

The Law of Horizontal Property

Comunidad de propietarios - the community of property owners - is the Spanish system for regulating the joint ownership of common property. The law that regulates this system is called the Law of Horizontal Property. It is not the intention here to reproduce the entire text of this Law. However, some of the important and interesting explanations are given below. If you would like a fully copy of the Law of Horizontal Property in English please contact Patti Senker.

Chapter 1	Articles 1 and 2 define the purpose of the Law and who it covers.
Chapter 2	Articles 3 - 23 cover the system of ownership by flats or business premises and are outlined below:
Article 3	sets out the terms of separate individual ownership of flats and the joint ownership of common elements. It also establishes that an owner may not subdivide his property although with the consent of the community, an owner can divide his property into smaller units.
Article 4	clarifies that any action of subdivision will not affect the building in general being regulated by this Law.
Article 5	confirms that each owner's cuota or share is fixed when the community is legally constituted and registered. It can only be changed by a unanimous vote of all members of the community. It also states that private statutes of the community are not binding unless part of the registration of the building itself.
Article 6	allows members of the community to make internal rules by majority vote.
Article 7	protects the community from problem owners. It also limits an owner's rights to only alter the interior of his property providing such alterations do not threaten the structure or alter its

	appearance. Closing in of terraces is therefore prohibited.
Article 8	deals with physical division of a premises.
Article 9	<p>relates to owner's obligations :</p> <ul style="list-style-type: none"> a. to respect general installations b. to maintain his own flat to a good standard c. to allow in his flat any repairs required for the building d. to allow entry into his flat for a,b,and c. e. to pay community fees f. to contribute to the reserve fund which must be at least 5% of the operating budget g. to observe care in the use of his property and in relations with other owners h. to notify the Community where communications are to be sent i. to notify any change of ownership.
Article 10	covers work necessary to the upkeep and maintenance of the buildings.
Article 11	states that no single owner or minority group can demand unnecessary improvements.
Article 12	states that any major modification to the structure of the buildings must carry a unanimous vote.
Article 13	relates to the elected Governing body, its election and duties.
Article 14	covers the functions of the Annual General Meeting.
Article 15	relates to voting by proxy and confirms that community debtors cannot vote and can be listed for everyone's information.
Article 16	states that, by law, a general meeting must take place at least

	<p>once a year although the only item of business legally required is the approval of accounts and budget.</p> <p>Elections for president are not strictly necessary as the office of president will continue until he is replaced by a majority vote.</p> <p>This section also covers requirements for the calling of an Emergency General Meeting. These can be called by the President at any time or when one quarter of the cuotas requests it.</p>
Article 17	<p>changes the previous requirement whereby a unanimous vote was needed to modify any part of the buildings. This Article now clarifies the sort of actions that only require a 3/5ths majority. People absent from meetings who do not protest within 30 days will have their vote considered in favour of the decisions taken at the meetings.</p> <p>Communal television aerials and renewable energy sources require only a 1/3 rd vote.</p> <p>All other Community votes require only a simple majority of owners present.</p>
Article 18	<p>means that even one owner can challenge a community decision in court if it seriously harms the interests of one of the members or seems to benefit a few to the detriment of the community as a whole, is against the law or against Community Statutes.</p>
Article 19	<p>deals with the keeping of the official minutes book which must be in Spanish as it is a legal document. Its contents can be cited in court.</p>
Article 20	<p>clarifies the functions of the administrator which are :</p> <ul style="list-style-type: none"> a. To ensure proper management of buildings, installations and services and to provide owners with information and

	<p>warnings in good time.</p> <ul style="list-style-type: none"> b. To prepare and submit a budget c. To arrange for ordinary and urgent repairs when necessary d. To make payments and receive monies e. To act as secretary of the general meeting, to keep and make available to owners documentation relating to the community f. To carry out any other functions decided by the general meeting
Article 21	<p>clearly sets out the procedure available to the community to pursue non-payment of community fees. The community can certify the debt and proceed immediately to court to apply for a lien against the debtor's property. If the debtor does not pay the court will order the seizure of assets. If a debtor contests the bill he must lodge either assets or a bank guarantee for the amount contested. Any community debts that accumulate during this procedure are simply added to the original debt. If a debtor fights to prolong a case and loses he will have to bear the community's legal costs.</p>
Article 22	<p>states that if a community cannot pay their suppliers because some owners have not paid their community fees, the creditors can take action directly against owners, as individuals, who have not paid their community fees. Fully paid up members cannot be made to pay.</p>
Article 23	<p>deals with the termination of the horizontal property scheme in the event that the buildings are destroyed or sold.</p>
Article 24	<p>confirms that the Horizontal Law now takes account of urbanisations of detached houses or groupings of town houses, flats and detached villas and that the full protection of the Horizontal Law is available for such urbanisations.</p>

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