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RIGHTS, DUTIES AND GOOD ADMINISTRATION IN CONDOMINIUMS

Condominium management requires a careful balance between the rights and duties of the owners and the powers assigned to the administrator.

A clear understanding of the legal framework governing horizontal property is essential to ensure transparent, responsible administration that promotes harmonious coexistence and the preservation of common assets.

Business Team



INTRODUCTION

Condominiums are currently one of the most common forms of housing organisation in Portugal, particularly in urban areas.

This model involves the coexistence and joint management of spaces that belong to everyone, requiring a constant balance between individual rights and collective interests.

Both the co-owners and the administrator play essential roles in ensuring the smooth running of the building, so knowing the applicable legal regime is fundamental to preventing conflicts and ensuring peaceful coexistence.

THE CONSTITUTION OF HORIZONTAL PROPERTY

The creation of horizontal property is based on the division of a building into units — each one the exclusive property of a co-owner — which coexist with common areas used and managed by all.

The horizontal property constitution requires a constitutive title that describes the units, their relative value and, where applicable, the intended use of each of them or of the common areas.

The title may also include the Condominium Regulations and mechanisms such as arbitration agreements for dispute resolution.

In condominiums with more than four co-owners, it is mandatory to have internal regulations that establish the rules for the use, maintenance and administration of the building and that are binding on all co-owners, present and future.

COMMON AREAS: WHAT IT IS AND WHY MATTER

Owners have a dual role: they are the exclusive owners of their units and, at the same time, co-owners of the common areas. This regime is indivisible: it is not possible to sell or renounce the common area individually to avoid charges.

Common areas include, among others, the structure of the building, the foundations, the load-bearing walls, the roof, the roof terraces, as well as corridors, staircases, lifts and entrances for common use. They also include general facilities — water, electricity, gas or communications — and, by presumption, gardens, patios, garages and outbuildings not assigned for the exclusive use of a single co-owner.

The correct identification of these areas is essential for the management of the building and for the distribution of the expenses inherent to its maintenance.

RIGHTS AND DUTIES OF CONDOMINIUM OWNERS

Each co-owner has the right to use, enjoy and freely dispose of their unit, provided that they do so without affecting the safety, purpose or aesthetics of the building. They also have the right to participate in meetings, vote in accordance with the relative value of their unit, demand the proper management of common property and challenge illegal or abusive decisions in court. In certain circumstances, they may also join adjoining units.

On the other hand, co-owners are bound by a set of fundamental duties. They must refrain from carrying out works that compromise the structure or architectural appearance of the building without the authorisation of the co-owners' meeting, and they may not use the unit in a manner contrary to its intended purpose. They must avoid behaviour that disturbs other co-owners, comply with the internal regulations and contribute to the common expenses in accordance with the percentage of the unit that belongs to them.

THE ADMINISTRATOR: DUTIES AND RESPONSIBILITIES

The administrator is the executive body of the condominium and plays a central role in the day-to-day management of the building. This may be one of the co-owners or an external entity specially hired for this purpose. In either case, they must act with transparency, prudence and always in the collective interest.

Their duties include representing the condominium in and out of court, convening meetings, verifying the existence of compulsory fire insurance and implementing approved decisions. They are responsible for collecting the contributions due, ensuring current payments, presenting the annual budget and management accounts, managing and maintaining the common areas, and keeping all relevant condominium documentation up to date.

The administrator's term of office continues until the election of a successor and is subject to permanent supervision by the meeting, which may dismiss him by a simple majority whenever it deems necessary.

CONCLUSION

The administration of a condominium is, ultimately, an exercise in balancing individual rights and collective responsibilities. Good management depends not only on the diligent performance of the administrator, but also on compliance by all condominium owners with the legal and internal rules governing communal life.

Legal clarity, knowledge of the horizontal property regime and the informed participation of the co-owners are essential factors in ensuring a functional, balanced and protected condominium, guaranteeing the enhancement and preservation of the heritage that everyone shares.

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