

GENERAL DISPOSITIONS FOR BEACHFRONT PROPERTY INVESTMENTS

Costa Rica, a country worldwide known for being nature gifted, for its friendly and peaceful population and its beautiful beaches and coastline, is also a very attractive market for Real Estate investment, were one must be legally advised at all times. Specifically, when you are thinking of purchasing beachfront property in this lovely place, everybody must always take into account that there is a very important regulation concerning all coastal land, which is called Maritime Zone Law (Ley de Zona-Marítimo Terrestre).

This law is very peculiar, and though sometimes is easily misunderstood and even a matter for discouragement for some investors, due to its nature, it is actually very simple to explain and reliable for those who acquire property that is subject to this regulation. Always remember, that this Maritime Zone Law regulates pretty much every hotel, development, condo, or resort that has any beachfront property.

The Maritime Zone Law, which was created back in 1977, has a very particular intention, which is, to secure that all beachfront property in CR is public, so that no one can be able to own beaches exclusively. Anybody that has visited this country, has noticed that you can enjoy almost any beach there is, that is if there is access to reach it.

REGULATIONS FOR BEACH FRONT PROPERTY

Like said before, all coastline property in Costa Rica is public by default. This is very well explained in the Article 9 of the Maritime Zone Law, which states that: "The maritime zone encompasses two hundred meters of beach frontage which is owned by the Costa Rica government. The 200 meters regulated by the Maritime Law extend all over the Pacific and Atlantic coasts of the Republic and any of its nature, terrains, rocks that are exposed at low tide." So, in other words, no one can personally own any piece of land that is located among those 200 meters from the shore, in any coast of the country. This zone also includes islands, pinnacles of rock, mangroves, estuaries, small islands and any small natural formation that overcomes the sea level.

Now, the next article of the Maritime Zone Law is very important as well, since it explains how this maritime zone is defined. Article 10: "The maritime zone is composed of two sections: The PUBLIC ZONE which is the first 50 meters of tideland and the areas that are left exposed during the low tide, the RESTRICTED ZONE is the remaining 150 meters inland."

As you can see, all coastline property located in the first 200 meters from the high tide, is divided like this:

- The first 50 meters are inalienable public property.
- The next 150 meters are granted for leasing by the Municipalities (the local governing body, also known in the United States as “The City”) to private individuals or corporations.

So, by law, the first 50 meters above the main high tide line are inalienable public. This area is known as the 50-meter line, and it is totally prohibitive to restrict any access or own a totally private beach. There are some exceptions, which include port areas, old land grants, and some title prior to 1973.

The next 150 meters are government owned. This area is known as the maritime-terrestrial zone (or just maritime zone). The cities or Municipalities can lease this second 150 meters in exchange for an annual fee. These “leasings” are called 'Concesiones' or 'concessions'. Let us remind everybody that this is not titled land, the person who is granted with a concession does not own and will never own the property, but he has the right to enjoy it and use it according to the regulations of the City, which are specified in the “Regulatory Plan” (Plan Regulador) of each particular area.

REGULATORY PLANS (or PLAN REGULADOR)

It is important to make sure that a Regulatory Plan exists in the area in which you are thinking to invest. If there is no plan, then the developer must make one from scratch, have it approved by ICT (the Tourism Board), INVU (the Urbanization Institute), and the local municipality (or City). Such a plan will regulate the "zoning of land" including public use for areas, roads, water, electricity and more.

In other words, whoever wants to be granted with a concession needs to be willing not only to pay an annual fee, but also to comply with the Regulatory Plan that specifies what can and cannot be built in that zone. Basically, these plans establish which areas are for commercial uses and which ones are for residential purposes, where can tourism projects be held, and which lands are subject of environmental protection, among other things. It is pretty much a Zoning Plan, and if anybody wants to build something that is not allowed in the Regulatory Plan, an application for a modification of the plan must be presented to the City.

CONCESSIONS

The leases or “concessions” consist primarily of a permit granted to a person (either physical being or a corporation) that gives them the right to use and enjoy a specific property located on the maritime zone for a pre-determined period of time. These concessions are generally leased for periods of 15 years, 20 years or more, and they are automatically renewable. If you hold a lease and the municipality wants to cancel it, they must justify any arguments to do so. If the concession grantee does not agree with the arguments presented by the City, they have the right to take the case to the courts and challenge any decision.

So basically, once you are granted a concession, it is quite difficult for it to be taken away, as long as the grantee complies with all the regulations stipulated by the City, the Regulatory Plan and the Maritime Zone Law.

Always keep in mind that an owner of a concession may build on that concession, subdivide the concession and perform other acts to the property. However, appropriate permits from the local municipality must be obtained.

General Requirements asked for granting concessions

It is important to know that concession owners must meet at least one of the following requirements:

- Be residents with a minimum of five years residing in Costa Rica.
- Costa Rican individuals.
- Or Costa Rican corporations with at least 51% Costa Rican ownership.

The concession application must be filed at the Municipality (or City) that holds the jurisdiction needed to approve it. Then, the local authorities must perform a valuation of the property that will establish the annual fee to be charged for the particular concession. Afterwards, the City Council votes and approves a "resolution project" that needs to be signed by the mayor in order to get the Concession Agreement formally granted.

Another requirement needed is to present a “Tourism Declaration” from the Costa Rican Institute of Tourism (ICT) - the government's institution concerning tourism affairs. If such “Tourism Declaration” exists, the ICT has to approve the petition. The local Department of Agriculture (IDA) must also approve it in certain cases. Finally, it is sent to registration before a Notary Public in the General Registry of Concessions.

Concession Limitations

According to the Maritime Zone Law, the only limitation existing for concession granting is the restriction for foreigners to be solely concessionaires unless they have a 5-year residency in Costa Rica. Now, this can be easily solved through the figure of Corporations, since foreigners that don't have a 5-year residency in the country, are able to be granted concessions through these companies. The way to do it is by holding the majority of shares of the corporation, without exceeding 49% of the totality of shares. This is in order to comply with the rule that states that any corporation that is filing for a concession application needs to have at least 51% of Costa Rican ownership.

Now, for development purposes inside the maritime zone, there is no discrimination against foreigners. In fact, always remember that ownership on the maritime zone is limited for Costa Ricans as well, since on these areas concessions are the only possibility.

IMPORTANT ARTICLES OF MARITIME ZONE LAW

ARTICLE 9: "The maritime zone encompasses two hundred meters of beach frontage which is owned by the Costa Rica government. The 200 meters regulated by the Maritime Law extend all over the Pacific and Atlantic coasts of the Republic and any of its nature, terrains, rocks that are exposed at low tide."

ARTICLE 10: "The maritime zone is composed of two sections: The PUBLIC ZONE which is the first 50 meters of tideland and the areas that are left exposed during the low tide, the RESTRICTED ZONE is the remaining 150 meters inland."

ARTICLE 25: "In the case of properties properly registered in the Public Registry, that are located wholly or partially in the public zone, the use of the same will be allowed to conform with agreements from the corresponding municipality, the Costa Rican Institute of Tourism and the National Institute of Housing and Development."

ARTICLE 31: "All plans of urban or tourist development which affect the maritime zone, should be approved by the Costa Rican Institute of Tourism, as well as all the official organizations that have the authority to review these plans, according to the law. These authorities can intervene in any tourist activity and development in the Maritime Zone or access those persons or companies that can have any concessions. In the same way, these authorities can intervene when foreign entities are involved in tourist related enterprises whose capital for the development remains more than 50% Costa Rican ownership..."

ARTICLE 39: "Only in the RESTRICTED ZONE can concessions be given when referring to the maritime zone, unless there are special dispositions of this Law..."

ARTICLE 41: "The concessions will be for the use and enjoyment of the particular areas in the restricted zone, under the terms and conditions that this Law establishes..."

ARTICLE 45: "It is prohibited to give or compromise, in any way or to transfer or sublet totally or partially, the concessions or the rights derived from them, without the express consent of the corresponding municipality and the Costa Rican Institute of Tourism or the Institute of Land and Colonization, depending on the case, the contracts or acts will lack authenticity those who violate this disposition..."

ARTICLE 47: Concessions would not be granted to:

a) Foreigners who have not resided in the country for a minimum of 5 years; **b)** Corporations with bearer shares. **c)** To companies that are domiciled outside the country. **d)** To companies made up of only foreigners; and **e)** Companies whose shares or investment capital, are made up of more than 50% by foreigners..."



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