



Condominium fees: special cases.

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The obligation to contribute to the condominium expenses does not always follow the general rule of the owner of the property, in fact, in particular cases the obliged subject can be a person other than the owner

- **Loan agreement**
- **Lease**
- **Real estate leasing**

Loan agreement

We find the discipline of the **loan agreement in the civil code** in articles 1803 and following, and it is the **contract** by which one party, called bailor, delivers to the other, called **borrower**, a movable or immovable property so that he can use it for a time or for a specific use with the obligation to return it.

A peculiar feature is that this **contract** is essentially free, even if the possibility that it may be onerous is not excluded, provided that the onerousness is not such as to negate the typical nature of the legal transaction de quo.

If the property granted on **loan** is located in a **condominium**, one wonders who will be required to pay the condominium expenses, the owner or the **borrower**.

Article 1808 of the Italian Civil Code establishes in the first paragraph that the **borrower** has no right to reimbursement of the expenses incurred to use the thing, or is required to pay the costs of ordinary maintenance; in the second paragraph, however, it is specified that the **borrower** has the right to reimbursement of the urgent and necessary expenses incurred for the conservation of the asset, therefore, the extraordinary expenses (Cass. civ. ordinanza n. 15699/2018).

Lease

The **lease** is a **contract** by which one party, the lessor, allows the enjoyment of an immovable property to another party, the tenant, for a fixed or determinable period of time, in exchange for a consideration in money.

In accordance with art. 9 of Law 392/78, the tenant, in addition to the rent, must also pay the accessory charges, such as the costs relating to the cleaning of the stairs, the maintenance of the lift, electricity, heating and air conditioning of the air; from this it is clear that ordinary maintenance costs are normally borne by the tenant, while the landlord is responsible for extraordinary maintenance costs and in general those necessary to modify or replace structural parts of the building, such as the facade.

Furthermore, the tenant can also participate, in place of the owner, in the assembly with the right to vote in the assembly resolutions relating, for example, to the expenses and management methods of heating services (art. 10 of law 392/78).

Real estate leasing



Similar to the **lease contract** is the real estate **leasing contract** , with which a subject, known as the grantor, grants an asset to the user for use against a cash consideration.

Regarding the condominium expenses, an interesting decision on the merits, specifically the **sentence** n. 7100/2017 of the Court of Milan, has established that the payment of condominium contributions is always and in any case borne by the grantor owner, regardless of any agreement of a different nature.

In fact, the administrator will have to act against the owner in order to recover the unpaid charges and any contractual clause that establishes the user's obligation to pay the condominium charges, if on the one hand it can be considered lawful, from 'other will have no effect against third parties, or will not be enforceable against the condominium .

Source: Condominium fees: special cases <https://www.studiocataldi.it/articoli/43932-condominiali-cases-particular-cases.asp#ixzz7MSzuNLFY>

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