



Tax & Business Lawyers

NEWSLETTER

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RULES, MAJORITIES AND LEGAL CHALLENGES IN CONDOMINIUMS

The condominium owners' meeting is the decision-making center of the condominium, responsible for defining the management of the common areas and guiding the collective life of the building. Its functioning is based on clear legal rules regarding the convening of meetings, quorum and deliberative majorities, which are essential elements for ensuring valid, balanced and legally secure decisions.

This framework is crucial to ensuring the legality of decisions, preventing conflicts and promoting management that fairly respects individual and collective interests.

Business Team



INTRODUCTION

The condominium owners' meeting is the true decision-making body of the condominium and constitutes the centre of collective decision-making for the owners. It is in this space that individual wishes are translated into common options for the management of the building, giving rise to decisions that are binding on all condominium owners, including those who are absent or discordant.

The applicable legal framework is set out in the Civil Code and Decree-Law No. 268/94, which govern essential aspects such as the convening of meetings, quorum and majority rules. Knowledge of these rules is particularly important to ensure the validity of decisions and prevent conflicts.

NATURE AND POWERS OF THE CONDOMINIUM OWNERS' MEETING

The assembly is composed of all the owners of the units and functions as the sovereign body of the condominium. It is responsible for deciding on all matters of common interest, including the administration, maintenance and use of the common areas.

Its duties include approving the budget presented by the administrator, deciding on ordinary and extraordinary works, setting the contributions of the co-owners, electing and dismissing the administrator, as well as amending the internal regulations and authorizing modifications to the common areas or the title deed, when admissible.

In short, it is at the meeting that the collective will is formed, and it is the administrator's responsibility to execute it.

FUNCTIONING AND FORMALITIES OF THE MEETING

The Convening

The administrator is responsible for convening the meeting, which must be done by registered letter with acknowledgement of receipt or by means of a convening of meeting signed by the co-owner, at least 10 days in advance. It must expressly indicate the date, time, place and agenda.

The ordinary meeting must be held in the first half of January to review the previous year's accounts and approve the budget for the following year.

Whenever necessary, or when requested by a quarter of the co-owners, extraordinary meetings may be convened.

Quorum and representation

In order to validly deliberate, the meeting must bring together co-owners whose votes can make up the legal majority required for the matters included in the notice of meeting. As a general rule, the presence of co-owners representing more than half of the total value of the building is required.

If this quorum is not reached, a second meeting shall be held, at which the meeting may decide by a majority of the co-owners present, provided that they represent at least a quarter of the invested capital. Each co-owner shall have votes proportional to the value of their share and may be represented by a legal representative.

Minutes and deliberations

Deliberations must be recorded in minutes, signed by the chairperson and the co-owners present. This documentation is mandatory and constitutes evidence in court.

Minutes approving expenses or contributions constitute an enforceable title against co-owners who fail to make the payments due, allowing for the coercive collection of the amounts owed.

DELIBERATIVE MAJORITY SYSTEM

The majority system is one of the most relevant and sensitive aspects of the functioning of the assembly. The law distinguishes three categories: unanimity, qualified majority and simple majority.

Unanimity is reserved for decisions that profoundly alter the horizontal property regime or directly affect the individual rights of the co-owners. It is required, for example, for the modification of the constitutive title or for the division of fractions into new autonomous units. In very specific situations, the lack of unanimity can be remedied by the courts, provided that the dissenting co-owners represent less than one tenth of the invested capital and the change does not prejudice the use, relative value or purpose of their fractions.

Qualified majority — corresponding to two-thirds of the total value of the building — is required to authorize works that alter the architectural style or aesthetic arrangement of the building, to change the use of the units when this is not defined in the constitutive title, and to approve innovations that go beyond mere conservation.

A simple majority is sufficient for day-to-day management decisions, such as determining contributions to common expenses, carrying out minor repairs and executing certain works which, although useful, do not substantially alter the building.

In the absence of a special rule, a simple majority applies as a rule for deliberation.

APPEAL OF DELIBERATIONS

Deliberations of the assembly that contravene the law or previously approved regulations may be annulled at the request of any co-owner who did not vote in favour of them.

Within 10 days of the decision, for co-owners present, or of its communication, for those absent, any co-owner may require the administrator to convene an extraordinary meeting, to be held within a maximum of 20 days, with the aim of revoking invalid or ineffective decisions.

In addition, within 30 days from the same date, any co-owner may submit the resolution to an arbitration centre, offering a specialized and expeditious means of conflict resolution.

The right to bring an action for annulment expires within 20 days of the decision of the extraordinary meeting called for revocation or, if such a meeting has not been requested, within 60 days of the date of the original decision.

These mechanisms ensure the legality of decisions, protect individual and collective interests, and promote good governance of the condominium.

CONCLUSION

The condominium owners' meeting is the democratic pillar of condominium management and the forum where decisions are made that have a direct impact on the maintenance of the building and the coexistence between owners.

Compliance with formal rules, correct verification of quorums, and observance of majority rules are essential guarantees of legal certainty and good governance.

A well-convened, well-conducted and legally sound meeting is the first step towards a balanced, efficient condominium that is protected against unnecessary litigation.

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