

LA JOLLA DE LOS CABOS

REGULARIZATION 2010

GOALS

- Due diligence of the interested Homeowners' property titles.
- Report and plan of action for every interested Homeowner.
- Regularization of legal ownership in accordance with Mexican laws.
- Notarize legal titles and record them with the Catastro and Public Registry.

A Little History...

ORIGINAL ACQUISITION

- **May 1986 - July 1989.** Oscar E. Cano, who was married under the common assets system with Mrs. Ana María Hernández Bco. (hereinafter Messrs. Cano) acquired 4 (four) fractions of the rustic land known as "Zalate."

JOINT VENTURE

- **March, 1989.** Oscar E. Cano and the corporation Desarrollos Turísticos Gran Visión (hereinafter DTGV) entered into a Joint Venture Agreement, with the purpose of developing the Condominium Resort “La Jolla de Los Cabos”. DTGV was in charge of the construction, which was completed approximately in November 1992.

CONDOMINIUM REGIME

- **May, 1990.** The Condominium Regime of “La Jolla de Los Cabos”, Condominial Area I, Section A and B was created through Public Deed No. 35,660, volume 645.

BANCOMER LOAN & MORTGAGE

- **August, 1990.** Part of “La Jolla de Los Cabos” was mortgaged in favor of Bancomer, where DTGV was named as borrower and Messrs. Cano were named as joint liable guarantors.
- **February, 1991.** Loan Agreement with Bancomer, and in order to secure the loan, HSBC established a mortgage over the condominium Area I, section A and B and its constructions, in favor of Bancomer. The debtors were DTGV and Messrs. Cano.

MASTER TRUST

- **September, 1990.** Master Trust Agreement with the following elements: (i) Messrs. Cano, Rancho San Lucas, DTGV as Settlers, Banco del Atlántico, now HSBC as Trustee, and (iii) Messrs. Cano, Rancho San Lucas, DTGV as Beneficiaries, by which the Condominium Area I, Section A and B, and all constructions built on those sections, were affected as patrimony of the Trust.
- **Duration of the Trust = 30 years**

MASTER TRUST PATRIMONY

- ***AREA I, SECTION A, 47 UNITS:*** C-101, C-102, C-103, C-107, C-108, C-109, C-207, C-208, C-301, D-106, D-203, D-303, D-304, E-102, E103, E-104, E-108, E-201, E-202, E-203, E-204, E-207, E-208, E-302, E-304, E-308, F-102, F-103, F-106, F-110, F-112, F-201, F-203, F-204, F-209, F-210, F-211, F-212, F-311, G-102, G-104, G-106, G-202, G-203, G-205, G-207, G-302

MASTER TRUST PATRIMONY

- ***AREA I, SECTION B, 11 UNITS:*** I-2, I-4, I-17, I-107, I-108, I-109, I-110, I-111, I-112, I-113, I-114, I-115.

ESTATE OF MR. OSCAR CANO

- **February 1996.** The Estate of Oscar Ernesto Cano García included, among other properties:
 - Condominium Area I, Section A and B
 - Condominium Area II, Section A and B
- After this date, Ana María Hernández vda. de Cano, represented the Estate of Mr. Oscar Cano for all purposes.

FORECLOSURE BANCOMER

- **March, 2000.** Bancomer received through a Judicial Transaction Agreement (*Dación en Pago*) some properties as partial payment of the outstanding debts of pursuant the various Credit Agreements entered in the past between DTGV, Messrs. Cano (as Debtors) and Bancomer (as Lender). All the properties were transferred to Bancomer free of any liens or encumbrances and the Master Trust was partially cancelled with respect to those properties. Also, Bancomer acquired all the rights derived from private purchase agreements executed with third parties.

RECOGNITION OF PURCHASE AGREEMENTS

- Bancomer recognizes that prior to the Foreclosure, there were 45 purchase agreements with third parties, by which the transfer of 46 units was promised.
- HSBC needs to receive a written instruction by Bancomer to accomplish one of the following:
(a) recognize such third parties as Beneficiaries within the Master Trust; or (b) partially cancel the Master Trust and transfer the ownership to whoever is indicated in the instruction.

PRIVATE AGREEMENTS FULLY PAID

- **9 units:** AB-303, AB-403, AB-412, C-108, C-301, D-303, E-208, E-308, G-106.

PRIVATE AGREEMENTS WITH OUTSTANDING BALANCE

- **36 units:** AB101, AB102, AB103, AB104, AB106, AB202, AB204, AB205, AB208, AB210, AB401, AB402, AB404, AB405, AB408, AB503, AB506, AB508, C103, C208, D106, D304, E202, E203, E207, E304, F102, F103, F110, F201, F209, F211, G104, G203, G205, G207.

* **A list with the names, addresses, balances of the owners was attached to the Foreclosure Deed.**

"FRACTIONAL" UNITS (QUARTERS $\frac{1}{4}$)

- **23 "Fractions":** E-103A, E-103B, E-103C, E-103D, F-106A, F-106B, F-106D, F-203A, F-203B, F-203C, F-203D, F-311A, F-311B, F-311C, F-311D, AB-203A, AB-203B, AB-203C, AB-203D, AB-207, AB-207B, AB-207C, AB-207D.
- * **F-106-C, was not under private agreement, so its ownership was transferred to Bancomer.**

***"FRACTIONAL" UNITS
(QUARTERS $\frac{1}{4}$)
PAID IN FULL***

- **12 "Fractions":** E-103A, E-103B, E-103D, F-106D, F-203A, F-203B, F-203C, F-311A, F-311B, F-311, AB-203A, AB-207D.

****The rest of the "Fractions" had an outstanding balance.***

UNITS TRANSFERRED TO BANCOMER

Area I, Sections A and B

- HSBC transferred the ownership of the following Units to Bancomer, free of any contractual obligations: C-101, C-102, C-107, C-109, C-207, D-203, E-102, E-104, E-108, E-201, E-204, E-302, F-112, F-204, F-210, F-212, G-102, G-202, G-302, I-2 garage, I-4 garage, I-107, I-108, I-109, I-110, I-111, I-112, I-113, I-114, I-115.

****These Units were pulled out from the Master Trust.***

BANCOMER AUCTION

- **December, 2004.** La Jolla Group, S. de R.L. de C.V. (partnered by Snell) won the auction and Bancomer transferred the ownership of 29 units.

Current Scenarios

- ***SCENARIO ONE (HIGH RISK)***

Homeowner is not recognized as Beneficiary "B" in the Master Trust with HSBC and does not has individual Fideicomiso Deed in his name, with respect to his/her unit.

Current Scenarios

- ***SECOND SCENARIO (LESS RISKY, BUT STILL RISKY)***

Homeowner is recognized as Beneficiary "B" in the Master Trust with HSBC, with respect of his/her unit.

Current Scenarios

- ***THIRD SCENARIO (NO RISK)***

Homeowner has an individual Fideicomiso Deed, duly recorded with the Public Registry, recognizing him/her as the beneficiary with respect to his/her unit.

Why to regularize?

- You are not the lawful owner of your unit until you have a recorded public deed in your name.
- You cannot sell your property unless you are its lawful owner.
- Big risk that the lawful owner will re-sell your property or put a lien on it (e.g. using it as collateral for a loan).
- Master Trust will expire in 10 years.

Proposal

- Review the interested Homeowners documentation (either private or public)
- Situate them in one of the mentioned scenarios.
- Regularize their ownership.
- Record them as lawful owners with the Public Registry of Property.
- Process and obtain a title insurance policy with First American (optional)

CONTACT INFORMATION

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