



GECOSEI

GESTIONE CONDOMINI SERVIZI IMMOBILIARI
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Short guide to the Condominium After the reform of L. 220/2012 Effective from 18 / June / 2013

When was the condo?

The condo building is born when it is divided into at least two exclusive properties belonging to at least two different owners.

The condominium is a legal situation that arises if the former, without any need for incorporation. Therefore, building is not synonymous with condo.

And 'the building to fall into a "condominialità" condition due to other autonomous institutions in place, as the deed of sale, donation, succession and any other security eligible to transfer ownership. A building belonging wholly to the same owner shall not be held in condominium.

The rules also apply to condominium residences and the SO-CALLED supercondomini, or in those complexes costituiti by more bodies of autonomous factory.

What are the common parts?

According to the general principle of law, on a presumptive, are common parts of the building all the parts necessary for common use, such as the ground on which this is, foundations, main walls, pillars and supporting beams, roofs and flat roofs, stairs, entrance doors, vestibules, the hallways, porches, patios and facades.

Common parts are also the areas for parking and premises for common services, such as concierge, including housing the keeper and laundry, drying rooms and the attics intended for the structural and functional characteristics, common use.

So also the works, installations, artifacts of any kind intended for common use, such as lifts, wells, cisterns, the water and sewage systems, centralized systems of distribution and transmission of gas, for ' electrical energy, for heating and air conditioning, for radio and television reception and for access to any other kind of information flow, even by satellite or cable, and their connections to the branch point to the properties of individual local individual condominiums, or, in the case of unitary systems to the point of user, except as provided for by the sectoral regulations on public networks.

However, the list is not intended to be exhaustive, since it is the shared parts all, part or facility intended to serve the most exclusive real estate units.

The rights and obligations of condominiums.

Each occupant was exercising its right on the common parts in proportion to the value of his property.

The rights, as well as with the use of the common parts, practice by taking part in the meeting with their vote whose weight is proportional to the thousandth value of its exclusive units.

The duty of the occupant is to attend to the necessary expenses, always in proportion to the value of its exclusive real estate units. However, you can expect a different measure with appropriate agreements accepted by all.

The occupant can not avoid payment of expenses, even giving up their rights. The law does not



even recognize the assembly the power to exempt any occupant from expenditure.

However, the occupant who intends to break away from the plant central heating or air conditioning, can do so if his posting does not derive significant operational imbalances or steady cost for the other condominiums.

In this case it is still obliged to pay only costs for extraordinary maintenance of the system and for its conservation and retrofitting.

The common areas can be divided?

In principle, the common parts of the condominium can not be divided.

And 'possible to derogate from the general principle if the common part may, however, a division that does not make it uncomfortable to use the same thing to one of condominiums only and only with the unanimous vote of the participants.

It 'also possible to dissolve the condominium apartment buildings in separate completely autonomous, functionally and structurally.

If following the dissolution remain things, parts of plants or residues in common (gardens, courtyards etc.), The dissolution is allowed, but this will create the super condominium, with limited skills to the common parts to the two new autonomous condominiums.

With the vote of 4/5 of condominiums participants for at least 800/000 you can change the intended use of common parts.

What are the innovations?

Innovation constitutes each new work, plant or product, intended to improve the use, enjoyment or increasing the yield of the common parts.

Innovations in safety, health, removal of architectural barriers, containment energy consumption, car parks, renewable energy, centralized antennas, satellite and ADSL, can be approved with the majority vote of those present at the meeting for at least 500/000.

For other innovations, a favorable vote of a majority of those present, representing at least 666,67 / 000.

Innovation has always banned when it affects the stability and security of the building, alters the architectural decoration or renders useless certain common parts.

When innovation involves an expenditure very difficult if it becomes unnecessary for the conditions of the building, the resolution of approval is not binding on the dissenting condominiums to share the costs, provided that if such works likely to separate enjoyment (eg. Elevator) .

If it comes to works aimed at all (eg. An ornamental statue), strenuous or discretionary innovation is prohibited, except that the favorable bear the costs.

The award of costs.

In general, all expenses necessary for the preservation and enjoyment of the common parts, for the provision of services in the common interest and innovations are supported by condominiums in proportion to the thousandth value of individual exclusive properties.

This rule can only be waived by a valid agreement which was signed by all the condominiums.

When a common good is only part of the building, such costs are incurred only by that of condominiums group that draws utility (eg. Scale expenses A and scale B).

When a service is used to varying degrees, each occupant shall pay the expenses in proportion to its use (eg. Collective water consumption).

The stairs and elevators.

The costs for maintenance and replacement of stairways and elevators are incurred by the owners of the building units in which they serve.

Spending is broken down by half in proportion to the exclusive property value and half in proportion to the height of the floor.

The rule seeks to find a compromise between the criterion of participation in expenses by the thousandth value of the property and to participate according to the different use potential.

The standard states that this general principle can only be validly derogated from by a special agreement signed by all participants.

The floors, ceilings and vaults.

For general norm of our Civil Code, the floors, ceilings and sometimes belong to the owners of the two plans from one overlying the other.

The costs for maintenance and reconstruction is the responsibility of the two owners of 50%.

Are charged to the owner of the above expenditure on floors, while they are the responsibility of the owner of the lower floor of plaster expenses, hue and decorations.

Compared with overhanging balconies, in the legal vacuum, the more established Law believes that these totally belong to the owner of the device the balcony serves.

The flat roofs for exclusive use.

When the use of the flat roof is reserved exclusively to a single occupant or only part of condominiums, these support 1/3 of the expenses necessary repairs and reconstruction.

The remaining 2/3 of the costs shall be borne by the owners of the exclusive condominiums units to which the pavement serves as a cover.

The simple right to the exclusive use of the flat roof just is not enough to deliver all'usuario status occupant, being pure and atypical surface rights and not an autonomous housing unit plan or floor portion.

Although the exclusive use, the works of ordinary and extraordinary maintenance are decided by the assembly of condominiums or group concerned.

Who can banked on the top floor?

If the title does not provide otherwise, it may banked who is the sole owner of the flat roof. If no, you can do it the owner of the last floor of the building.

The cant is not permitted if the static conditions of the building does not allow.

The condominiums may also oppose the elevation, if that affect the architectural appearance of the building or significantly decreases the air or the light of the lower floors.

Who makes the cant shall be consistent with other condominiums compensation equal to the present value of the area to deal with the new factory, divided by the number of plans, including what to build, and reduced by the amount of the share belonging to him.

He is also required to rebuild the flat roof of which all or part of condominiums were entitled to use.

When he appointed the administrator?

When building condominiums are more than 8, it is always compulsory to appoint an administrator.

These remain in office for one year, renewable tacitly for another year, but it can be revoked at any time to be the simple pressing of the fiduciary relationship.

When there are at least 9 condominiums and the assembly does not appoint an administrator, the judge may intervene appointing a judicial administrator, on request of only one occupant.

The appointment is made under voluntary jurisdiction, and the assembly can still replace it at all times, naming one of trust.

What should the administrator?

The administrator's obligations are established by law, but the assembly can also integrate them with specific mandates.

The administrator must:

1. Give the course of the meeting and convene resolutions annually for the approval of the report;
2. Enforce the condominium regulations;
3. Collect condominium fees, even with legal proceedings (eg. Injunctions) and pay suppliers;
4. To fulfill tax obligations;
5. Keep and treat registry of condominiums;
6. Keep and treat the record of the minutes, the administrator's appointment and that of accounting;
7. Regulating the use of common parts;
8. To do the conservative acts;
9. To protect the legal interests of the condominium;
10. Make it accountable to the assembly;
11. To represent legally the condo;
12. Convene the assembly of condominiums;
13. Treat compliance with technical regulations of the plant;
14. Draw up the budget management;
15. Allow access to the files by the condominiums;
16. Open the c / c condominium and make tracks movements;
17. Set out in an accessible place his full identity;
18. Proceed to the steps of deliveries free of charge;

In matters of extraordinary administration and maintenance, the administrator has no autonomy and must obtain appropriate from time to time sent, except in urgent cases.

Who can make the administrator?

They can play the administrator in charge of those condo:

1. who enjoy civil rights;
2. they have not been convicted of crimes against the public administration, the administration of justice, public faith, property or any other intentional crime for which the law imposes a penalty of imprisonment of not less, in the least, to two years and a maximum duration of five years;
3. that they have not been subjected to preventive measures which have become final, unless it is rehabilitated;
4. who have not been disqualified or incapacitated;
5. whose name is not recorded in the list of bill protests;
6. who have obtained their secondary school diploma of the second degree;
7. who have attended a basic training course and conduct periodic training activities in the field of communal administration.

The requirements set out in letters f) and g) are not required if the administrator is appointed among the condominiums of the building.

The loss of the qualifications referred to in subparagraphs a), b), c), d) and e) of the first

subparagraph involves the termination of the assignment. In such cases each occupant may convene the meeting without formalities for the appointment of the new administrator.

In addition, assembly of request, the administrator must:

- to obtain professional liability insurance;
- activate a website of the condo for access to data.

When you can be revoked the administrator?

The Administrator's withdrawal may be decided at any time by the Assembly, by the majority provided for his appointment or with the terms of the building regulations, even without just cause.

It can also be ordered by the court, on appeal of each occupant, if not timely inform the assembly of a subpoena for exorbitant acts from his duties, unless the bill makes management even for a year, or in case of serious irregularities.

Where are revealed serious fiscal irregularities or non-opening of the c / c condominium, condominiums, individually, may request the convocation to stop the violation and revoke the mandate administrator.

In case of failure to withdraw by the shareholders, each occupant may apply to the courts; in case the application is accepted, the applicant for legal fees, is entitled to recourse against the condominium, which in turn may recover against administrator revoked.

They constitute, among others, serious irregularities:

1. the failure to notice of meeting for the approval of the condominium accounts, the repeated refusal to convene a meeting for the revocation and the appointment of the new administrator or as otherwise required by law;
2. the non-execution of judicial and administrative decisions, as well as resolutions of the meeting;
3. failure to open and use the account referred to in paragraph seven;
4. the management in a manner that can generate possibilities of confusion between the assets of the condominium and the personal assets of the administrator or other condominiums;
5. having agreed to a dissatisfied credit, cancellation of the formalities carried out in the land register for the protection of the rights of the condominium;
6. if it has been promoted judicial action for recovery of sums owed to the condominium, the failure to diligently caring for the action and consequent compulsory execution;
7. non-compliance with the obligations referred to in Article 1130, number 6), 7) and 9);
8. the failure to communicate the data, incomplete or inaccurate in the second paragraph of this article;

In the event of cancellation by the court, the assembly can not reappoint the administrator revoked.

What should the assembly of condominiums?

The Assembly powers are determined by law. When the shareholders' meeting votes outside of its powers deliberation is nothing.

But when the decision is affected by less serious vices is voidable within 30 days.

1. On the division and dissolution of the condominium;
2. On the reconstruction of the building in case of minor perishing;
3. On more powers to be given to the legal administrator's representation;

4. On active and passive legal disputes relating to its powers;
5. On measures taken by the administrator of appeal of condominiums;
6. On the appointment, removal and confirmation administrator;
7. On the budgets and final accounts and related allotment schedules;
8. approval of building regulations and tables thousandth;
9. On special projects and innovations.

The Assembly and the validity of the resolutions.

In first call the meeting of condominiums is regularly constituted with the participation of the majority of participants in the condo that also represent 2/3 of the thousandth value. In the second call the meeting is set up with the participation of at least 1/3 to 1/3 of the value of the participants.

The resolutions approved with a number of votes constituting a majority of condominiums present at the meeting, and that in turn represent at least 500/1000 are valid. In the second call, you can validly deliberate with the vote, representing at least 1/3 of the thousandth value and the majority of those present.

However, in both first and second call, resolutions concerning the appointment and dismissal of the administrator, the active or passive disputes falling outside the administrator's duties, as well as decisions concerning the reconstruction of the building or significant overtime work entities, should always be taken with the majority of condominiums present at the meeting representing at least 500/1000.

Innovations are always resolved with special quorum according to the cases.

Who and when can challenge the resolutions.

The resolutions validly adopted by the Assembly are obligatory for all apartment buildings.

Against the resolutions contrary to law or building regulations every occupant absent, dissenting or abstaining may appeal to the judicial authorities, requesting the cancellation within a period of thirty days, commencing on the date of the resolution for dissenting or abstaining and the date of communication of the resolution for the absentees.

The action for annulment does not suspend the execution of the resolution, unless the suspension is ordered by the court.

The action for nullity, however, is required each time the shareholders decide outside of its powers: an appeal may be claimed by any occupant, at all times.

When it becomes mandatory building regulations?

When a building the number of condominiums is more than ten, must be formed a Regulation, which contains the rules on the use of common things and the award of costs, according to the rights and obligations to each occupant, as well as standards for the protection of the décor of the building and those relating to the administration.

Each occupant can take the initiative for the formation of the building regulations or for the revision of the existing one.

The regulation must be approved by the majority laid down in the second paragraph of Article 1136 and attached to the register indicated by the number 7) of Article 1130.

It may be appealed pursuant to Article 1107.

The rules of the Regulation can not in any way impair the rights of each occupant, as they result from the acquisition and sale by the conventions, and under no circumstances may derogate from the provisions of Articles 1118, second paragraph, 1119, 1120, 1129, 1131, 1132 , 1136 and 1137.

The provisions of the regulation may not prohibit owning or possessing pets, except in the case

of contractual settlement.

The tables thousandth.

The tables thousandth graphically represent the value of each property unit compared to the whole building, compared to a thousand.

The tables are used to determine the validity of the Assembly and the validity of the voting quorum as well as to allocate an extent proportional expenses among participants.

The tables thousandth, although contractual, can be reviewed and modified by a majority when:

1. that it is a result of an error;
2. to the changed conditions of a part of the building, as a result of cant, of increase of surfaces or increase or decrease of the building units, is altered for more than one-fifth the building unit proportional value of even a single occupant.

In such a case, the cost is borne by those who gave rise to the variation.

In all other cases, the tables can be changed or adjusted only by consensus.

The condo is the taxman.

The condo, while remaining free of perfectly legal personality, holds ownership tax.

At each condo is assigned a tax number issued by the Inland Revenue at the request of the administrator or, failing that, by any of the condominiums.

The condo is also withholding agent and for that the administrator must:

- operate the withholding tax to his percipient, professionals and contractors;
- due to the authorities the withheld with F24;
- annually certify withheld his percipient;
- annually file the statement of substitutes, mod. 770 / simplified.

The abc of the reform law.

Access to file. Affirmed the right of the individual condominiums to access the condominium documents and obtain a copy at any time and without giving reasons whatsoever.

Administrator. Appointment mandatory where condominiums are over eight.

Possession of R.C. policy Professional assembly on request.

Handover without further compensation.

Specific analytical skills of the time of appointment or renewal, on pain of nullity of engagement.

Appointment of a Director for the cases of housing and economic and public housing.

Obligation for the administrator to fulfill the tax obligations of the condominium. preparing the financial statements within 180 days.

Possession of moral penalty of forfeiture requirements: absence of previous crimes against property, must not have been subjected to preventive measures and should not be protested.

Possession of professional qualifications: high school diploma of the second degree, and training and professional development.

Animals.

The shareholders condominium regulations may not prohibit the possession of domestic animals.

Antennas.

Recognized the right of the individual occupant to radio communications with individual plants.

Notice of meeting.

Sent by registered mail, PEC, fax or hand delivery. Annulment of the decision within 30 days. for failure, late or incomplete call.

Condominium Council.

Possibility of appointment of the condominium board of 3 members (if building with more than 11 units), with advisory and control functions.

Accounting.

Fiscal accountability with preparing the income statement, account flows, balance sheet of the apartment building, resources and funding situation and report accompanying.

Decades of record-keeping and the ability to appoint an auditor.

Current Account condominium.

All cash flows of the apartment building (both incoming and outgoing) are obliged to pass through a c / c special payable to the condominium in the presence of an administrator in charge.

Delegation.

Requirement of written form. Delegation limitation: if more than 20 condominiums the delegate can not represent more than 1/5 and 1/5 of the value of condominiums. Prohibition of proxy administrator.

If supercondomini, the assembly of apartment buildings attended by one delegate for a total building when there are more than 60 participants.

Intended use common parts.

The new art. 1117-ter includes changing the intended use of common parts with the vote of 4/5 and 4/5 of the value of the participants, all with a new and precise shareholders convening process.

Posting the centralized.

The occupant may give up the use of the centralized heating or cooling, if not derived from his posting significant operating imbalances or steady cost for the other condominiums.

In this case the renouncing remains obliged to contribute to the payment of the sun expenses for extraordinary maintenance of the system and for its conservation and retrofitting.

Power plants by exclusive renewable sources.

Ability to install power plants from renewable sources for the exclusive use of roofs roofs with common activities of one check by the Assembly but without permission.

Innovations.

The quorum is reduced to the majority of respondents + ½ of the value of particular social interest innovations: safety, health, architectural barriers, energy saving, renewable energy facilities, parking, radio, centralized computerized reception systems.

Again the process of convening specific.

For ordinary innovations it requires a majority vote of those present for at least 2/3 of the value.

Work on exclusive parties.

Provided prior notification to the administrator for work on parts of the property or individual use.

Mediation.

Governed the ritual of medium-conciliation service for the condominium, with its administrator obligations.

Arrears and injunction.

Obligation for the administrator to take action for an injunction within six months from the

statement to show that the non-payment, unless shareholders pantry.

Common parts.

The new art. 1117 cc It includes among the common areas even radio reception systems, telematic flows and attics with common structural and functional features.

Envisaged the concept of timeshare with regular enjoyment. The division of the common shares pursuant to art. 1119 cc can take place only with the unanimous consent of all participants in the condominium.

Bankruptcy proceedings.

The receivables of the apartment building, where payable pursuant to art. 63 disp. att. cod. civ. 1st paragraph are deemed prededucibili and favorite of privileged credits and unsecured during bankruptcy proceedings.

Quorum.

Lowered the required quorum for the first call to the majority of participants for 2/3 of the value.

Clearly set the quorum at the second session in 1/3 and 1/3 of the value of the participants.

Generic deliberative quorum for the second call.

Majority of those present for at least 1/3 of the value.

Registers.

Record keeping obligation of the Registry, Association of the minutes, the appointment of the director and accounting.

Sanctions provided for by the Regulation.

Increase in penalties of up to € 200 up to € 800 in the case of repeated offenses.

Condominium website.

Web site activation condominium with export accounting data and records, of assembly required.

Solidarity of condominiums in expenses.

Constraint of condominiums solidarity to third, subsidiary to the prior discussion of defaulters.

Communication of defaulters to creditors suppliers.

Obligation of solidarity in spending between the bare owner and usufructuary.

Super condominium.

The new art. 1117-bis provides for the applicability of the law to the super condominium.

Tables thousandth.

Correction or modification of tables unanimously.

Modification or correction by majority in the error cases, alteration, also for more than 1/5 of a single u. the. for innovations or elevations at the expense of those who gave rise to the change.

Extended the same principles also to conventional tables.

Video surveillance.

The installation of video surveillance systems on the common parts is approved by a majority of those present and 1/2 of the value.

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