strings attached, absolutely FREE.

Why would we do this? The reasons are all about YOU.

We came to Costa Rica to build our own dream not so very long ago. It was our intention to build a custom home community for people who wanted a standard of professional integrity, innovative styling, solid construction and practical design. We were offering good old American know-how, in other words, in a tropical paradise.

Once we had our land and our design and build team in place, our next step was to go in search of YOU!

But things don't always turn out as we expect them to...

## The Facts of Life

It's a simple fact of life that unscrupulous lawyers and realtors and developers have been serving themselves at the expense of their clients since they first subdivided Rome. Where do you think the term "Caveat Emptor" (Let the Buyer Beware) came from, if not from a disgruntled Roman property owner?

What this means to you as a prospective buyer of Costa Rican land, is that there are good deals and bad ones to be had no matter where you go. Your best defense, as always, is a good offense. In this case, we offer up the facts as we came to know them so that you will be better prepared as you embark on your own journey... to paradise.



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## Troubles in Paradise

Before we knew it, far from living our dream, we found ourselves in a nightmare of false advertising, dishonest deals, unethical practices and inconsistent laws.

We made every mistake you could possibly name and then – just to be sure – we made them again! In the end, we learned some incredible lessons. We also realized that it was time to re-evaluate our options.

What we discovered turned out to be great news... for YOU.

- We discovered that we knew more about real estate and construction in Costa Rica than most resident experts knew.
- We discovered that we had created a community of like-minded, talented experts who shared a mutual view.
- We discovered that we had something more valuable than the architects, engineers, designers and builders who make up our crew.
- We discovered that the knowledge hard won from our personal experience could become the tools that you need to make your dreams happen for you.

We hope you find the information helpful. We urge you to learn from our mistakes. And we invite you to contact us any time if you have any questions about any of the services we provide.

Sincerely,

Dave and Isabel McDuffie



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## Common Terms & Customs

No one expects you to speak like a native if you're a newcomer. What people do expect, and what you need to equip yourself with, is a basic knowledge of common terms and an understanding of customary practices in the country where you are planning to build your new home.

The following is a handy glossary of common terms and customs that you will need to have with you on your new journey.

### *Plano*

A legal survey of the property

### *Escritura*

In the absence of a Plano, the property will be described by an Escritura. An Escritura is a verbal description of the property that may include an estimate of the total area.

### *Ley Sobre la Zona Maritimo Terrestre*

The Maritime Zone Law. In most cases, beachfront property is untitled because the ownership and possession of the shoreline is governed by the Maritime Zone Law which restricts the possession and ownership of beach front property in the following manner:

- The first 200 meters of beachfront, starting at the high tide markers, is owned by the government
- Of those 200 meters, the first 50 are deemed public zones and nobody may possess or control that area
- On the remaining 150 meters, the government – through the local Municipal government – will lease, by way of concessions, the land to private individuals

### Costa Rica's 10% law

A 10% "give away" that may apply when subdividing agriculturally zoned land.

### *Ministerio de Obras Publicas y Transportes (MOPT)*

The Ministry of Public Roads and Transport, it is responsible for all roads current and planned.



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### *Instituto Nacional de Vivienda y Urbanismo (INVU)*

The National Institute of Urban Development, it is the main government agency that governs property development.

### *Acueductos y Alcantarillados (AYA)*

The Department of Water and Sewers, it is the government authority that will verify whether water and sewer services are available to your property.

### *Other Agencies: Ministerio de Recursos Naturales, Energía y Minas, Servicio Nacional de Parques and Dirección General Forestal*

The Ministries of Natural Resources, Energy and Mines and the National Park and Forestry Services have authority over the use of restricted lands. Their rulings are VERY strict!

### *Servidumbre*

Easement

### *Net Listings (mark ups)*

The practice of selling a property for more than the seller's asking price. Because this practice is illegal in the US, first time buyers are unaware that it is very common in Costa Rica.

### *Colegio Federado de Ingenieros y Arquitectos de Costa Rica (CFIA)*

The Federated College of Engineers and Architects, it serves as both a licensing and regulating agency for Architects, Engineers and Topographers.

### *Grupo ICE*

The Costa Rican Monopoly that controls electricity and telephone service, including Internet access.

### *Registro Nacional*

The National Registry has a website where you can get information on property, cars, people and sociedades (corporations).

### *Registro Publico*

The Public Registry Office where these documents are on file.



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### *Cedula*

An identification card issued by the Costa Rican government to all citizens and legal residents.

### *Folio Real*

Each property has a unique number that identifies it in the computer systems at the *Registro Nacional*. With this number one can perform background searches on the property.

## **How to Buy Property**

There is a right way and a wrong way to buy property.

While most buying decisions are ultimately driven by emotion, making a real estate purchase should not be an impulse act.

To ensure the happiest of endings, your property purchase should not be made until you've had an opportunity to research your options and weigh all the facts.

For best results, we recommend that you follow these steps in this order:

- Learn the things NOT to do.
- Find a good attorney, and
- Beware of attorneys with a conflict of interest.
- Research the myths about real estate agents.
- Find a good agent (hopefully).
- Familiarize yourself with devious developers.
- Make a complete visual inspection of your property.
- Locate the electricity and water.
- Get an updated Plano and/or a topographical map.
- Contact an Architect or civil engineer.
- Research your Beach property's special requirements.
- Research the rules and regulations on Reserves and Parks.
- Weigh the pros and cons of Title insurance.
- Search public records.
- Make sure that your builder is licensed.
- Verify, verify, and verify!



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As you start to read this material, you may begin to feel that your dream of a home in paradise is just a fantasy that will never come true. There's no doubt that there are plenty of hurdles and a lot to learn, but you'll be glad of the knowledge in the end.

Take comfort in the fact that, except for the visual inspections, which you **MUST** do yourself, your attorney will be doing the bulk of the background paper work. You will be able to verify a lot of your information by computer or phone.

## **A CAUTIONARY NOTE**

It is of vital importance to get second opinions from qualified advisors before you take any significant legal or financial action. If your attorney, architect, engineer or real estate agent advises you in a way that leaves you with any misgivings, do not hesitate to ask for a cooling off period while you seek more advice. If the professional in question tries to dissuade you from taking your time to think things through, this is not the person for you!

At the same time, when you pay a professional to give his or her expert opinion, be sure to listen. Don't try to re-invent the wheel, especially in a country whose customs are unfamiliar to you.

Remember as well that the information and advice provided in this **FREE REPORT** have been compiled from personal experiences. The material is meant to be used as an informal guide **ONLY** and **NOT** to be taken as an official document. It does **NOT** reflect the work of a specific industry professional, nor does it pertain to specific piece(s) of property you may wish to buy or build on.



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# Buying Property the Wrong Way

## Don't Be a Stranger in a Strange Land

It is a common human error to buy property based on an emotional decision, or misplaced trust in an agent who speaks your language in a foreign land.

When one professional recommends others, be sure to request independent references and other information that supports their extravagant claims. Don't be distracted by emotional appeals. This is business.

**Scenario:** Using the attorney that his real estate agent recommended, a property buyer learned too late that the attorney did not truly represent his interests. Be smart and learn from this man's mistake!

## Find a good attorney

If you use the attorney your agent recommends, which is a common practice in Costa Rica, do your homework! Be sure that the attorney is working for your best interests, not his/her own.

**Scenario:** A prospective buyer explained his intention to subdivide agricultural property to the attorney. The attorney neglected to mention Costa Rica's 10% law and this omission cost the buyer dearly.

## Find a reputable real estate agent

This can be difficult because the real estate industry is unregulated in Costa Rica. What does this mean? It means that you must do your homework; contact as many property buyers as you can and ask them to tell you how their buying experience turned out. Fortunately, people love to talk about themselves! Remember that a real estate agent is first and foremost a businessman. If s/he spends a great deal of time befriending you, they may truly enjoy your company. At the same time, they are investing in the sizeable commission they hope to earn.



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## Your Attorney

- **You need a good attorney who is working solely for you!**
- **For maximum protection under the law, you will want to buy your property in the name of a *Sociedad Anonima or Limitada* (corporation).**

You will want to start the paperwork for your corporation immediately as the process can take four to six months.

We have heard of attorneys charging as much as \$1,500 to form a corporation. After much hard work and many mistakes, we now have the contacts to obtain a corporation for less than \$500. Feel free to [contact us](#) to learn more.

- **Use a bilingual attorney.**

If you are not fluent in Spanish, your attorney should be fluent in English. Working through a translator leaves too many avenues open for misunderstandings.

- **Explain what you want to do with the property in great detail.**

Take the time to lay out exactly what you want to do with the property. A good attorney will then know what to check on and what precautions to take. For example, the 10% rule explained at the bottom can really mess up your subdivision plans!

- **Your attorney must do the entire standard title search.**

She or he **must** review the official public records looking for title inconsistencies, liens, unpaid taxes and so on. S/he must also notify you if there are any restrictions on the use of the property, such as easements for utilities or law suits pending, for example. Be sure to ask specifically whether this has been done.

- **Your attorney should also make the following checks on your property:**

Your attorney should check to see if there is/are current or future road construction on or near your property that could have a negative effect on your use and enjoyment. The ***Ministerio de Obras Publicas y Transportes (MOPT)*** is responsible for all roads current and planned.



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***Instituto Nacional de Vivienda y Urbanismo (INVU)*** is the main government agency for all of Costa Rica that governs property development. They need to be contacted to verify that your planned use is in accordance with their master zoning plans. They also have the final say in the development of your property.

**The local *municipalidad*** - They can have different regulations than INVU and other agencies. Check to be sure.

***Acueductos y Alcantarillados (AYA)*** is the department of water and sewers. They will tell you if water and sewer is available to your property. If water is not available, you may be able to drill a well but you need to do more checking with a civil engineer before you can know for sure.

***Ministerio de Recursos Naturales, Energía y Minas, the Servicio Nacional de Parques and Dirección General Forestal*** - Make sure none of these agencies have any restrictions on your property. If they do, proceed with caution.

**The 10% Law:** If you intend to subdivide agricultural land with the use of a servidumbre make sure your attorney fully explains the implications. If done incorrectly, you may lose 10% of your land to the local district or city.

Make sure that you understand everything the attorney tells you about the property. Don't make assumptions based on your knowledge of US real estate law because it does not apply. Costa Rica is different and it is up to you to make sure you understand what you are buying.

And last, but not least...



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### **Conflict of Interest**

In Costa Rica there are no Conflict of Interest laws that prevent an attorney from representing both parties in a real estate transaction. This is illegal in the US but common in Costa Rica.

**WE STRONGLY RECOMMEND THAT YOU HIRE YOUR OWN ATTORNEY TO REPRESENT YOUR INTERESTS AND ONLY YOUR INTERESTS.**

## **Real Estate Agents**

Costa Rica does **NOT** regulate the real estate business and this leaves you, the buyer, at a huge disadvantage.

All real estate agents in Costa Rica are in business to make money and they only make money when they sell a property. You can be sure that what the real estate agent wants most from you is your money. In Costa Rica, the expression "shark" is a common synonym for "real estate agent." In my opinion, this is unfair in that it gives sharks a bad reputation.

Real estate agents can be great people; they can be your best friends and they can even be from your home country, but do not trust them as the final authority with **your** investment money. They never have your best interest at heart. The following is a list of statements (lies?) that I have heard from several agents in Costa Rica:

- **All Ticos are out to screw you!**

Human nature being what it is, I have found that some are and others are not. After living here for more than a few years, I find that I am more leery of Gringos trying to cheat me than the Ticos. This is because I generally know what the Tico wants but rarely do I have a clear idea of the Gringo's true agenda. To my mind, anyone who uses such generalizations should be included in the group they are criticizing.

- **"We don't mark up property like other agencies..."**

They may not use the same % of markup (called "Net Listings", which are illegal in the US) but don't believe them unless they will let you or your attorney talk directly to the seller to verify the asking price.



A well-known agent in the Northern Central Valley advertises that he doesn't mark up properties. The reality is that he **does** when he thinks he can get away with it. (How do we know? He was our agent.)

- **We charge a commission to the buyer because Costa Rican's won't pay a commission to sell their property.**

Now there's a line if I ever heard one! Costa Ricans know that to sell their property, they have to pay someone to find a buyer. Is the agent double dipping? I'd be willing to bet that yes, nine times out of ten the agent is making money on both sides of the transaction.

- **You or your attorney cannot talk directly to the seller.**

The excuse often given is that they are afraid your attorney is unscrupulous and may steal the property or something like that. My supposition is that the agent is either marking the property up and/or double dipping.

- **"We have already done all of the due diligence for you."**

When a problem arises with the water or electricity or the neighbors, your agent is not going to pay to fix it. And you have no recourse.

One agent is advertising that they have done ALL of the due diligence on their properties before they list them. If that is the case, I wonder why the property I purchased from that agent doesn't have the water he claimed was available on the property.

- **Your agent states that he is making a full and truthful disclosure to you.**

California has one of the toughest disclosure laws in the real estate industry. Costa Rica has none. Believe me; if they think they can get away with it, they will try.

One agency in the Northern Central Valley is currently promoting a house they are building on speculation, saying that nearby *Vulcan* (volcano) Poas is not dangerous. In March, 2006, Vulcan Poas roared back to life (it has been one of the two most active volcanoes in Costa Rica) and scientists are now concerned because the water temperature of the lake is some 30 degrees hotter than normal. Was theirs a full and accurate disclosure? Not in my opinion.



- **Your earnest money deposit is not refundable.**

Some agents use contracts or "letters of intent" that state that deposits are nonrefundable and that the seller receives the deposit immediately! You can and should write a purchase **option** contract where your deposit is held in escrow and is refundable if certain conditions are not met. I strongly advise that you think long and hard about a deal if the agent says you have to make a nonrefundable deposit.

- **The seller can change his mind any time he wants and refuse to sell.**

Some agents cannot or will not write a correct contract. Record your purchase option and it will be difficult for the seller to back out.

- **You don't need to use your own attorney.**

Just read our personal experience with attorneys and you will see why **it is imperative that your attorney represents you and only you.**

- **Sign this Power of Attorney and I'll find and buy a great deal for you!**

What better way to end up with something you don't want or can't use. You might as well throw your money into the wind and hope it all comes back to you. The problem is that this happens every single day down here! The one client I know who did this ended up paying 3 times the value for property on a cliff.

- **You have to pay all of the closing costs.**

The custom in Costa Rica is to split the closing costs equally between the seller and the buyer. Of course you and the seller can agree on other terms but don't start off by offering to pay for everything - that just makes the job easier for the agent.

- **You don't need a new Plano.**

Your Plano is a legal survey of the property. Unless you get a new Plano you will not know for certain that what you are looking at is really what you are buying. "Inconvenient" fences are occasionally moved by neighbors and a lot of older surveys are flawed.



- **Don't worry about utilities...**

The previously mentioned Northern Central Valley agent and his associates use practically the same story for every lot they show: "Electricity should cost about \$3,000. The road should be about \$2,500 and water is right over there." Verify everything with the proper authorities and get real estimates from the people who will be doing the work. Don't be surprised if you find out that the real costs for installing utilities are up to 20 times as much as the agent stated.

- **The water is safe to drink.**

One of the "unspoiled" aspects of countries like Costa Rica is that there are few, if any, systems in place to control pollution in areas we have come to take for granted in the United States. As a classic example, over 97% of the surface water in Costa Rica is polluted with gray water runoff, industrial pollution, farm run-off and human waste. In the large *municipalidades* the problems are compounded with no sewers along with gasoline, diesel and other contaminants getting into their wells. The bottom line: Get your water tested!

- **Gringos are more honest than Ticos.**

This is a common misconception or misplaced belief on the buyer's part that makes them feel more comfortable parting with their money. It is really easy to fall into this "comfort trap" and believe that all Gringos are honest. The simple fact is that it is easier for a Gringo to sell property or an investment to another Gringo. Why do you suppose most of the international time-share resorts are staffed with Gringo sales people?

- **No, the lot isn't too steep...**

If the property is steep you have two options: Build on piers which are costly, or: Cut out a building pad. Either way, make sure you allow for adequate drainage. I have seen some lots carved out of a hillside where there is bare earth for forty to fifty feet almost straight up.

- **Landslides are common in Costa Rica, even though it is practically all-volcanic soil.**

Some agents tell their clients that it is volcanic soil – it's not going anywhere. Unless it is pure granite, don't believe them. Don't think your lot is an exception unless you obtain an engineer's opinion. My



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uneducated opinion is that a retaining wall just delays the inevitable. When in doubt ask an engineer, not your agent.

- **Ticos are not litigious like people from the US.**

This is an outright lie. There are so many suits pending in Costa Rica, some courts are backed up for up to 10 years.

- **"I am an expert on Costa Rica real estate."**

Ask them how long they've been in the country selling real estate. If the answer is less than 10 years, they're not experts.

## Real Estate Truths

Now that you have read some of the dirty tricks that some agents use, here are some facts that may help you avoid some costly mistakes:

- **Your agent is in business to make money, not to make sure you get the best buy.**

Since there is no Multiple Listing Service in Costa Rica, your agent can only show you what he or she knows about. This does not mean that s/he has a true knowledge of what is really available for sale.

- **Ask your agent point blank if s/he is selling or has sold a property for more than the seller's asking price.**

This practice is called "Net Listing" and is illegal in the US but is very common here. Of course they can lie when you ask, but I prefer to put them on the spot with a direct question rather than walking blindly down the path. If they do lie, their comments become part of the purchase transaction and they may be liable for future damages. Note that I said they "may" be liable. Only a good attorney can say for sure.

- **If you are paying your agent a buyer's commission, ask him if the seller is paying him or anyone else a commission.**

Again they can lie but if you keep hammering, you might get a glimpse of the truth. An honest agent should not mind answering questions.



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- **Ask around for references about different agencies.**

If you are staying at a hotel, ask the owners - they probably have heard about the agent and can give you some references. Ask builders and other agents in the area for references. Unfortunately, you cannot always get any references in which case you must remain extra vigilant during the whole transaction.

- **Call other agents and look at comparable properties.**

There is no common database or directory of what is available so each agent or agency will have its own selection of properties.

- **If it sounds too good to be true then it usually is.**

Nobody gives anything away for free, even in Costa Rica.

- **Utilities are expensive to bring in.**

If water and electricity are not at the edge of the property (within 50 meters of where you want to build) talk to a contractor before you commit to buy!

- **Electricity on a public road costs about \$1,500 per post and posts are normally 60 meters apart.**

On private land the costs drops significantly but underground wiring to bring 200 amps (standard in the US) underground for 400 meters from the road was quoted at \$26,000 installed.

- **Water is less expensive if it is available.**

If you do not have municipal water at the property line, make sure you know where the water is coming from, and that it is potable. If you are told it comes from a spring, make sure you know where the spring is and that you have a right to use the water. If you have any doubt, have the water checked. A thorough test costs about \$250.

- **We use "Tico Scouts" to find the best deals.**

The truth is ALL real estate agents use Tico scouts so they are not doing anything special. Unless you are dealing directly with the seller, you are paying a mark-up.



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- **Beware of self-styled experts.**

Be leery of anyone who claims to know the secret to buying real estate or claims to be an expert. Unless they have lived here 10+ years, they – like me – are just in the learning stages.

## Problems with Developers

Now that you have read the horror stories about real estate agents, I am going to shed some light on what some unscrupulous developers are doing.

Mind you, not all are bad. In fact I have seen some really well thought out developments, but they are not the so-called bargains that people are looking for. **REMEMBER:** In hot markets anything goes.

Here are some of the pitfalls to look out for when you are considering buying a lot from a developer:

- **The developer is in business to sell land, not to make sure you make a wise investment.**

With very few exceptions, the developer doesn't care who buys the property or what he has to do to sell it. He doesn't care if it meets your needs or if it is a worthless piece of land. No matter how nice and accommodating he is, do not let your guard down and think for even one moment that he is your friend. **All the developer wants is your money.** Just keep repeating that phrase.

- **Not all lots that are for sale are suitable for building.**

It's been my experience that at least a third of the land that is sold for future homeowners is not suitable for the dwellings they originally wanted to build. Costa Rica has no laws that protect you in this regard so an unscrupulous developer can sell anything he wants down here.

(Remember the clichés of swampland sold in Florida? You'd be surprised how many developers here are from the Sunshine State!)



- **Never buy property sight unseen.**

I looked at one property south of Dominical that has spectacular views of the ocean. After chatting with me for about an hour, the owner proudly told me that his biggest sale was to a Gringo who never came to see the property. He bought the property just from pictures.

What the owner had done was section off the hillside (cliff) all around his property into one huge lot and sold it at a premium based on the views.

The owner didn't lie. The property was large in terms of square footage and had fabulous views – because it was 100% pure cliff that wrapped around top of the owner's other property. So this Gringo, who believed that a camera couldn't lie, sank a ton of money into a huge property with fantastic views that he cannot use at all.

- **Like to gamble - buy Pre-Construction!**

This ploy often is a sign that the developer doesn't have sufficient funds to complete his project. He NEEDS your money to do what he says he will (might?) do. If he can't sell enough pre-construction lots to cover his costs, he is just as likely to walk away with the money instead of putting in the infrastructure. Then what do you do?

- **The "all you need to do is put in water & electricity" scam.**

If you have to put those in, look around and see who else benefits from your expenditure. Want to know who? THE DEVELOPER! You just raised the value of the land between you and the source of water or electricity by a minimum of \$20,000 per lot! Do you think the DEVELOPER is going to share any of this profit with you? I don't even need to answer that question. You just gave him somewhere between \$20,000 and \$500,000. A true developer sells property with roads, water and electricity already installed directly to the property.

- **I am buying it from a friend so I won't get screwed.**

The odds say you are an easy mark. More than one friendship has ended thanks to greedy "friends." Costa Rica has a saying about doing business with friends: "Para que enemigos, con esos amigos." which roughly translates to: "With those friends, who needs enemies!"



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- **Don't worry; we will put in the road and utilities within xxx days of you paying us for the property.**

This is another version of the pre-construction scam. I have one client who has been waiting on the developer for more than two years to put in the road and utilities to his lot... as per his contract.

Does the developer have an excuse? More like 5,000, depending on the time of day and who he is talking to. None the less, this does not stop him from continuing to sell more lots without roads or utilities.

**REMEMBER:** You are gambling with your money, so make sure you are hedging your bets. Never bet more than you can afford to loose.

- **If it sounds too good to be true then it usually is.**

A client of mine bought a hillside lot with a great ocean view at a fantastic price. They wanted to build their dream home, complete with pool. When I saw the lot, I realized that the developer had simply cut a flat spot out of a cliff. He then pushed the loose dirt around to make it look like a large lot. In reality, the area suitable for building was only 20' deep. The other 30' is going to wash away this rainy season.

- **Get a new PLANO!**

Developments are designed on paper. Someone driving a bulldozer creates the housing pads. As crazy as it sounds, it is not unheard of to find that your building pad is located on someone else's lot.

- **Be wary of bargains by the Ocean.**

You MUST do your homework before you buy. One developer is currently selling land near Parrita that floods in the rainy season. It looks great in the summer but unless you plan on putting your house on stilts and using a flat bottom boat, you will not be able to visit the house once it starts to rain.

- **Be wary of bargains high in the mountains.**

One developer is selling fabulous mountain lots for very low prices. He is telling the buyers that they can subdivide the lot and sell off other parcels. The problem is that this is a reserve area and the restrictions on building are very severe. The majority of the lots he is offering are too small to allow construction so if you want to build a house, you have to buy two lots. Do you think he is telling his clients about that?



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- **Verify, Verify, Verify and use Common Sense!**

I inspected a lot for a client that is on the side of a cliff. I was in 4WD low and could barely maneuver my SUV onto the site. How is a builder supposed to get materials and equipment to the site? At great expense! Can my client build there? Yes, but it will not be cheap!

## Licensed Builders

Here is an interesting question for you: Would you willingly do business with an unlicensed contractor in the US?

If you said no – and I'm hoping you did – what would make you lower your standards and do business with an unlicensed contractor in Costa Rica?

OK, by now you know that there is no regulatory agency that oversees real estate agents or developers. But what about builders?

In the US, you would be crazy to do business with an unlicensed contractor. The same is true in Costa Rica. While it is a little known fact, Builders are required to register with Colegio Federado de Ingenieros y Arquitectos de Costa Rica (CFIA) – the same agency that regulates the Architects, Engineers and Topographers.

In order to become licensed, the corporation has to be properly registered, have professional recommendations from an Architect, Electrical Engineer and a Topographer.

While this may not sound like much to you, you would be amazed how many builders never choose to become registered with the CFIA. Why aren't they licensed? Maybe they don't want the added expense of the annual dues. Possibly they want to avoid the liability that comes with being a registered builder or maybe they want to avoid taxes and are not reporting their earnings. No matter what their reason, they are choosing to break the law that helps protect YOU, the consumer.

What happens if your builder is registered? If a problem occurs – and did you ever hear of a build in which NO problem occurred? – there is



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a dispute resolution process that the builder must abide by or run the risk of losing his license.

If the builder is not licensed, CFIA cannot step in to help you with as much force as they can against registered companies. In fact, their attitude is that if you choose to do business with an unlicensed company, you got what you deserved.

How do you find out if your Builder is licensed? You can go to the CFIA website and can find out if your Architect, Engineer or Builder is licensed. There's just one catch. The CFIA website database is not linked to their actual records database. Furthermore, the data on the site is ALWAYS out of date, often by more than two years!

Just ask to see the builder's current certification or call CFIA directly but if you don't speak Spanish, make sure you have a translator.

## What to Look Out for in a Lot

Every property has its benefits and drawbacks. Here are some things to think about when you are looking for property

- **What do you want to build?**

You should answer this before you even start looking for lots unless you are of the mind set that the lot comes first and you will adapt to it. Generally, the steeper the incline the less options you have and the more it will cost to build. If you want to build on the side of a cliff, the foundation can cost more than the house. You have to sink pillars into the ground and tie them together to artificially recreate a stable base.

- **What is the drainage situation?**

You not only need to think about getting water away from your property; you need to consider your property in relation to the overall drainage picture. I recently saw the remains of a house that had originally stood in the middle of a flat field. After the rains came and the river flooded its banks, the river changed course some 300 meters across the field. Well, the house and all its contents were destroyed.



- **Don't just look down...**

If you are buying near a river or even a stream, look up in the trees above you. If you see debris in the trees, that is a very good indication that the river or creek floods. One property had a road that crossed a small stream (maybe a foot deep) and had a pedestrian bridge some 4 meters above it. The pedestrian bridge was covered in mud and other debris from the seasonal floods.

- **My lot looks OK but...**

Look at all of the property surrounding you. One client bought a beautiful piece of property. When I looked at the property, I realized that the developer had not installed proper drainage for the lot above it. I recommended that the client would save wasted time, effort and money by waiting to build until the drainage issue above was stabilized

In this simplistic image below, I try to show what to avoid when looking at lots on the side of a mountain.

The dark lines represent virgin mountain soil: It is solid and the only soil you can build on.

The light grey areas are unstable backfill from the process of carving lots out the mountain. The developer includes the backfill area in the usable area for building even though he knows it is not suitable for any type of construction.

Notice that the lot above has backfill directly above your property. Where do you think it will go when the rains wash it away?

In this example – this actually occurred in the Playa Potrero area – there will be a cascading effect when the top lets loose. The only way to build on a lot like this is to remove the back fill, install piers going deep into the virgin soil and then back fill with a stable combination of rock and crushed rock. You cannot safely build anything on the back fill that currently exists.

Next, you will need to build retaining walls to cover the area that has been carved out. A proper retaining wall is not a cheap or easy endeavor.

Do developers sell these types of lots? - Every day!



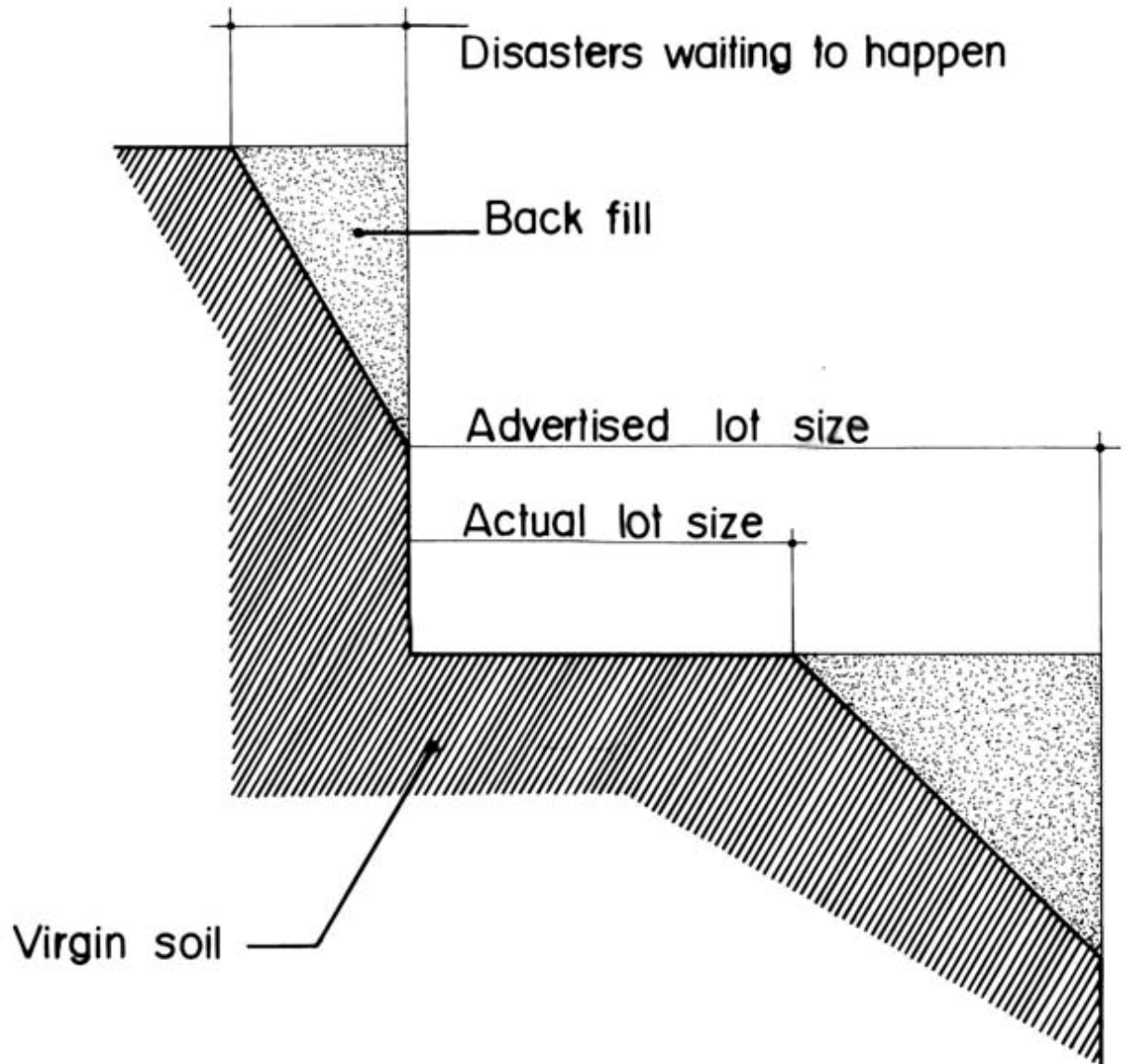
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Do people actually buy these types of lots? - Sadly, every day.



In this real life example the "Advertised" lot size was over 50' deep while the "Real" lot size was only 20' deep. There was no way to build the house and pool the client wanted on this lot that they had already purchased.



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## Visual Inspection(s)

### See it For Yourself!

Videos and pictures are nice to look at but they are no substitute for seeing everything with your own eyes. Your property may be next door to a chicken or pig farm and no picture could ever educate you on those kinds of odors... especially on a hot day!

Ask for the Plano, which is the official legal survey of the property. Use the Plano as a map and then walk the whole property.

If you don't have a Plano, you should take a preliminary walk of the property with the owner or their representative. Be sure to take notes of points of interest, things you like and things you don't like.

If you don't have the Plano, plan on visiting the property again when the Plano is ready and before you buy it. I have looked at a property and been told that it is perfectly rectangular and has over 100 meters of public road frontage. Yet, when the Plano was completed, the property was shown to have minimal road frontage and was an odd shaped "flag lot." On my first visit with the owner we discussed how perfect one area was for the house. I later discovered that he didn't even own that part of the property.

I cannot stress strongly enough the fact that you have to see ALL of the property with your own eyes and with the official Plano in hand to fully understand what you are buying. I advise you to walk the property with the topographer who prepared the Plano. He will know the property better than anyone.

Even if it takes you two or three hours to walk a large property, those hours could save you thousands of dollars and untold hours of grief. If you have a GPS you can use it to get an approximate size of the property.



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## Utilities

Where are your utilities going to come from? When you do your visual inspection, as the owner or representative for the location of:

- Electricity
- Phone
- Water
- Cable (Ha!)

Next - Verify this information with each of the agencies in question! If these utilities are not adjoining your property, you will have to pay to bring them to your lot.

### **Electricity:**

If your lot runs along a public road and does not currently have electricity, you will have to follow an EXPENSIVE process with Grupo ICE (the national monopoly for electricity and telephones) which consists of the following:

- Supply ICE with a copy of the total build out plans of your property.
- ICE will then prepare the plans and charge you for them
- ICE will have a topographical map prepared by their topographer and charge you for it.
- ICE will provide you with a list of materials to buy and a list of approved vendors from which you will have to buy them.
- ICE will provide you with a list of approved contractors to do the work.
- ICE then "manages" the installation and the spending of your money.
- You cannot use your own engineer to draw up the plans nor can you use your own topographer. You will have a very limited choice in both the suppliers and contractors. Make sure they include the telephone line at the same time.

### **Water:**

If you do not have municipal water you have three choices. If there is a spring on the property, you can try to find out if it flows year round and if you can get permission to use it. If there is no spring, you will either have to drill a well (\$10K or more) or pay to connect to the municipality.



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### **Telephone:**

This can be relatively inexpensive or it can cost a fortune! If there is no phone line nearby, you may have to wait **years** until ICE gets around to bringing phone service to your property.

### **Cable:**

Cable is only available in limited parts of the country. If you are preparing a subdivision, you should put in the conduit in the event that they bring cable to the property in the future.

## ***Plano***

The Plano is a legal document that is the official survey of your property. If the property has not changed ownership for a long time, it is quite possible that no Plano exists. In the absence of a Plano, the property will be described by an Escritura. An Escritura is a verbal description of the property that may include an estimate of the total area. Take this estimate with a grain of salt! Remember, people always think their property is bigger than it really is.

If no Plano exists, one will have to be ordered. A topographer will survey the property and prepare a Plano to be recorded at the *Registro Nacional*.

In addition, you may need a topographical map of the property. This is a map that shows the natural contours of the property and will be required if you need to put in any roads. It will also tell you if you have proper drainage. The *Ministerio de Obras Publicas y Transportes* (MOPT) will have a topographical map that includes your area. The question will be to what scale. I suggest that you check with the Ministry before you spend \$1,000 or more to have your topographer prepare a "topo" map for you.

**One note on topographers:** There is an official organization (CIFA) that covers topographers, civil engineers and architects. They publish guidelines on what each specialty should charge for each type of work. These published charges are ridiculously high and almost every topographer will discount his price. If you are not happy with the price, **shop around!**



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## Architect or Civil Engineer

Costa Rican laws say that all construction plans have to be approved and signed by a member of the Colegio Federado de Ingenieros y de Arquitectos (CFIA) de Costa Rica and that individual may be either an Architect or a Civil Engineer.

The Colegio also sets the minimum fees that they charge. For designs, the fees range from 6% to 7% of the value the **Architect** assigns to the project. **That's right!** The Architect gets to decide what the fee base is and **it doesn't matter whether it is realistic or not.**

Next, since Costa Rica doesn't have Building Inspectors, the Architect is required to perform the inspections. Their fees can range from 3% to 12%. To protect yourself from unpleasant surprises, don't expect to be charged 3%. Plan on 6% to 12%.

**AN IMPORTANT NOTE:** There is a way to save yourself time, trouble and money. You can use an architect like [www.CRPlans.com](http://www.CRPlans.com). They are a division of CRBuilders.com but due to their volume of work, they can provide the same services at a significant discount.

## Beach Property

Everyone wants to have a villa by the beach. It's understandable, but not always simple to do.

Over 90% of the foreigners who build near the beach sell within 5 years. The first hurdle is the climate. A beachfront property is exposed to the full effects of the heat and humidity year round.

Before you buy, why not rent a beach bungalow close to where you want to buy and live there from September through May – these are the hottest and wettest months. If you are afraid of losing the property you picked out, get an option to purchase if you can. If it turns out that you love the climate and the area, you will have reserved your purchase price. If it turns out to be more of a nightmare than a dream come true, that short-term rental was a small price to pay for a lesson that saved you thousands!



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If you still want beachfront property, make sure that your attorney fully explains all of the restrictions that may affect your use of the property.

In most cases, beach front property is untitled property because the ownership and possession of the shoreline is governed by the Maritime Zone Law (*Ley Sobre la Zona Maritimo Terrestre*), which restricts the possession and ownership of beach front property in the following manner:

- The first 200 meters of beachfront, starting at the high tide markers, is owned by the government
- Of those 200 meters, the first 50 are deemed public zones and nobody may own or control that area
- On the remaining 150 meters, the government – through the local Municipal government – will lease, by way of concessions, the land to private individuals

The Maritime Zone Law imposes restrictions regarding foreign ownership or possession of beachfront property, so a thorough and careful study is always required when considering the purchase of beachfront property in Costa Rica.

Costa Rica is cracking down on illegal construction in the maritime zone. In many beach locations, buildings, houses, restaurants and bars are being removed to re-establish the 50 meter zone.

These points barely scratch the surface of the regulations on beachfront property. Clearly, you cannot afford to buy without the advice of a good attorney who has verified all aspects and restrictions on the property under consideration.

## Reserves & National Parks

Avoid property located in National Parks or Reserves unless you do **NOT** plan to build on your property. These areas are set aside and generally **do not allow construction**, much like the beach properties



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referred to earlier. When construction is allowed, there are often severe restrictions on what you can build, where you can build it and the purpose the building serves.

**AN IMPORTANT NOTE:** Just because a building exists on the property doesn't mean it was constructed legally or has a right to exist there.

Costa Rica has practically no tolerance for illegal building in these zones. In August 2005, a hotel that had been constructed 12 years previously without benefit of legal permits in a restricted zone was declared in violation of the building restrictions and the owners were forced to tear it down at their expense.

Imagine how you would feel if that happened to you after you'd purchased the property, thinking it was either legal or grandfathered.

If you are planning on buying in these areas, have your attorney verify that you can use the land in the manner that you want. To be on the safe side, double-check the information yourself!

## Title Insurance

While Costa Rica has no title insurance companies, there are US title insurance companies that operate here. Generally, title insurance costs 1.5% of the sale price. If you buy title insurance, the insurance company will either use your attorney or theirs to do all of the things your attorney would normally do. If they use their attorney, they will charge you for both the title insurance and the fee their attorney charges. In addition, you will still have to pay your own attorney.

Title Insurance does not protect you from incompetence or dishonesty. Many people believe that purchasing title insurance does more for your peace of mind than it does to actually protect your investment. In Costa Rica, title insurance adds to the cost of the transaction without enhancing the product.

NOTE: Title insurance would not have protected us against any of the problems we encountered.



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## Public Records

When in doubt – and a little healthy skepticism in business can be a good thing – do your own homework! If you want to see who owns a property or find out more information about a specific property, you can do this yourself. To use any of these resources, you will need to understand Spanish or have a translator help you.

The **Registro Nacional** has a website where you can get information on property, cars, people and *sociedades* (corporations). You can find their site here: [www.registronacional.go.cr](http://www.registronacional.go.cr)

You can also go in person to the **Registro Publico** and request copies of the documents. Again, if you are not fluent in Spanish, bring a translator.

Whether you use the website or go in person, you will need some or all of the following information:

- The name of the property owner.
- The cedula number of the owner. (Cedula is the person's official ID card.)
- Or the folio number of the property which is a unique number that identifies this property.



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## A Few Words in Closing

### A Personal Journey

It was originally our dream to build a custom home community in Costa Rica. We saw an opportunity to stake a claim on a small piece of paradise and help other people make their dreams come true.

By the time the dust (mud?) had settled and more battles were lost than won, we realized it was time to tally up the score.

After enjoying 4 months of our real estate agent's "friendship", we allowed ourselves to put too much blind trust in him. As a result, we never questioned him when he told us:

- That he had already performed 100% of the due diligence and we could trust his recommendations
- We did not need to walk 100% of the property. We believed the real estate agent when he told us that it was over a kilometer long. We didn't learn until it was too late that it was only about 500 meters long. After the purchase, we discovered that construction is prohibited on 30% of the total area.
- That it would cost \$2,000 to \$3,000 to bring electricity to the property since it was only 300 meters away. We accepted this as an accurate estimate. The real cost is closer to \$12,000.
- That water was right across the street. In fact there is a water pipe there. He stated that he had verified that the water was usable for our needs. We did not verify that the water was safe to drink. It isn't and we will have to wait until the water district expands their distribution system to bring water to our property.
- That there was a natural spring on the property. We did not verify this, either visually or through the public records. Our attorney did not point out that the Plano did not show a spring.

We didn't ask a topographer (surveyor) to look at the property until after it was purchased. That was when we discovered that much of it



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was too steep to be used for building purposes. Had a topographer inspected the property, he would have informed us that we needed a topographical map and the property boundaries properly marked.

We believed the quoted size in the verbal 'escritura' used to draw up the contract. We thought we were buying 83,000 square meters of land, when, in fact, we had purchased less than 50,000.

We chose a talented architect from San Jose to create the subdivisions for our property. Besides being a minimum of 3 weeks late delivering anything he promised, he had no idea how to subdivide agricultural land properly and knew nothing about the 10% give away law. Had we used his design for the lot division, one of the prime lots would have been sacrificed to his ignorance. Thankfully our topographer caught the architect's mistakes before they became permanent.

About 6 months after we had purchased our property, our neighbor contacted us and demanded we record a servidumbre (an easement) against our property giving him a right of passage. We discovered that our attorney, who also turned out to be a close friend of the neighbor, had inserted a clause in the final contract that gave the neighbor the right to demand the easement.

We had taken the advice of our real estate agent that there was no need to involve two attorneys - "it was a waste of money." Since we were paying 100% of the legal fees, we made the mistake of thinking that our attorney was representing and protecting our interests.

Even though he claimed to represent our interests and was fully aware of our intended use of the land, our lawyer never explained that the clause had been inserted or what the ramifications were for our development.

Worse still, the neighbor in question took a hostile approach to the business of working out our differences. He arrived with a machete, his three sons, two attorneys, his brother and his nephew. Together, they threatened to tie up our property in litigation for up to 10 years if we interfered with their right of way.

We have since talked to two attorneys, a topographer, a judge and a magistrate. The conclusion everyone has reached is that the clause which found its way so mysteriously into our contract was worded in



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such convoluted “attorney speak” that we would have been hard pressed to understand it, even if we had known it existed.

In the end, as a direct result of our failure to take the necessary steps to research and verify the information we were given, and aided and abetted by an unscrupulous realtor/legal duo, we have the following to show for our trouble:

- 25% of the land we thought we had purchased, with which we had hoped to build a private community.
- Electricity costs in the neighborhood of \$12,000 instead of the \$3,000 that had been quoted.
- Potable water unavailable for the foreseeable future.
- Years of costly litigation that threatens to sink our plan.

Was most of this our fault? We could argue until the cows came home that it wasn't – that we were hapless victims in a hostile land. But the truth of the matter comes down to three things:

1. Nothing in life is free.
2. Nothing worth having comes without a price.
3. Nothing is as simple as it seems to be.

**REMEMBER:** Nobody, including us, cares more about your future than you do. Verify, verify and re-verify before you invest.

**ONE FINAL NOTE:** All of the information provided here is based on situations in which we have direct personal knowledge of the facts. They are, however, just our opinions. We urge you to do your own research and draw your own conclusions. We also invite you to contact us if you have any questions. We're here to help.

Dave and Isabel McDuffie