

REFORM TO MEXICO CITY'S CIVIL CODE IMPACTING MEDIATION AGREEMENTS

OCTOBER 2024

On September 27, 2024, a decree was published in the Official Gazette of Mexico City amending article 3044 of the Civil Code for Mexico City ("CC") and articles 50 and 79 of the Registry Law for Mexico City.

Article 3043 of the CC provides that the Agreements arising from mediation proceedings that comply with the requirements set forth in the Alternative Justice Law of the Superior Court of Justice of Mexico City will be preventively recorded in the Public Registry of Property.

Regarding the latter, prior to its reform, the second paragraph of article 3044 of the CC provided that the annotation or registration of acts in the real folio of a real estate -known as closing of the registry- would be prevented, if so agreed in an agreement derived from a mediation process that was registered before the Public Registry of Property. Thus, essentially, the registry traffic could be closed by means of an agreement between private parties, until the Mediator or an official of the Alternative Justice Center requested the Public Registry of Property the cancellation of the closing of the registry once the parties were satisfied with the compliance of such Agreement.

In this regard, Articles 50 and 79 of the Mexico City Registry Law were also amended, eliminating the

possibility of closing real estate registries by virtue of agreements arising from mediation procedures.

The purpose of this reform is to avoid that the sole and absolute will of the individuals who underwent the mediation procedure may result in the closing of the registration of the real property folio. This change is carried out under the view that the figure of closing the registry would be contrary to the human right of other citizens to access the registry, which could even result in certain acts susceptible to registration falling into informality.

In other words, the particular interest of the parties to a Mediation Agreement cannot be placed above the general interest of the community and the human right of access to the registry.

In view of the change described above, it is advisable that individuals or legal entities that enter into a Mediation Agreement take into account that the entry into force of this reform may open the door to the registration of liens in the real folio of a real estate that is designated as a form of payment or as security in an agreement of this type, which could have a better priority for its payment or restrict the possibility of transferring the ownership of the property, which could affect the due compliance of Mediation Agreements.

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