

# Las Olas Announces...

## the Issuance of the SETENA Permit

### Executive Summary

Prepared by David Aven, June 15, 2008.

Las Olas Luxury Beach Resort is proud to announce that they have received their SETENA Environmental approval for the project known as Las Olas in Esterillos Oeste, Costa Rica. This has been a long and expensive process. We want to thank the Architectural firm of MUSSIO/MADRIGAL for doing a great job in getting this permit for us. It took a lot of work and money to take it through the process, but we now have it and now can proceed with confidence in taking the next steps toward getting the construction documents and to begin construction on the infrastructure.

In this executive summary, I would like to take some time and spell out exact what our vision is for the project and what we have planned.

Our main purpose for the Developer Group/shareholders is simple and that is to maximize the ROI for the shareholders and investors. We have been thinking how to do that while we were going through the permitting process and I wrote a report in March of 2008 setting forth the concept of the developers becoming more vertically integrated. I want to cover that a little more in detail here now. What exactly is vertical integration and how would it work? To better understand that let's use this simple hypothetical:

Let's assume you buy a piece of land on a beautiful beach. You could hold onto that lot and sell in a few years and make some money on the appreciation. However, if you build a home yourself, or contracted it to be built, once the home is finished then you can sell the property and make money on the increased appreciation of the lot and also make a profit on the construction of the house. That is called vertical integration in its simplest form. However, we're not done. When you sell the house, very likely the buyer will need a mortgage. Generally the buyer would go to a bank or another lender and request a mortgage. However, the seller has an opportunity to provide the buyer with the mortgage with 20 percent down. By offering the seller a mortgage you vertically integrated one more time. If the buyer wants to put in a swimming pool and you have a construction company and you build his pool, you vertically integrated one more time. The idea is that once you have a customer then do as much as you can for that customer to make as much money as you can. That is what vertical integration is. So here is what the ROI would like at various stages:

1. Bought a piece of land for \$100,000 and held it for 3 years
2. Land is now worth \$130,000 your ROI is \$30,000
3. Build a home for \$200,000, after construction home is worth \$260,000
4. Sell the land with the home for \$390,000, your ROI is now \$90,000
5. Build a swimming pool for buyer and make a profit of \$5,000.00 and increase your ROI a little more. ROI is now \$95,000

6. Take back a mortgage on land for \$312,000 with a balloon payment in 10 years at 8 percent would return \$142,250. You now have become a banker and will make money on the mortgage payments. Your Total ROI for the entire transaction is \$237,250 rather than just \$30,000

This is the concept for the Las Olas Project, which increases shareholders ROI. The buyer will need certain financial products, other services and will be paying certain fees related to his purchase of a home, condo, or time share in the Las Olas Project. Any fees or payments by buyers will only increase shareholder ROI. The developers plan to look at all possible forms of revenue streams, down to renting jet skis and surf boards, to increase shareholder ROI.

The Las Olas Project will consist of 358 homes, ten small condo towers, beach club and hotel. It is anticipated that the project will do time shares for the small condos towers and for the beach club that will be built on the 2.2 hectares, (5.4 acres) which is a concession. The idea is for Las Olas to be more vertically integrated and in doing so maximize the ROI all the way up the integration ladder for the shareholders.

Las Olas will be a mixed plan development with homes, condos, condo/hotel units and small condo towers placed in different parts of the project site. In that mix we will not only sale the lots, but also will build the home and provide the mortgage. Another important component to our business model will be to timeshare the beach front hotel/condo units as well as the 100 condos we have planned for the site. We also intend to provide time share financing for the buyers as well.



**Las Olas Luxury Beach Resort Site in Esterillos Oeste, Costa Rica**

A window of opportunity has emerged in the Costa Rican residential real estate market as a result of a confluence of political and economic circumstances in the region. Politically, the Costa Rican Government has historically exhibited a firm commitment to democracy, stability and a well-established legal system which affords non-citizens the same protection in terms of property rights as is afforded citizens. At the same time the Costa Rica residential real estate market is experiencing exponential growth in both value and demand. This is being fueled in large part by Americans who are purchasing retirement and vacation homes and who are attracted to Costa Rica due to its safe and friendly atmosphere as well as its easy accessibility from the U.S. (e.g. only a 2 hour flight from Miami). In response to the increased demand developers have commenced hundreds of new projects across the country.

Las Olas is one of the few resort properties in the world that is on a developable beach. Beach front resorts are historically the most desirable since that is where people really want to be. However, despite that fact and the favorable political climate, growing demand and the emergence of qualified developers, the growth and expansion of Costa Rica's real estate market, this market need the proper capital to keep things growing. The Costa Rican capital markets currently lack the sophistication and mechanisms, to keep pace with the demand for residential real estate financing. The situation is exacerbated by the lack of available secondary sources. In short, the Costa Rican real estate market is inefficient. All the necessary elements are in place for a foreign provider of financing to capitalize on the inefficiency.

Las Olas Mortgage Opportunity (hereafter referred to as LOMO) is being created to seize upon this arbitrage opportunity, and to supply capital efficiency to foreign buyers of Costa Rican residential real estate. The initial goal of LOMO is to create a residential mortgage operation for the Las Olas buyers of vacation and retirement real estate in Costa Rica. LOMO anticipates offering homebuyers 10-year fully amortizing capped adjustable rate mortgages (ARMs). The business will provide loans for 60% to 70% of appraised value at interest rates between 8% and 10% (based on today's market rates).

LOMO's primary source of recurring revenue will come from the hypothecation of the mortgages, and the spread created between LOMO's cost of capital and the interest rate charged to home buyers. The business will also generate significant revenue from loan originations fees between 1.25% and 2% of the loan amount.

LOMO will structure its business with the view of mitigating risk by using capped adjustable rate mortgages (ARMs), the company will also have the property as collateral for the loan. ARMs will also decrease prepayment risk and allow LOMO to maintain its rate spread up to the point of the cap.

In regards to default risk, LOMO intends to use a third party Trust vehicle to hold title to the property until the borrower satisfies their loan obligations. In the event of a default, the Trust will allow LOMO to quickly take possession of defaulted property and cure the loan.

LOMO's transactions will also be structured to avoid currency risk. This is made possible because Costa Rica's vacation and high-end real estate markets are priced, and generally transacted, in U.S. dollars. Expansion in these markets is ultimately determined by demand generated from American investment.

The devaluation of Costa Rican real estate, also a risk to the business, will be mitigated due to the current relative strength of Costa Rican real estate as evidenced by its stability and perseverance post 9/11.

LOMO's competitive advantage will derive from the delivery of benefits to its customers at Las Olas. Foremost, will be the providing of simple, efficient, cost effective financing in an environment where "all cash" purchases are becoming prohibitive and existing alternatives are expensive and complicated. LOMO's loan process will ensure fast, reliable and transparent transactions. This will facilitate an efficient buying process, benefiting not only the buyers, but also the developers and real estate brokers with whom LOMO creates relationships. Efficiencies will be created through technology-based loan process and a relatively agile decision making process. Finally, LOMO will provide its clients with an increased sense of comfort and security by providing mortgage financing for their home purchases at Las Olas.

LOMO will be established to provide capital for Americans seeking to finance real estate transactions in Costa Rica. From its home base, LOMO will establish a modern technology-based loan process that will create high-speed efficient transactions. LOMO will perform all due diligence and underwriting, and facilitate the entire process from pre-approval, loan funding and loan closing.

## **BUSINESS MODEL**

The key to unlocking Costa Rica's true potential is to create a convenient and reliable financing solution, which will allow foreign dollars to flow freely into the Costa Rican real estate market. LOMO's model is very basic; we endeavor to capitalize on the arbitrage opportunity by introducing a simple mortgage instrument to allow American buyers to purchase real estate. LOMO will use a basic hypothecation structure to generate significant revenues from interest rate spread, while also drawing profit from several other pools. The design and implementation of the business are discussed below.

### **Sources of Revenue**

There are a number of expected sources of revenue for LOMO, which include:

- Rate Spread — LOMO will generate significant revenues as a result of the difference between the company's preferred borrowing rates (backed by highly credit-worthy investors) and the rates at which the company loans money to its residential borrowers.
- Loan Origination Points — LOMO expects to charge buyers between 125 and 200 basis points at origination to complete the transaction. These points will be in addition to other closing fees normally associated with the completion of a mortgage or other loan transaction. While LOMO realizes that these points represent an incremental cost to buyers, the costs are still significantly less than those offered by local banks.

### Sources of Funds

LOMO will attract mortgage funds from a number of sources by offering a higher rate of return.

1. High income individual investors.
2. Bond offers
3. Insurance companies
4. Hedge Funds

## Risks

There are some risks associated with the creation of LOMO. The risks are associated with the residential mortgage industry are known, and can be mitigated. The X-factor will be the 'foreign element' which results from doing business in a country outside the United States. LOMO may decide to set up the mortgage operation in the US and have it managed by a competent management team, or it may be set up in Costa Rica. A decision will be made in time as to where the mortgage operation will be set up and managed.

Major risks include:

- Loan Defaults — Lending institutions rely on their borrowers to repay their loans to remain financially solvent. LOMO will employ stringent underwriting standards and criteria, as well as lend only to credit-worthy borrowers to minimize default risk.
- Prepayment Risk – Lending institutions are vulnerable to prepayment, and therefore risk losing the necessary yield for its given exposure. LOMO will mitigate this risk by offering adjustable-rate mortgages and creating a prepayment lockout or penalty for its loans. Since there are few mortgage options in Costa Rica at the present time, prepayment risk from refinancing is low.
- Market Risks — LOMO is very confident that the market for residential Costa Rican real estate will continue to grow. It should also be noted that beach front vacation real estate is the most desirable and therefore having a project on the beach is less risky since demand is high. LOMO will limit its market exposure by only financing 60% to 70% of appraised value.
- Political Uncertainty — Costa Rica has a long standing reputation for its commitment to democracy and government stability. It has a well-defined and established legal system capable of offering the security necessary to justify an investment of this magnitude. At this time there is no indication that the government has plans to adopt any new policies that would impact LOMO's business plan.
- Efficiency – Costa Rica has an enduring reputation of being a hospitable locale for international investment; yet its government systems and bureaucracy are not as efficient as those in First World nations. As a result, LOMO exposes itself to some risk associated with various issues not being handled in a timely manner.
- Act of God – This may include risks associated with natural disasters as well as any detrimental effects from the war on terrorism. Some of this risk can be mitigated with insurance.

## Customer Profiles

LOMO expects to serve a number of different customer segments by offering an efficient, safe and transparent financing option where none currently exist. This business is in the perfect position to capitalize on the massive population bulge that will be moving into retirement in the coming years. Our target for home sales are baby boomers looking for a tropical beach front destination for retirement, either full time or during the winter months. Our target for the timeshare units will be high net-worth individuals who like to travel to resort destinations all over the world. The timing of this business is perfect to target and capture the unique and incredible economic force the baby boomers will create. Other potential customers will be some of the 85,000 Americans who currently own a home in Costa Rica

and want to liquefy some of the appreciation they have achieved from their homes. The following list describes these customers in more detail:

Retirees/Baby Boomers:

- Americans, 55+ years of age
- Married
- Empty nesters
- Significant retirement savings/liquid assets
- Active, healthy individuals who are able to take advantage of the many outdoor activities Costa Rica has to offer
- Adventurous and worldly

High Net Worth Individuals:

- Americans, 30-55 years of age
- Married with children
- Significant liquid assets
- Frequent travelers to tropical destinations worldwide
- Spend 1+ months of the year vacationing
- Successful professionals
- Active lifestyle

Existing Owners:

- Adult Americans
- Typically expatriates and/or vacation homeowners
- Desire to extract cash from rapidly appreciating Costa Rican real estate holdings
- Gainfully employed or significant liquid assets sufficient to cover the new mortgage

Customer Benefits

LOMO expects to provide its customers with a number of benefits to meet their needs. The most obvious benefit is the availability of capital to finance a residential purchase because extremely limited financing is available from local banks. Since Americans are apprehensive about transacting with a foreign bank for such a large purchase, LOMO's customers will benefit from the ability to transact directly with LOMO in securing a mortgage. By dealing with LOMO, borrowers are assured of transparency in their transactions, a technological and fully automated loan process, fair dealings based on accepted American business practices and immediate access to professionals who understand their misgivings and can confidently address their issues.

Other benefits include:

- Decreased Upfront Cash Outlay — Currently most Costa Rican real estate transactions are done on an "all cash" basis. With prices rising rapidly, these transactions are becoming financially infeasible for most prospective buyers. By providing simple financing for home purchases, LOMO eases the burden on buyers, thus increasing the number of individuals who can afford to make Costa Rican real estate purchases.
- Affordable Rates and APRs — The few buyers that currently finance their Costa Rican real estate purchases with a Costa Rican banking institution typically are charged high interest rates and

significant upfront points (5% to 7%) to complete the transaction. As stated above, local banks do not have an efficient appraisal system, and base their valuation on the registered value of the property. This makes it difficult for foreign borrowers to adequately finance a purchase. LOMO proposes to offer competitive adjustable-rate mortgages to qualified homebuyers with 125 to 200 basis points upon origination. LOMO's product will be drafted along the lines of US Mortgage lending and will make the transactions less costly, more transparent and customer friendly. .

- Efficient Transactions — Costa Rican banks have a highly involved and arduous decision-making and lending process. It is common practice for a bank to take more than three months to close a loan. LOMO on the other hand will be able to process the loan request within days. Therefore, borrowers can be assured of speedy and forthright transactions.
- Specific Collateral – At The Collateral will be the 20 percent down payment and the Mortgaged home. LOMO may require additional collateral based upon the credit score of the buyer.

## INDUSTRY COMPETITION

The Costa Rican capital markets do not have the ability to provide the necessary financing for the budding demand generated by foreign buyers and frankly are slow to respond to capital needs. Additionally, financing from secondary players is severely limited. This “pain” created by the insufficient capital needs of the Costa Rican real estate market is the heart of the opportunity upon which LOMO seeks to capitalize. However, because Costa Rica offers such an open investment environment basic economic theory, and overabundance of capital on the sidelines in the U.S., implies that efficiency will very soon be brought to this market. This gives LOMO a relatively brief window of time to establish and launch its mortgage business. Presently limited competition would be generated from several sources.

- Local Banks – Despite the fact that Costa Rican land values have been growing exponentially over the past decade, Costa Rican banks currently lack the sophistication and ability to service the demand for financing from international buyers. There are several banks from which it might be possible for a foreigner to obtain a loan. These include Scotia Bank, Banco Nacional, Banex and Banco Costa Rica. The general terms of these loans are:
  - Loan to Registered Values between 50% to 70%
  - Interest Rates between 8.5% to 13%
  - Originations fees between 5% to 7%
  - These loans are fully amortizing fixed rate loans
  - Terms are 10 or 15 years for foreigners

It should be noted that there are many difficulties associated with obtaining these loans, to the extent that they are prohibitive. These difficulties include:

- The basis for a bank's property valuation is determined by the registered tax-appraised value, which is significantly lower than market value. This in turn makes it difficult for buyers to adequately finance their purchases.
- There is no pre-approval process available.
- The transaction process is extremely 'document and paper' based, requiring both time and additional legal fees.
- The decision-making process, from application to closing, will often take between 2-4 months. Additionally, there is no guarantee at any point in the process that financing will be obtained. Furthermore, some sellers will not accept financing from local banks. They are not willing to

tie up the property for the time required to obtain a loan since there is no guarantee that the financing will be provided.

- o The primary reason that the process is so lengthy and arduous results from the bank's requirements for verifying foreign income.
  - Banks will require a certified and translated income statement from an American accountant.
  - The income statement must then be certified by the Costa Rican Consulate within a month, or it is deemed invalid (this is often a catch-22 because the consulate is inefficient and often will not certify the statement within the one month time frame). This certification process will often hold up the loan closing.
- o The origination fees are very high, increasing the actual cost of funds.
- o Bank representatives at local branch banks in the coastal regions are rarely fluent in English, and have very little experience in financial transactions of size.
- o All official documents must be in Spanish to be considered legal. Banks will not provide an English translation of the loan documents. It is the buyer's responsibility to ensure understanding of the loan terms and conditions.
- o These loans are always originated and registered as a mortgage, which will have property tax implications for the borrower.
- o American borrowers are very hesitant to get involved with a foreign banking institution with such significant purchases.
- **Second Trust Deed From Primary Residence** – Some American buyers will take out a second mortgage on their primary residence in the United States to finance their real estate purchases in Costa Rica. This has the advantage of generating a relative low cost of funds. However, as prices continue to rise in Costa Rica, this option will lose its effectiveness. Most buyers will not have enough equity build-up to adequately finance their purchases. Additionally, many buyers are reluctant to risk using their primary residence as security for financing of this magnitude.

## Channels

The rapid growth of Costa Rica's real estate market is severely constrained by the lack of available financing. The introduction of financing to the market will allow for increased expansion in every facet of the industry. Thus, LOMO's product is both essential and beneficial to those driving the real estate market in Costa Rica. LOMO expects to form exclusive or preferred relationships with real estate brokers and developers throughout the country to drive sales at Las Olas as well as providing mortgages to home buyers of property outside of Las Olas. These broker relationships should be relatively easy to establish and maintain, given the mutually beneficial nature of the relationships.

LOMO's channel strategy is described below.

Large Residential Developments — There are a number of large American firms currently constructing for-sale residential "mega projects" in Costa Rica. These firms typically employ in-house staff to broker the sale of each individual property. LOMO expects to partner with these developers and in-house sales groups, which will have a derivative affect in Las Olas sales.

- Developers — Hundreds of independent, relatively smaller developers are offering high quality residential properties in every region of Costa Rica. These developers are faced with the same challenges of offering buyers adequate financing to ensure sales are transacted. LOMO will partner with these developers to provide buyers with a financing option that will increase their inventory turnover.
- Real Estate Brokers — A number of American real estate brokerage houses have established offices in Costa Rica, most notably Coldwell Banker, Century 21 and Remax. These brokerage houses are key players for LOMO, as they are often the first point of contact for Americans looking to purchase property. Additionally, these firms often have exclusive or preferred relationships with the high-end development projects in their region. These brokers have



commented that one of the biggest barriers in making sales is the lack of reliable financing for the properties. LOMO endeavors to establish relationships with these brokers, and to use them as an extended sales force for Las Olas and the LOMO mortgage products. This is expected to be a low-cost option for LOMO, as the brokers have a vested interest in promoting LOMO products.

## MARKET ANALYSIS

The confluence of investment circumstances within Costa Rica has given birth to an incredible real estate market. This is a relatively young market, but has shown substantial growth in both value and size over the past decade. This extremely attractive environment has spawned both large and small development projects throughout Costa Rica, most notably, Los Suneos Resort and the high profile Four Seasons Papagayo Resort. Other notable entries to the market will include the Ritz Carlton and the Amman Hotels, both of whom are currently pursuing development options. These reputable hotel investments, along with hundreds of development projects currently underway throughout the country, are creating an incredible potential.

During the last five years Costa Rica has experienced an average annual price appreciation of more than 10%, with its hottest sub-markets growing by more than 20% per annum. At the present time Costa Rica's real estate market is relatively fragmented with no central source of information regarding the existing market. However, based on interviews of brokers and developers throughout the country, it can be conservatively estimated that there are \$75 to \$100 million in foreign real estate purchases annually, and there is \$300 to \$400 million worth of existing product on the market. Yet, Costa Rica is just beginning its exponential growth curve.

### Tamarindo/Guanacaste

The Tamarindo/Guanacaste region is the epicenter of the real estate explosion taking place in Costa Rica. This region contains most of the mega projects currently under construction within Costa Rica. As previously mentioned, the Four Seasons opened its doors in 2004 and has further enhanced credibility and demand within the region, sparking expansive development.

Guanacaste has approximately \$127 million worth of existing product on the market, which includes more than 150 homes and 375 condos. In addition to the Four Seasons, there are two other mega projects just outside of Tamarindo. Together, Hacienda Pinilla and Playa Conchal have master plans for more than 6,000 acres and 3,000 residential units. Outside of the major projects, there are hundreds of developments currently under construction or breaking ground in the near future. It can be safely assumed that there will be more than half a billion dollars worth of product created in this region alone in the next 5-7 years.

Land prices in Guanacaste have a wide range of values. Prime ocean front/view parcels are generally sold for between \$13 psf to \$37 psf, with the region averaging \$19 psf. Existing product is on the market for \$166 to \$350 psf. Condos in the region are generally \$170 psf, while homes average approximately \$220 psf. It should be noted that the Four Seasons plans to sell its product for \$600 psf.

### Manuel Antonio

Manuel Antonio is the heart of tourism on the Central Pacific Coast and is about 30 minutes from Las Olas. It's highly popular since it has one of the only rain forest next to an ocean. It is estimated that

90% of all first time tourists who come to Costa Rica go to Manuel Antonio, and in doing so they have to pass right by Las Olas. Manuel Antonio has seen significant growth in the past five years. The Manuel Antonio area has historically experienced comparatively small independent developments relative to the large-scale development projects taking place in the northern region of Guanacaste. The primary reason being, that the area has been defined by simple land speculation. Over the past six years, raw land has appreciated by more than 15% annually. The unimproved land market has now reached maturity, and developments are springing up all over the area. There are currently four major development projects that are in the later stages of permitting, and are likely to break ground in the next year. Manuel Antonio has approximately \$6 million worth of existing product on the market, with an additional \$18 million worth of large development parcels and 50 ready-to-build home sites worth approximately \$10 million. One of the development parcels is the 110-acre Punta Quepos, a spectacular and unique parcel unlike any piece of real estate left in the country. This parcel will undoubtedly be the next major project in Manuel Antonio, and is conservatively estimated to yield \$70 million in product.

The Manuel Antonio area has enjoyed an average of \$15-\$20 million in real estate transactions on an annual basis over the past five years. Land prices now range in value from \$5 psf to \$13 psf. Existing product is on the market for \$150 to \$300 psf. There are also plans to build a 200-slip Marina and docking station for cruise lines. A golf course has also been proposed, and is a very likely next step at some point in the future, given the abundance of land just outside of town.

#### Jaco Beach

Jaco Beach is one of the most rapidly growing areas of Costa Rica. The primary reason being its location; it is just an hour and a half from San Jose's Juan Santa Maria International Airport. This time will ultimately be cut in half, as the government is constructing a new road which will provide a more direct route to the area. As a result, real estate in Jaco will soon include more residential as well as hotel properties. Las Olas is located 15 minutes south of Jaco Beach and will benefit from the new road as well.

In the late 1990's Costa Rica's first mega project, the Marriott Los Suenos Resort, broke ground. Several other real estate projects have quickly followed suit. The Los Suenos Resort has already built hundreds of condos, with plans for several more phases. These condos range in price from \$350K to \$850K.

#### San Jose/Escazu

By American standards, there are several very affluent areas in San Jose. With a large upper class and emerging middle class, developers in the area are currently building more than 20 high-end condo projects throughout the city and in Escazu (a nearby suburb). It is expected that these condo projects will bring more than 1,000 condo units online in the next three years. Price points for these condos range from \$100K on the low end to more than \$1M on the high end. The average sales price is \$200 psf for condos in these projects.

As may be expected, a large portion of these projects are currently being occupied by Costa Ricans. Based on previous market demand, however, experienced local developers anticipate 30% to

40% of their buyers to be Americans. This is especially true of those projects being developed by the Intel plant.

This growing middle and upper-class additionally has created demand for dozens of retail development projects, most notably the MultiPlaza. This mall is comparable to most high-end malls in the United States, and is occupied mainly by American companies such as the GAP, Tommy Hillfiger, Borders Books, TGI Fridays, etc.

## PROPERTY RIGHTS/ TRANSACTION PROCESS

Costa Rica boasts a very safe real property transaction and registration system. All properties are listed in a fully computerized and indexed system in the Public Registry, according to their property number or Folio Real. Once a buyer has identified a property they will hire an attorney to run a full title report, which is a comprehensive detailed history of the property including all liens and encumbrances.

Once the buyer is satisfied that there is no cloud on title, an earnest money deposit will be put down with the seller. In some instances this deposit will also act as an option allowing the buyer additional time to complete the transaction. At closing the property will be transferred by executing a transfer deed before a notary public, who is usually one's attorney. It is a very common practice in Costa Rica for a buyer to purchase a property under a newly established Costa Rican corporation. In fact virtually every major development currently taking place in Costa Rica pre-arranges this corporate structure for its buyers. There are numerous tax benefits to purchasing a property under a Costa Rican corporation.

There are several costs associated with making a real property purchase in Costa Rica. Total closing costs generally range from 3% to 4%. These costs include a transfer tax of 3% of the registered value, documentary stamps of 0.25% of the registered value and legal fees, which range from 1.25% to 2%. Annual property taxes are 0.25% of the registered value. Upon closing, the attorney will present and register the transfer deed in the Public Registry. This process usually takes from 4 to 6 weeks.

There are two instruments used to finance a real estate purchase in Costa Rica. The most commonly used instrument is a mortgage, which can be registered simultaneously with the transfer deed or filed separately. There is an additional 50 to 75 basis point cost on the loan amount associated with the registration of a mortgage. The security for a mortgage is a lien against the property. Costa Rica's law states the priority of liens are based on a 'first in time, first in right.' Since a property is purchased free and clear of all liens the mortgage usually has the senior lien on the property. Foreclosures on a mortgaged property are handled through a judicial sale, and generally take a year to resolve.

In the 1980's Costa Rica passed several tax laws that spawned the use of a Trust as an instrument of security for real estate financings. A Trust has numerous advantages in addition to tax savings. It is a relatively new instrument with very few restrictions governing its covenants. As such, the instrument can be crafted based solely the needs of the buyer and lender. It also offers the lender additional security since the process to foreclose and resolve a default may happen in a more expeditious manner than with a mortgage.

## COSTA RICA PROPERTY RIGHTS/ TRANSACTION PROCESS

### The Recording System

The Costa Rican Civil Code requires that all documents relating to the title of real property be recorded in the property section of the public registry. This registration process is fully indexed and computerized. The property database can be searched by either an indexed name, or more commonly, by a property number known as a Folio Real. This allows the registry to issue certificates of title and provide title reports. These reports provide a detailed history of the property and any liens, easements, cloud on title, etc.

### Purchasing Property

Once a buyer has identified a property, they will hire a lawyer or title insurance company to perform a title search based on the seller providing the folio real. It should be noted that Costa Rica follows the doctrine of 'first in time, first in right' in regards to liens or encumbrances. This has further implications in that any liens or encumbrances filed after the property is transferred are deemed null and void. In many ways this eliminates the need for title insurance. A buyer should also obtain a Platt Map from the seller, which defines a property's boundaries. When buying in a subdivision, the Platt Map will show the approval of the subdivision of land with a stamp called a Visado Municipal.

### Transfer of Title

Once the title search is performed and completed, the buyer will provide an earnest money offer along with a deposit. Often times a buyer will take out an option, or a Promesa Reciproca de Compra-Venta, which allows the buyer more time to transact.

The Property is transferred by executing a transfer deed known as an Escritura de Traspaso, which must be done before a notary who is usually the attorney. It is common practice for property to be transferred to a buyer in the form of a corporation. In fact, every large active development in the country has pre-arranged corporations for each individual lot.

There are two reasons this has become common practice. First, a corporation limits an individual personal liability. Second, and more importantly, setting up a corporation saves the buyer the 3% transfer taxes. This is done because ownership is transferred through the use of the corporation's stock, as opposed to registering the transfer of title to an individual. This is a very safe and commonly used form of property ownership, but it is important to have an attorney research the corporation to make sure there are no outstanding liabilities.

### Closing Costs

- Real Estate Transfer Tax – This is a 3% tax on the registered value of the property. As mentioned above, these taxes are commonly avoided through the use of a corporation.
- Documentary Stamps – These are various stamps of approval, and are generally a formality. The costs are nominal.
- Notary Fees – These are generally the attorney's fees, and range from 125 to 150 basis points on the actual purchase price.

## THE TWO TIERED SYSTEM – REGISTERED VALUE vs. MARKET VALUE

Costa Rican real estate transfers take place based on a two-tiered system. Land in Costa Rica generally has two values; a tax-appraised value, or registered value, and a market value. The registered value is usually substantially below market value. It is common practice in Costa Rica to publicly register the value of a real property transaction based on the existing registered value. The purpose of using the registered value is to significantly reduce the tax basis for documentary stamps, and transfer and property taxes. The reduction in tax basis for documentary stamps and transfer taxes are relatively insignificant compared to the impact on property taxes. These are onetime fees. The reduction in property tax basis, however, can result in significant recurring tax savings for the buyer. Property taxes are set at 25 basis points of the registered value.

### Registration of The Transfer Deed

After the money has transferred from buyer to seller, and the buyer has taken possession of the property, the notary must present (anotado) AND register (inscrito) the transfer deed in the public registry. The Public Registry will not register the deed until all registration fees are paid and taxes are current. The local Municipality where the property is located will send a certified confirmation that both local taxes (impuestos territorial) and municipal taxes (impuestos municipales) are current. Once a property has been presented, it will take 4-6 weeks for it to be officially registered. It is important to have the attorney follow up with the Public Registry to confirm registration.

### Maritime Zone and Concessions

In Costa Rica, the Maritime Zoning Law passed in 1977 regulates the ownership of the shoreline. This zone encompasses the first 200 meters from the high tide point. Of the 200 hundred meters regulated by this law, the first 50 meters are a public zone where no construction can take place.

The second 150 meters is a restricted zone. This law allows the government to grant concessions of 20 years, which will probably be, but are not automatically, renewed. Before a property concession can be granted, the beach area must have an approved zoning plan (plan regulador) from the Costa Rican Tourism Institute (Instituto costarricense de turismo). The National Geographic Institute must also place high tide markers (mojones) on the shoreline property to be zoned.

In order to apply for a concession one must have actual and open possession of the property. Each concession is granted with its own set of terms and conditions of possession. The local government may collect a land tax (canon) prior to the granting of a concession. Once a concession is granted, it is filed in the Registry of Concessions in the Public Registry.

This law cannot be applied retroactively, therefore any property purchased before 1977 can have clear title to maritime land. Although a concession adds an element of complication to the ownership process, it is not prohibitive. There is very little legal precedence of concession expropriation. In fact, some of the major developments, including the Marriot Los Suenos and the Four Seasons Papagayo, are selling property in the maritime zone. These projects, along with dozens of others, have taken a calculated risk, as it seems unlikely these concessions will not be renewed because of the precedence it will set. When purchasing property in a Maritime Zone, it is recommended that one does so as part of a major development.

## Security Instruments – Mortgages & Trusts

**MORTGAGES** – Mortgages are the most widely used vehicle for financing a real property purchase. In Costa Rica, a mortgage can only be created by a written instrument drafted and witnessed by a notary public, and registered in the Public Registry. A mortgage can either be created at the time of sale by adding a mortgage clause to the transfer deed, or registering it as a separate instrument.

There are additional costs for registering a mortgage in the Public Registry. The basis for these costs is the registered loan amount. Registration fees for a mortgage added to the transfer deed cost 25 basis points for registration and 50 basis points for documentary stamps. If a mortgage is registered separately, there is a fee of 50 basis points for the registration and 50 basis points for the documentary stamps. Additionally, there will be a fee to the notary for drafting the mortgage. This fee can range from 65 basis points to 125 basis points. Remember that if a mortgage is publicly registered, the loan amount will become the registered value of the property.

The most common foreclosure process in Costa Rica is a judicial sale of the mortgage property. If the senior mortgage holder purchases the property, he will do so free of all encumbrances. This process will take 6 months to 1 year, and in the worst case scenario can take up to 1.5 years if there are multiple lawsuits.

**TRUSTS** – In the early 1980's, Costa Rica passed several tax laws that spawned the use of Trusts for real estate holdings. This is the mostly likely tool CRCS will use to secure its loans. The primary advantage of a Trust is that there are few rules governing its covenants, which allow for the creation of acceptable terms based solely on the needs of the borrower and lender. Additional advantages of a Trust include various tax savings and the possibility of a quicker foreclosure process.

A Trust in Costa Rica is created by the attorney. Once a buyer has decided to use financing to purchase their property, the attorney will draft the Trust document. As mentioned above, most buyers will purchase 100% of the shares of a corporation whose sole purpose is to own that property. The shares of the corporation will be transferred into the Trust, under the care of the Trustee, in accordance with the terms and covenants of the Trust document. The Trustee will then register the transfer deed in the Public Registry in the name of the Trust. Upon satisfaction of the debt, the Trustee will automatically convey 100% of the shares of the corporation to the buyer.

There are fewer costs associated with the creation of a Trust relative to a mortgage. This is because the actual instrument is not registered in the Public Registry. The drafting of the Trust is included in the general legal fees, which are negotiable but generally cost between 125 and 150 basis points of the purchase price.

In the event of a default, the Trustee will follow the terms and covenants of the Trust document. Once a borrower has exceeded a predetermined grace period, the Trustee will send a notice to the borrower, notifying that the property will be put up for sale at a private auction. At the same time, the Trustee will put a notice of a Trustee auction in a local newspaper. The lender will have the right to set a minimum price at which the property may be bid on.

When a property is sold at a private auction, the proceeds of the sale will first go to the lender in an amount necessary to satisfy the remaining outstanding balance on the loan and any fees incurred. Any additional proceeds will be given to the borrower. The Trustee will then present and register the

property in the Public Registry in the name of the winning bidder. Once the Trustee presents the property, the new owner will be first in time, but the actual registration will take 4-6 weeks to complete. There are no restrictions on the lender participating in the bidding process.

In regards to the time frame of the foreclosure process, there are three possible outcomes. First, if there are no complications, the property will revert to the winning bidder within 3-4 months of notice being given to the borrower. The second possibility results when a borrower refuses to vacate the given property. In this case, the Trustee will file for an eviction. The local municipality's police force will be notified, and the eviction process will ensue. If an eviction became necessary, the process may take up to 9 months. The third possibility is a lawsuit filed by the borrower to void the Trust. Depending on the complication of the lawsuit, this process may take up to a year and a half to be resolved.

#### Condo Law

In Costa Rica, condominium law is governed by the Ley de Propiedad Horizontal, or the Law of Horizontal Property. Almost all subdivisions, and therefore most developments, are governed by this law. A condominium project is created by recording a declaration in the Public Registry. This declaration will include a legal description of the land, description of intended improvements, description of each unit, etc. The declaration will also include an ownership percentage in each unit and the common areas, based on the initial value of each unit divided by the value of the whole project. This percentage is used to determine each owner's interest in the project, as well as their liability for common areas, etc. The declaration must also include the CC&R's for the project.

#### Construction and Development

Development in Costa Rica is governed by the Costa Rican Building Code, as well as regulations set forth by the Institute of Housing and Urban Development (Instituto Nacional de Vivienda Y Urbanismo), the Association of Architects & Engineers (Colegio Federado de Ingenieros Y Arquitectos de Costa Rica) and the local municipality. The law requires that any application for development be presented by a member of the Costa Rican Association of Architects and Engineers. All architects and engineers in Costa Rica must be a member of the association. This association establishes the limits on fees that may be charged by its members.

Before a project is to begin, it must get an environmental approve by a Government agency by the name of SETENA. SETENA is the only government agency granted authority by the Government and the courts to issue environmental permits. All proposed developments must get this permit before they can advance any further. The purpose of getting this permit is to ensure that there are no environmental problems with the project site. No turtle nesting places, no bird sanctuary, no forests and no wetlands. SETENA must get confirmation from other Government agencies that the project site has no environmental problems. Las Olas just received their SETENA environmental permit last month in June of 2008. This has been a long and arduous process as well as a very expensive one. The next step is to get the site plan registered, get the approval of the college of architects and then get the construction permits from the Municipality.

Additional approvals must be gotten from the Ministry of Public Works for the creation of roads and infrastructure, AYA the water department, the Ministry of Health, the Housing and Urban Development (I.N.V.U.), as well as the local municipality for the construction permits.

## Property Insurance

In Costa Rica, the government has a monopoly on all sales of insurance. The National Insurance Institute (Instituto Nacional de Seguros) sells insurance through a network of registered brokers and government banks. The most commonly sold property insurance is an umbrella policy (Hogar Seguro 2000), which insures the home and all of its contents from fire, lighting, hurricane, vandalism, cyclone, landslides, earthquakes, falling objects and smoke. This policy will cover the contents of the home, which are automatically valued at 35% of the insurance policy. This policy has an annual premium of 34 basis points on the insured amount.

David Aven  
Shareholder Representative  
June 15, 2008.

(see SETENA Permit below)



*Ministerio de Ambiente y Energía*  
*Secretaría Técnica Nacional Ambiental*  
**SETENA**

Teléfono: 2234-3367-2234-3368 Fax: 2225-8862  
Apartado Postal 5298-1000 San José

**Resolución N° 1597 ::-2008-SETENA**

EL MINISTERIO DE AMBIENTE Y ENERGIA, LA SECRETARIA TECNICA NACIONAL  
AMBIENTAL, **A LAS 09 HORAS 15 MINUTOS DEL 02 DE JUNIO DEL 2008.**

PROYECTO CONDOMINIO HORIZONTAL RESIDENCIAL LAS OIAS  
EXPEDIENTE AOMINISTRATIVO N° 01-1362-2007 -SETENA

Conoce la Comisión Plenaria de esta Secretaría el Documento de Evaluación Ambiental (0-1), el Pronóstico Plan de Gestión Ambiental y la Declaración Jurada de Compromisos Ambientales del proyecto: Condominio Horizontal Residencial Las Oias, a nombre de la empresa Inversiones Cotsco C&T S.A., representada por el **señor David Aven, expediente número, 01-1362-2007-SETENA.**

RESULTA: JDO

PRIMERO: El día 08 de noviembre del 2007, se recibe en esta Secretaría el Documento de Evaluación Ambiental (0-1), el Pronóstico Plan de Gestión Ambiental del Proyecto: Condominio Horizontal Residencial Las Oias, a nombre de la empresa Inversiones Cotsco C&T S.A., representada por el señor David Aven, expediente número, 01-1362-2007- SETENA.

SEGUNDO: El día 10 de enero del 2008, el señor Eduardo Segnini Zamora, miembro del Departamento de Gestión Institucional y funcionarios de la empresa desarrolladora realizaron la inspección de campo al área del proyecto.

TERCERO: El día 03 de abril de 2008 es recibida la información solicitada mediante oficio SGP-DGI 098 - 2008, del día 23 de febrero de 2008, en el cual se le solicita al desarrollador la presentación de: mapa de cobertura vegetal actualizado, certificación registral de la propiedad, pronunciamiento del ACOPAC-MINAE, declaración jurada de no iniciación de obras sin VLA, tres puntos georeferenciados y registro fotográfico del AP.

CONSIDERANDO

PRIMERO: Que se tiene por legitimado al señor David Aven, para solicitar la evaluación ambiental a nombre de la empresa Oceanico Pais Sociedad Anónima.

SEGUNDO: Que el artículo 19 de la Ley Orgánica del Ambiente seriala "Las resoluciones de la Secretaría Técnica Nacional Ambiental deberán ser fundadas y razonadas. Serán obligatorias tanto para los particulares como para los entes y organismos públicos."

**TERCERO:** Que de conformidad con el criterio del Departamento de Gestión Institucional y de la documentación que consta en el expediente administrativo y la inspección realizada al sitio, se ha determinado lo siguiente:

- 1- La actividad a desarrollar consiste en la lotificación bajo régimen condominial, de fincas filiales primarias individualizadas. Según diseño serán 300 fincas. Se construirán calles, obras de sistema de agua potable, alcantarillado pluvial, electrificación y telefonía. Para la disposición de aguas residuales y servidas se construirá una planta de tratamiento anaeróbica, de capacidad y tipo avalados por el Ministerio de Salud. Su ubicación se indica en el diseño de sitio. La recolección, transporte y disposición final de los desechos sólidos será brindado por empresa privada, adjunta nota de disponibilidad de este servicio, cuya disposición final deberá ser a un sitio autorizado. El sistema de distribución eléctrica será subterránea, trifásica y monofásica de 19.9/34.5 Kv con secundarios subterráneos a 120/240 V, transformadores tipo pedestal alumbrado público. La infraestructura eléctrica y telefonía serán públicas, el propietario final será el ICE. La ubicación de las tuberías será bajo la acera y zona verde a una profundidad que oscila entre 70 cm y 120 cm. Las tuberías tendrán la misma ubicación y profundidad que las eléctricas, paralelas a las mismas.
- 2- El documento inicial de evaluación ambiental (denominado 01), cumple con la información técnica, legal y complementaria en los apartados 1.3. y 1.4.
- 3- El proyecto sometido al proceso de evaluación de impacto mediante el presente expediente, comprende las obras de infraestructura, necesaria para brindar los servicios básicos del proyecto, y la construcción de las casas de habitación.
- 4- Al momento de la visita al área del proyecto no se encuentra ni maquinaria ni personal trabajando en la fase constructiva del proyecto, no ha iniciado su fase constructiva. El terreno donde se ubicará el proyecto se define como plano-ondulado, con pendientes entre los 0 y 1'5% y en la mayor parte del AID. En el AP no hay quebradas ni ríos permanentes o intermitentes, y la cobertura vegetal está compuesta de pasto con árboles dispersos y sectores pequeños con cobertura vegetal en el AP. El área circundante al proyecto está conformada por terrenos de uso similar al AP, y edificios y casas en construcción. Se contemplan movimientos de tierra sin acarreo fuera del AP.
- 5- Entre los servicios básicos del proyecto contará con los siguientes: El agua potable, será suministrado por la ASADA de Esterillos, el servicio de energía eléctrica será brindado por el Instituto Costarricense de Electricidad (ICE). El tratamiento de las aguas residuales, se utilizará planta de tratamiento, adjunta diseño de la misma. Las aguas pluviales serán desfogadas a un sistema pluvial recolector existente en la zona. La recolección, transporte y disposición final de los desechos sólidos será brindado por empresa privada, adjunta nota de disponibilidad de este servicio, cuya disposición final deberá ser a un sitio autorizado.
- 6- Presenta los Estudios Técnicos establecidos en el Manual de Instrumentos Técnicos para el Proceso de Evaluación de Impacto Ambiental (N° 32712-Minae). Estudio de Ingeniería básica del Terreno: Estudio Geotécnico de capacidad soportante, certificación sobre la consideración de riesgo antropico, y el estudio de hidrología básica del cauce de agua más cercano. Presenta el estudio técnico arqueológico rápido del terreno del AP, el cual indica que no requiere más estudios arqueológicos en el AP. Presenta el Estudio de Geología básica del terreno AP: Estudio de

Geología básica de la finca, la condición de amenaza natural del AP y el estudio de Hidrogeología ambiental de la finca.

- 7- Los estudios básicos realizados señalan una serie de recomendaciones que deben acatarse según lo indicado, como parte de los compromisos ambientales del proyecto. En caso de requerirse la eliminación de algún árbol, debe tramitarse el permiso correspondiente, ante la oficina del MINAE.
- 8- Para cada impacto ambiental identificado en la matriz básica de identificación de impactos ambientales, se presenta la correspondiente medida de mitigación.
- 9- Con respecto a los criterios de ponderación, la calificación final de la SIA estableció un valor de 429 puntos. De conformidad con lo que establece el procedimiento de Evaluación de Impacto Ambiental de la SETENA, según la ruta de decisión, la actividad requiere de la presentación de un Pronóstico-Plan de Gestión Ambiental, como instrumento de evaluación ambiental.

CUARTO: Se realice el análisis correspondiente del documento Pronóstico - Plan de Gestión Ambiental y Declaración Jurada de Compromisos Ambientales, aportados por el Desarrollador, junto con el documento inicial de evaluación ambiental (01), presentados ante esta Secretaría, cumple con lo solicitado en el Manual de Instrumentos Técnicos para el Proceso de Evaluación de Impacto Ambiental (Manual de EIA Parte II), por lo que es procedente en el presente caso continuar con el procedimiento de evaluación ambiental del proyecto de referencia, para la obtención de la declaratoria de viabilidad ambiental. En los casos de iniciar las obras, actividades o proyectos antes del pronunciamiento de viabilidad ambiental por parte de esta Secretaría, esta institución posee la potestad de ordenar la paralización de las obras y aplicar lo establecido en la legislación vigente.

POR TANTO

LA COMISIÓN PLENARIA RESUELVE:

En sesión Ordinaria N.º 82-2008 de esta Secretaría, iniciada el 30 de MAYO del 2008, en el Artículo No. 11 acuerda:

PRIMERO: Que el documento inicial de evaluación ambiental (01), el Plan de Gestión Ambiental y la DJCA, presentados ante esta Secretaría, cumplen con lo solicitado en el Manual de Instrumentos Técnicos para el Proceso de Evaluación de Impacto Ambiental (Manual de EIA Parte II), por lo que es procedente en el presente caso continuar con el procedimiento de evaluación ambiental del proyecto de referencia, para la obtención de la viabilidad ambiental, para lo cual se hace necesario solicitarle al Desarrollador (David Aven - Inversiones Cotsco C&T S.A.), el cumplimiento de los siguientes requerimientos, de conformidad con lo que se establece en el Procedimiento de Evaluación Ambiental de esta Secretaría:

- a) Efectuar un depósito de garantía ambiental, por la suma de \$ 8,000.00 (ocho mil dólares o su equivalente en moneda nacional), el documento valor debe ser depositado en la cuenta Custodia de Valores número CV-7297-SETENA-MINAE, del Banco Nacional de Costa Rica - San José (Oficinas Centrales). Este monto puede ser ajustado dependiendo del resultado de la Evaluación Ambiental, el depósito debe ser por un período mínimo de un año, de acuerdo con el artículo 21 de la Ley Orgánica del Ambiente:

- b) Nombrar un Responsable Ambiental, con su inscripción vigente en el Registro de Consultores de la SETENA, mediante el envío de una nota firmada por el propietario con la aceptación del profesional asignado. Deberá aportar la carta de nombramiento firmado por el desarrollador y la carta de aceptación firmada por el consultor.
- c) La periodicidad de presentación de informes regenciales será definido por la Comisión Plenaria en la resolución final. Los Informes regenciales deberán ser presentados en un plazo máximo de 10 días posteriores a la finalización del periodo que cubren.
- d) Presentar ante la Unidad Legal de esta Secretaría, un libro de actas de 100 folios para habilitarlo como Bitácora Ambiental. La misma deberá permanecer en las instalaciones del proyecto durante el tiempo de vigencia de la regencia ambiental, que será definido por la Comisión Plenaria en la resolución final.

SEGUNDO: La anterior documentación deberá ser presentada por el Desarrollador (David Aven - Inversiones Cotsco C&T S.A.) un mes antes del inicio de actividades, de lo contrario se procederá a aplicar lo que establece la legislación vigente. Asimismo se le recuerda al Desarrollador que deberá presentar todos los meses una carta indicando que el proyecto no ha iniciado obras. Presentar una carta un mes antes de iniciar obras, indicando el día del inicio del proyecto.

TERCERO: Con base en las características ambientales del AP y su interacción con las actividades que realizará el proyecto, se establece la periodicidad de presentación de informes regenciales ante la SETENA, para periodos de cada dos meses durante la fase constructiva y un informe consolidado al final de la misma. Los Informes regenciales deberán ser presentados en un plazo máximo de 10 días posteriores a la finalización del periodo que cubren. En el momento de iniciar actividades se inicia el periodo del primer informe de regencia ambiental. Para la elaboración de estos informes, de acuerdo al formato establecido por esta Secretaría, será responsabilidad del regente ambiental realizar el número de visitas necesarias, dependiendo de las características del proyecto. Con base en estos informes y al programa de monitoreo, la SETENA podrá ajustar el monto de garantía y dictar medidas de acatamiento obligatorio para mantener al proyecto, obra o actividad dentro de un margen de impacto ambiental controlado. El responsable y el propietario deberán brindar apoyo a las labores de la SETENA, en las inspecciones que esta efectúe.

CUARTO: El incumplimiento de los requerimientos de esta Secretaría, así como de cualquiera de las obligaciones contraídas en la Declaración Jurada de Compromisos Ambientales y el Plan de Gestión Ambiental, podrá ser sancionado de conformidad con lo establecido en el artículo 99 de la Ley Orgánica de Ambiente, así como la demás legislación vigente.

QUINTO: Se le comunica al interesado que, de conformidad con los artículos 17, 18 y 19 de la Ley Orgánica del Ambiente, se ha cumplido con el procedimiento de evaluación ambiental del proyecto que tiene las siguientes características:

- 1- Nombre Proyecto: Condominio Horizontal Residencial Las Olas, No. Exp.1362 - 2007-SETENA, Propietario: Inversiones Cotsco C&T S.A. - Representante: David Aven, Ubicación: Provincia: Puntarenas, Canton: Parrita, Distrito: Parrita, Hoja Cartográfica: Herradura., Esc: 1: 50.000, Coordenadas: 386.850 - 387.500 N y

407.800 - 408.600 E, No. De Plano Catastrado: P-1244761-2007, Numero de Finca: 142646-000. Descripción del Proyecto: La actividad a desarrollar consiste en la lotificación bajo regimen condominial, de fincas filiales primarias individualizadas. Según diseño serán 300 fincas. Se construirán calles, obras de sistema de agua potable, alcantarillado pluvial, electrificación y telefonía. Para la disposición de aguas residuales y servidas se construirá una planta de tratamiento anaeróbica, de capacidad y tipo avalados por el Ministerio de Salud. Su ubicación se indica en el diseño de sitio. La recolección, transporte y disposición final de los desechos sólidos será brindado por empresa privada, adjunto nota de disponibilidad de este servicio, cuya disposición final deberá ser a un sitio autorizado. El sistema de distribución eléctrica será subterránea, trifásica y monofásica de 19.9/34.5 Kv con secundarios subterráneos a 120/240 V, transformadores tipo pedestal alumbrado público. La infraestructura eléctrica y telefonía serán públicos, el propietario final será el ICE. La ubicación de las tuberías será bajo la acera y zona verde a una profundidad que oscila entre 70 cm y 120 cm. Las tuberías tendrán la misma ubicación y profundidad que las eléctricas, paralelas a las mismas.

Por lo que se le otorga la VIABILIDAD AMBIENTAL al proyecto, quedando abierta la etapa de Gestión Ambiental y en el entendido de cumplir con la Clausula de Compromiso Ambiental fundamental, indicado en el Considerando Tercero anterior.

SEXTO: La vigencia de esta viabilidad será por un periodo de DOS Años para el inicio de las actividades. En caso de no iniciarse las actividades en el tiempo establecido, se procederá a aplicar lo que establece la legislación vigente.

SETIMO: Contra esta resolución cabe interponer dentro del plazo de tres días a partir del día siguiente a la notificación, los recursos ordinarios de revocatoria ante la SETENA, y el de apelación ante el Ministro de Ambiente y Energía, de conformidad con los artículos 342 y siguientes de la Ley General de Administración Pública y 87 de la Ley Orgánica del Ambiente.

OCTAVO: Toda documentación que sea presentada ante la SETENA deberá indicarse claramente el número de expediente, el número de resolución y el nombre completo del proyecto.

SECRETARIA  
GENERAL  
EN REPRESENTACION DE LA COMISION  
PLENARIA

En la oficina de la Secretaría Técnica Nacional Ambiental se notifico copia de la Resolución N° **1597-2008-SETENA** de las **09** horas **15** minutos del **Q1** de **JUNIO 2008**.

**NOTIFIQUESE:** David Aven - Inversiones Cotseo C&T S.A. Fax: 2283-3497