



Stairs cleaning done by the condominiums, is it possible?

Without unanimity it is not possible to establish the cleaning of the staircase in turn.

Avv. Alessandro Gallucci 30/08/2018

Can one of the condominiums be entrusted with cleaning the stairs of the condominium building?

The question is often asked in our forum and concerns the possibility for the assembly to decide that one of the condominiums, who may have volunteered, to perform the service in question.

Mind you: let's forget from the beginning those situations in which the choice falls on a condominium that asks for a reimbursement of expenses or a reduction of condominium expenses without an invoice.

All these useless "alchemy" conceal irregular performances from the fiscal point of view and therefore not legitimate.

Below, it will be seen that only under certain conditions can a condominium be in charge of the stair cleaning service.

No possibility, without unanimity, to establish the cleaning scale in turn

The condominium assembly cannot deliberate that the stairs of the building be cleaned in turn by the condominiums, or that the condominiums appointed for one of the periods can also do so through third parties.

Such a decision would be hopelessly null.

This conclusion was reached by the Supreme Court of Cassation, stating that "the assembly of condominiums has the power to decide on the costs and methods of allocation, approving the approval of the budget and final accounts, but the possibility of to impose on the individual condominium the obligation to clean the stairs at a given moment, or to do so through its own cleaner.

In the event that the assembly takes such a resolution, this would be radically nothing, since the condominiums were declared beyond their competence, violating the rights of the individual condominium on which the law does not allow it to affect "(so the Court of Cassation of 22 November 2002 n. 16485).

In short, for the Court of Cassation, it is legitimate for the assembly to decide to have the stairs cleaned and therefore to share the expenses between the condominiums: this is because it falls within the category of the powers of the deliberative body to decide the provision of a service.

On the other hand, it is different to decide that the condominiums, personally (or at their turn by means of personnel directly appointed by them), must provide for the cleaning of the stairs: the difference lies in the fact that the assembly does not have the power to impose this kind of behaviors.

Mind you: if all the condominiums decide to clean the stairs in turn, then that should not be considered a resolution, but an agreement between all. A voluntary commitment by everyone to do something of their own interest.

Cleaning the stairs is a job and must be done by those who are qualified

To the question we have asked in the title of the article we must give a positive answer: yes, it is possible that a condòmino is in charge of cleaning the stairs, but this must be done in compliance with the law.

What does it mean in compliance with the law? Does the condominium have to bill the fee if it is a paid assignment?

Not only. For the assignment of the cleaning service, the assignment of the service can rely only on those who have the requisites to do so.

In this sense it provides for the law n. 82 of 1994, whose article 1, in the first paragraph, specifies that «the companies that carry out cleaning, disinfection, disinfestation, deratting or sanitizing activities, hereinafter referred to as "cleaning companies", are registered in the register of firms as per the consolidated text approved by Royal Decree of 20 September 1934, n. 2011, and subsequent amendments, or in the provincial register of craft enterprises referred to in article 5 of the law of 8 August 1985, n. 443, if they meet the requirements of this law. art. 1, first paragraph, law n. 82/1994. "

Mind you: the difference that runs between the condòmino who, voluntarily and without assignment, leaves the house and cleans the stairs of the condominium (that is, of an accessory part to his own house) and that which without spirit of personal initiative, but on behalf of the condominium, do this job, it lies in the nature of the activity. Personal and free in the first case, delegated in the second hypothesis.

The violation, even through circumvention, of the aforementioned rule can lead to the application of a pecuniary sanction. As required by law, in fact, «to anyone who stipulates contracts for the performance of activities referred to in this law, or in any case makes use of such activities for consideration, with cleaning companies not registered or canceled from the register of companies or from the register provincial of artisan enterprises, or whose registration has been suspended, an administrative sanction is applied for the payment of a sum from one million lire to two million lire "(article 6, first paragraph, law n. 82/1994).

iven these indications, for the writer it must be deduced that an assembly resolution that entrusts the task of cleaning stairs - free of charge or for remuneration - to one of the condominiums not having the legal requirements, would be considered void having an illicit object.

We note that the nullity can be asserted at any time, without the terms of forfeiture set forth in art. 1137 c.c.

Source: <https://www.condominioweb.com/pulizia-scale-fatta-dai-condomini-e-possibile.15075>

GECOSEI of Giuseppina Napolitano

Giuseppina Napolitano