

## **Unit 4. Comunidades de propietarios (Communities of Owners / Owners' Associations)**

### **PART 1. INTRODUCTION**

#### **WHAT IS A *COMUNIDAD DE PROPIETARIOS*, ANYWAY?**

*Comunidades de propietarios* very seldom exist in English-speaking countries, for the principle of horizontal property or condominium property, i.e. common elements belonging to everyone and for which everyone is financially responsible, is very rare; besides, there is no law in these countries making it obligatory for these associations to exist. Therefore, a full explanation is sometimes required for non-Spanish owners, who are usually afraid that something wrong is going on and that someone is trying to rob them of their money and/or rights.

Read the following text, which is a more or less transparent explanation of what a *comunidad de propietarios* is for a non-Spaniard:

#### **COMMUNITY FEES AND THE COMMUNITY OF OWNERS**

**([http://www.lavillacosta.com/legal\\_aspect7.htm](http://www.lavillacosta.com/legal_aspect7.htm))**

With all new property developments in Spain it is a legal requirement that the purchaser becomes a member of the Community of Owners, i.e. the *Comunidad de Propietarios*; this is what we would term in England a Residents' Association, but with the full weight of the Law behind it. The Comunidad de Propietarios have their own rules, which will be set out in a document supplemental to the Contrato known as the Estatutos. Often the Estatutos are not finalised until the development is completed. Lavillacosta have available on request an example of a basic set of Estatutos, but of course there will be variations for each development and the solicitor (*abogado*) acting for you has therefore to study the Contrato Privado (*Private Agreement*) about the Estatutos and obtain a copy of the Estatutos for the development and advise you accordingly.

Owners of apartments or villas in an "urbanization" are jointly responsible with the other owners in the building or the estate, for the expenses of the community. Usually, each owner's percentage of costs is fixed by factors such as the size of each apartment, or plot, dividing the total area of all the apartments or plots on the development. Expenses, however, can vary substantially, according to the services required by the community, which might for example include salary of a hall porter, garden and/or swimming pool maintenance, lift maintenance, repairs, electricity for lighting in common areas, insurance, refuse collection and management/administration fees. Accordingly, your legal representative should make

enquiries on your behalf as to the method of fixing of the community charges and the amount payable.

By Law the Comunidad de Propietarios elect their own Chairman (known as the President), and appoint an administrator, who can be a professional from outside the development. Where the development consists mainly of holiday homes it is generally a professional property manager who, at the Annual General Meeting would present the budget for the forthcoming year. The president is elected from one of the residents at the development, usually a volunteer but elected by a draw among the members if there are no volunteers. Once the draw has been made, the person appointed is legally forced to accept.

The Annual General Meeting is all important because at that meeting the payments for maintenance are discussed and agreed. If you are unable to attend in person at the meeting you can appoint a proxy known as a *Representante* to attend and vote on your behalf.

There is usually also a general fund, into which payment has to be made to provide for the repair of all jointly owned properties, which is known as "Elementos Comunes". This does not include personal repairs, such as the guttering and roofing to your particular property, which are known as "Elementos Privativos".

Each development has its own annual charge which can be around £450.00 per annum per property in popular resort developments, but lower elsewhere. Each agreement for the Comunidad de Propietarios states in it which properties are involved and has a list of the regulations to which they are bound. Each community and development is, of course different, but where footpaths, roads and lights have been provided by the developer their maintenance is part of the responsibility of the community, as is the drainage system: even time-sharing purchasers have to be members.

The Chairman of the community takes the chair at the Annual General Meeting. He is appointed annually from the members so must be known to them. The Chairman together with the administrator are the authorities for agreeing for work to be done, giving orders and signing any documents that may be necessary. Full minutes should be kept by the administrator who also maintains a register of the members of the community and their individual addresses. The main duties of the administrator are to ensure that the communal parts, the units, the utensils and fixtures and fittings are kept in a good state of repair and condition, and are kept clean and tidy to ensure that the gardens, swimming pools, tennis courts etc., are maintained to a satisfactory condition, that all the furniture, fixtures and fittings are insured, and all rates, taxes, assessments and outgoing charges imposed or assessed in respect of the community have been paid, and that each member pays his share. The original Estatutos can always be altered by a resolution at the Annual General Meeting, providing that the relevant notice has been given, A two thirds majority is generally required for any change to be made.

**1. Find words in the text which may correspond to the following equivalents in Spanish:**

actas  
administrador de fincas  
asistir  
conserje  
cuota  
elementos comunes  
elementos privativos  
Junta General Anual  
presidente  
multipropiedad  
promotora  
recogida de basuras  
registro  
urbanizaciones  
zonas comunes

**2. Now, answer in English the following questions on the text. Remember that these are questions that all foreign proprietors will ask you; therefore, make sure you are clear in your answers (do not simply repeat what is said in the text) and also that you can memorize these answers for the future:**

1. What is the main difference between Spanish communities of owners and any other similar bodies in other countries?
2. What are the *Estatutos*, and why can't I, as a prospective buyer, have access to them when I buy the property?
3. Why do some owners pay more than others? Especially, why do *I* pay more than my neighbour next door?
4. Why do owners of property in other developments pay much less than I do?
5. Who is the president? Is there any possibility it might be me, even if I don't want to?
6. Why is it so important to attend the Annual General Meeting? What should I do, if I cannot attend?
7. Will the community pay for damage caused to my roof by the strong winds last week?
8. How much do I have to pay?
9. Mine is only a time-sharing property, which I only visit once a year. Does this affect me as well?
10. What are the duties of the administrator?
11. Is there any way I can change something I do not like about the *estatutos*?

## **PART 2. THE LEGAL FRAMEWORK: THE *LEY DE PROPIEDAD HORIZONTAL***

**Look at these excerpts, in English and Spanish, from the *Ley de Propiedad Horizontal* (Condominium Act / Law of Horizontal Property)**

### Excerpt 1

Se considera así hoy en día que la regla de la unanimidad es en exceso rigurosa, en cuanto obstaculiza la realización de determinadas actuaciones que son convenientes para la comunidad de propietarios e incluso, por razones medioambientales o de otra índole, para el resto de la colectividad. Se ha considerado así conveniente flexibilizar el régimen de mayoría para el establecimiento de determinados servicios (porterías, ascensores, supresión de barreras arquitectónicas que dificulten la movilidad de personas con minusvalía, servicios de telecomunicación, aprovechamiento de la energía solar..., etc.).

The unanimity rule is considered nowadays too rigorous, as it does not make it possible to carry out certain actions which are suitable for the community of proprietors and even, for environmental or another nature reasons, for all other citizens. Thus, it has been considered suitable to make the rules of majorities more flexible for the establishment of certain services (porter's lodge, elevators, removal of architectural barriers which hinder the mobility of disabled people, telecommunication services, use of solar energy, etc.).

(adapted from

[www.comunidades.com/comunidades/legislacion/LPHing.doc](http://www.comunidades.com/comunidades/legislacion/LPHing.doc))

### **1. Complete the following text, using the words given:**

elevator (2), owners (2), panels, porter's lodge, proprietors, unanimous, unanimity

In communities of \_\_\_\_\_, it is not necessary that decisions should be \_\_\_\_\_, that is, that they should be reached by \_\_\_\_\_, especially if such decisions affect all the \_\_\_\_\_. Therefore, if it is necessary to install an \_\_\_\_\_ for \_\_\_\_\_ people to reach their flats in a 4<sup>th</sup> floor, or if such \_\_\_\_\_ needs to be repaired, or if the \_\_\_\_\_ has to be enlarged because it is too small, or if solar \_\_\_\_\_ are to be installed on the roof, the agreement of all \_\_\_\_\_ is no longer required.

### **2. Translate the previous text into Spanish.**

## Excerpt 2

Otra de las grandes demandas de la sociedad es lograr que las comunidades de propietarios puedan legítimamente cobrar lo que les adeudan los copropietarios integrantes de las mismas. Lo que se viene denominando lucha contra la morosidad se pretende combatir con esta reforma a través de una pluralidad de medidas dirigidas a tal fin: creación de un fondo de reserva, publicidad en el instrumento público de transmisión de las cantidades adeudadas por los propietarios, afección real del inmueble transmitido al pago de los gastos generales correspondientes a la anualidad en la cual tenga lugar la adquisición y al año inmediatamente anterior, responsabilidad solidaria del transmitente que no comunique el cambio de titularidad, atribución de carácter ejecutivo a los acuerdos formalizados en el acta de la Junta de propietarios, establecimiento de un procedimiento ágil y eficaz de ejecución judicial para el cobro de las deudas con la comunidad..., etc

Another of the big demands of society is to allow communities of proprietors to rightfully be paid what the members owe. This amendment of the act is aimed at struggling against what is called as “defaulters”, through a number of measures directed to such a goal: creation of a reserve fund, public mention in the transfer deed of any amounts owed by proprietors, making the transferred property liable for any general expenses corresponding to the year when the sale was made and the previous year, joint responsibility by any seller failing to inform about the change in ownership, executive character attribution to formal agreements made at the Meeting of Proprietors, establishment of an agile and effective procedure of judicial execution for the collection of debts with the community, etc.

(adapted from

[www.comunidades.com/comunidades/legislacion/LPHing.doc](http://www.comunidades.com/comunidades/legislacion/LPHing.doc))

### **1. Find words in the English version of the previous text corresponding to the following definitions, and then add the corresponding translation into Spanish:**

\* \_\_\_\_\_ : a law enacted by the legislative branch of a government (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_ : person who fails to fulfil an obligation (for example, an obligation to pay) (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_ : a signed and usually sealed instrument containing some legal transfer or contract (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_ : application in practice of a court decision (also called *enforcement*) (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_: obligated according to law (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_: to be under obligation to pay or repay in return for something received (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_: the state of being an owner, that is, of possessing something as property. (SPANISH EQUIVALENT: \_\_\_\_\_)

\* \_\_\_\_\_: one who has the legal right or exclusive title to something (SPANISH EQUIVALENT: \_\_\_\_\_)

**2. Complete the following text, using the words given:**

agreements, defaulters, fund, lien, measures, owe, unpaid

The problem with \_\_\_\_\_ is that, when they \_\_\_\_\_ money, it is very difficult to make them pay. Among the \_\_\_\_\_ now available are: creating a reserve \_\_\_\_\_ for urgent expenses, including \_\_\_\_\_ amounts in sale-purchase deeds, making any debts become a \_\_\_\_\_ against the property, and making proprietors' formal \_\_\_\_\_ directly applicable.

**3. Complete the following sentences, using a word belonging to the same word family as the one given at the beginning, as in the example.**

Example:

AGREE: The proprietors have reached an **agreement** to build a kidney-shaped swimming pool. (SPANISH EQUIVALENT: **acuerdo**)

OWNER: Any changes in \_\_\_\_\_ must be notified. (SPANISH EQUIVALENT: \_\_\_\_\_)

ESTABLISH: The \_\_\_\_\_ of a new method to enforce agreements will help communities to recover debts. (SPANISH EQUIVALENT: \_\_\_\_\_)

MEET: Defaulters will not be allowed to vote at \_\_\_\_\_. (SPANISH EQUIVALENT: \_\_\_\_\_)

AMEND: There has recently been an \_\_\_\_\_ of the Horizontal Property Act. (SPANISH EQUIVALENT: \_\_\_\_\_)

COLLECT: The \_\_\_\_\_ of debts is not easy, unless measures are taken against debtors. (SPANISH EQUIVALENT: \_\_\_\_\_)

## PART 3. OWNERS' MEETINGS

### An example of call for a meeting:

At the request of the company "Residencial Timaguiris, S.L", and pursuant to Article 16 of the Spanish Condominium Act, we hereby announce the General Meeting of the Owners' Association URBANIZACIÓN GUIRIESTAFAO, which will be held at \_\_\_\_\_, on March 13, 2004, the first call being for 9,30; should there not be sufficient attendance, the meeting will start on second call at 10.00

The AGENDA is the following:

FIRST: legal creation of the Owners' Association.

SECOND: initial agreements regarding governing board and administration.

THIRD: Approval of Budget for 2004 and calculation of owners' contributions.

FOURTH: appointment of members of governing board.

FIFTH: Any other business.

Given the importance of the items on the agenda, you are kindly requested to attend or, if unable to do so, to vote by proxy.

APPOINTMENT OF REPRESENTATIVE:

As the owner of the dwelling \_\_\_\_\_, belonging to the Owners' Association URBANIZACIÓN GUIRIESTAFAO, I hereby authorize Mr. \_\_\_\_\_ to

### 1. Find words in the text which may correspond to the following equivalents in Spanish

votar por delegación

orden del día

asistir

junta de gobierno

presupuesto

primera convocatoria

ruegos y preguntas

nombramiento  
sociedad mercantil

**2. Complete the following sentences, using a word belonging to the same word family as the one given at the beginning, as in the example.**

Example:

OWN: All **owners** are kindly requested to attend. (SPANISH EQUIVALENT: **propietarios**)

ANNOUNCE: The \_\_\_\_\_ of the General Meeting was posted on the notice board at the entrance of the development. (SPANISH EQUIVALENT: \_\_\_\_\_)

DWELL: The owners of most of the \_\_\_\_\_ were not represented at the meeting. (SPANISH EQUIVALENT: \_\_\_\_\_)

CALCULATE: The \_\_\_\_\_ of owners' contributions is done through a complex formula, depending on the size of the dwelling. (SPANISH EQUIVALENT: \_\_\_\_\_)

APPOINT: The president is \_\_\_\_\_ for yearly periods, which are usually renewed if there are no other volunteers. (SPANISH EQUIVALENT: \_\_\_\_\_)

ATTEND: The meeting was postponed due to insufficient \_\_\_\_\_ (SPANISH EQUIVALENT: \_\_\_\_\_)

REPRESENT: If you cannot come, you may appoint a \_\_\_\_\_ so that he or she can vote by proxy. (SPANISH EQUIVALENT: \_\_\_\_\_)

APPROVE: The proposal to hire a new gardener did not have the \_\_\_\_\_ of the majority. (SPANISH EQUIVALENT: \_\_\_\_\_)

IMPORTANT: Given the \_\_\_\_\_ of the topics in the agenda, please try to attend or to appoint a representative.