

Costa Rica Has Gone Condo: Is That Good?

Construction developers all over the country have changed the legal structure of their projects, migrating from the traditional individual property to a condominium system based on the regulations contained on Law # 7933 named *Ley Reguladora de la Propiedad en Condominio* or Law to Regulate Condominium Property, which applies to both residential and commercial developments. This tendency started gaining force about fifteen years ago but now has become the general rule for most projects all over the country. The Costa Rican population also has gladly accepted this new system, meaning that now most individuals looking to buy a home or a lot prefer to buy one inside a Condominium project.



There are many advantages on investing on this type of property. To name a few:

- a.) Buyers find more security in gated communities.
- b.) Houses don't need to have entrance gates, window bars, walls with razor wire and other "security" items that make regular houses looking ugly.
- c.) There is a set fee payable monthly to the condo management so that someone takes care of the common areas, keeping the grass nicely trimmed, maintaining plants, and so forth.
- d.) There are internal regulations that have to be respected so condo owners can decide to impose any restrictions regarding construction, parties, noise, pets and others, in order to obtain a peaceful environment.
- e.) Local Municipalities prefer to approve such projects more because in a Condo only homeowners are responsible to give maintenance to structures like internal roads, sidewalks and play/sport areas, which in regular developments the Municipalities are

responsible for their maintenance.

- f.) Developers can create regulations to reach their target market i.e. on a project intended for elderly people only, all type of parties or loud noise can be forbidden.

Every Condominium project has both common and private areas. Common areas are those that belong to the project and can be used by all condo owners on an equal basis, like perimeter walls, stairs, elevators, club houses, swimming pools, gardens and similar. Private areas will be the internal part of the construction, garages, front gardens inside a unit, back yards and similar. It is not possible for a condo owner to argue more rights than others over common areas because he or she owns a bigger lot or house inside the project. All condo owners are responsible to contribute for the proper maintenance of common areas.

However, major problems might arise not because of the condo owners fault but because a very bad regulation when it comes to voting power. Article 27 of the Law establishes that in order to modify some things like the clauses of the original articles of incorporation, or change the bylaws (internal regulations of the condo), 100% of the votes are required. This means that on a Condo project with four hundred units, if three hundred and ninety nine homeowners want to establish a restriction on the number of pets allowed to have, and just one disagrees or just don't attend the meeting, the modification can't be made.

Sounds crazy but that's the way the law is at present. This regulation clearly violates the democratic principle which establishes that the interest of the majority outweighs the minority. In Costa Rica you may choose a President with at least forty percent of valid votes but you cannot change the rules of a condo without the consent of one hundred percent of condo owners. A few years ago a person attempted to challenge this article in front of Constitutional Court which made a surprise "light" decree that says one hundred percent voting for such modifications was both proportional and reasonable. We hope in the near future that this criteria gets properly reviewed and reconsidered.

Some lawyers and notaries have appeared saying they have the perfect solution to this, arguing that article 24 of the Law says that condo owners meetings are valid with two thirds of the owners on first call, and any number of attendees at the second call. Thus in



this last case anything can be changed or amended without a problem. This is not only incorrect but also illegal for the cases where one hundred percent voting

is required. Any owner that feels modifications were made against the law could file a lawsuit against both the Notary and the condo management to get any modifications reversed. For some other amendments the law establishes smaller percentages.

The bigger the condo, the bigger the complications to convince everybody about required changes. For now and until our Congress decides to amend this error, or the Constitutional Court reviews their extreme criteria that one hundred percent voting for said amendments is legal, the best advise we can give for those wanting to buy on a Condo project is to review in great detail the internal regulations, because they could be in force for many years unless everybody decides to agree and to attend to the condo owners association meetings. For me it is not a legal aspect, but just a matter of simple logic to understand one hundred percent is an unreasonable percentage when changes are required.

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