

Everything you Need to Know About Condominium Regulations in Costa Rica

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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 in 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 across the country. The Costa Rican population has gladly accepted this new system, meaning now most people looking to buy a home or a lot prefer to buy one inside a condo project.

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

- Buyers find ample security in gated communities. (Some communities are better than others)
- Houses don't need to have front gates, window bars, walls with razor barb wire and other “security” items that make regular houses look ugly.
- There is a set fee payable monthly to the condo management so there is someone taking care of common areas, keeping the grass nicely maintain along with the plants and similar.
- There are internal regulations that have to be respected so condo owners can decide to impose any restrictions on constructions, parties, pets and others in order to obtain a peaceful environment.
- Local Municipalities like to approve such projects because in a Condo only homeowners are responsible to give maintenance to structures like internal roads, sidewalks and play/ sports areas which on regular projects Municipalities are responsible for their maintenance.
- Developers can create regulations to reach their goal market i.e. on a project intended for elderly people only all type of parties or loud sounds 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 equal conditions, like perimeter walls, stairs, elevators, club houses, swimming pools, gardens and similar. Private areas will be the internal part of the constructions, garages, front gardens inside a unit, backyards and similar. It is not possible for a condo owner to claim rights 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 can arise not because of the condo owners fault but because of a very bad regulation when it comes to voting power. Article 27 of the Law establishes that in order to modify things like the clauses of the original articles of incorporation of the Condo or change the bylaws (internal regulations of the condo) 100% of the voting is 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 done.

Sounds crazy but that's the way the law is at present day. 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 this criteria gets properly reviewed and reconsidered.

Some lawyers and notaries have appeared saying they have the perfect solution to this problem, 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 so in this last case anything can be changed or amended without problem. This is not only wrong 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 a very detailed way 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.

Some other gated communities that can't get approved under the Condominium Law regulations have found other solutions to create their own set of by laws. As an example some of those projects have created a set of bylaws that are registered on each property as a lien under the name **CONDICIONES OR LIMITACIONES AL DOMINIO**, based on articles 266 and 292 of the Civil Code. That way the properties are sold, and any new owner needs to accept it with such lien. The only downside is under Costa Rican law such lien is valid for a maximum term of ten years so after that it can be deleted, and the bylaws are no longer enforceable.

About the Author: Allan Garro was incorporated as a lawyer and public notary in 1996. He specializes in Litigation, Corporate and Real Estate Law. He has also acted as external legal consultant to Congress. He has been the author of more than 100 published English Language articles and can be reached at [\[email protected\]](#)