

Management of owner-occupied apartment buildings

Basic differences in legislation between
Western European countries and post-socialist
countries

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Main differences in the management structures of owner-occupied apartment buildings

- Homeowners associations (or similar bodies) always exist in Western European countries. This is not the case in post-socialist countries (except the Czech Republic, Hungary and Poland). However, there can be exceptions for small buildings.
- The division of labour between different actors is well established in Western European countries. This is not the case in most post-socialist countries where the role of dwelling owners compared to the managing companies is often weak.
- In Western European countries the decision-making is, in most cases, done by simple majority. On the other hand, unanimous decisions are often required in post-socialist countries regarding, for instance, major repairs.

Creation of homeowners associations has been slow in many post-socialist countries

- The homeowners' association should be the basic decision-making structure in buildings based on condominium ownership. The reason is there is a need for a body which manages, for instance, the common parts of the building.
- In Estonia it has been considered that the management of owner-occupied apartment buildings should not take place without homeowners associations. Hence, the Apartment Ownership and Apartment Association Act, approved in February 2014, provides that if a homeowners' association has not been created by the owners, the state itself shall create the homeowners' association by 1 January 2018.
- These associations will function under the same legal framework as the homeowners associations created by the owners.



Financing of major repairs for common parts is an unsolved challenge in most post-socialist countries

- The challenge for the loan finance from capital markets is that mortgage collateral can, in most cases, only be used if individual owners pledge their dwelling for this purpose. It is understandable that not all owners are willing to pledge their dwellings for loans as collateral for certain types of major repair activity. This hampers greatly the use of mortgage collateral.
- Several Western European countries, namely, for instance, Austria, France, the Netherlands, Norway, Spain, Sweden and Switzerland, as well as the United States and Canada, have solved this problem by using statutory (or privileged) liens.
- This approach has not been used in post-socialist countries except in the Czech Republic, Estonia, Hungary and Poland.
- As a whole, there is a lack of well-functioning means to enforce the collection of payments.

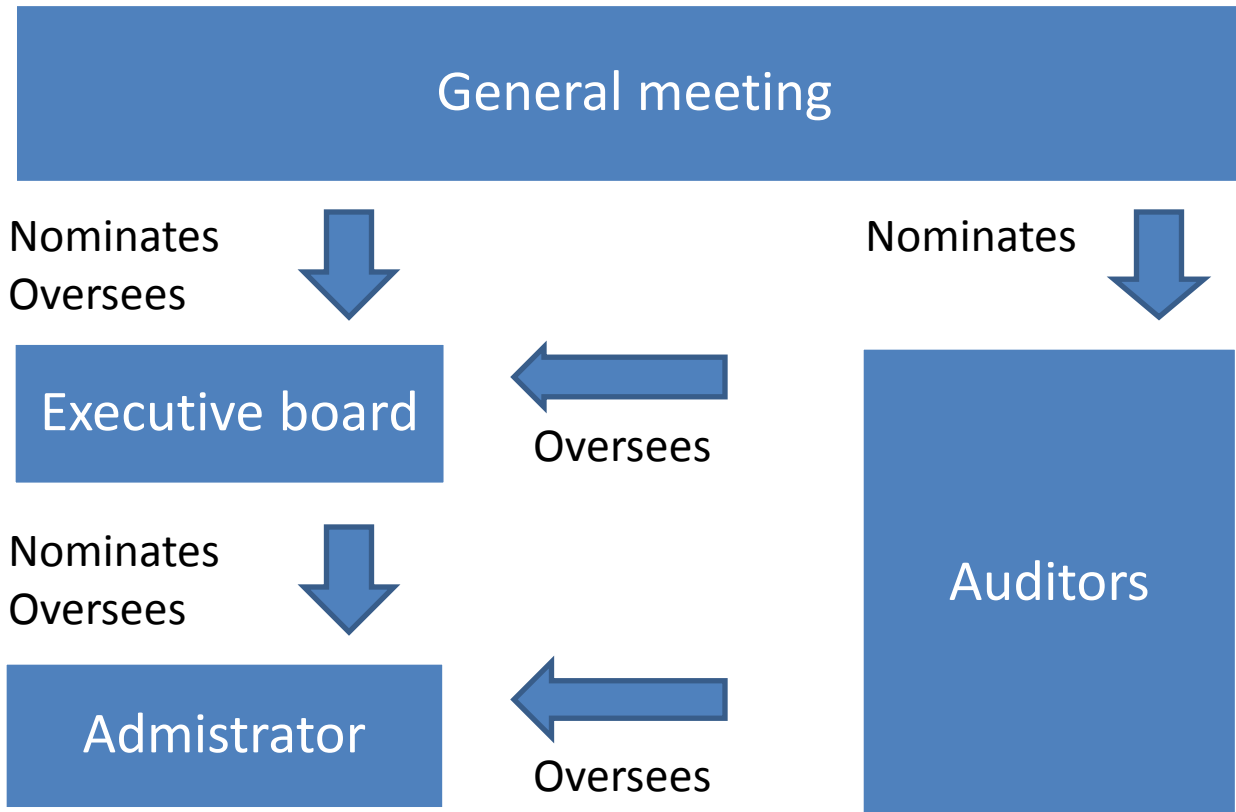
UNECE recommendations

- There is need to develop the legal structure of condominium buildings in order to guarantee that the necessary decisions can be made.
- In this regard the United Nations publication “Guidelines on Condominium of Countries in Transition” (which also exists in Russian language: ПО ВОПРОСАМ ЖИЛИЩНЫХ КОНДОМИНИУМОВ В СТРАНАХ С ПЕРЕХОДНОЙ ЭКОНОМИКОЙ) recommends the following administrative structure:

The role of different actors

- The decision-making bodies representing the owners (the general meeting of the owners and the executive board).
- The administrator (manager) serving the decision-making bodies in supporting the preparation of meetings mentioned above and implementing the decisions made by the decision-making bodies.
- Auditors overseeing the bookkeeping functions of the executive board and the administrator.
- Actors who are contracted by the executive board in order to provide different types of services (e.g. cleaning services for the staircase, planning and execution of repairs and utility services, like electricity, water and heat energy).

Administrative structure of an owners' association



Main functions of the general meeting

The general meeting of the owners decides the most important matters, such as:

- Elects the executive board.
- Elects the auditor(s).
- Approves the financial statements, comprising the profit and loss account, the balance sheet and the annual report, and discharges the board members and the administrator from liability.
- Approves the annual activity plan and the budget for the next year and, as a part of it, approves the amount of the monthly management fee and other charges to be paid by the owners.
- Approves the execution of major repairs.
- Approves the decision to take a loan.

Main functions of the executive board

- Sees that the financial management, including bookkeeping, is properly supervised.
- Prepares the general meetings.
- Appoints and discharges the administrator.
- Decides on contracts with different contractors (e.g. for cleaning the staircase, planning major repairs, executing major repairs and supervising these repairs).
- Guarantees that tendering is used as the rule when selecting the contractors.
- Decides on contracts with electricity, water and heat suppliers.

Main functions of the administrator

An administrator:

- Implements decisions of the general and board meetings.
- Takes care of the day-to-day management of the common parts.
- Has the authority and responsibility to execute emergency repairs (like repairing a leaking roof).
- Sends the invitations for the general and board meetings.
- Collects the monthly management fees and other charges from the owners.
- Pays the invoices owed by the homeowners' association and the salaries of employed personnel.
- Keeps the books of the homeowners' association.

An administrator can be an owner of a unit in the condominium building, an external professional, or a company.

Main functions of the auditors

Each auditor presents the auditors report to the general meeting:

- In his report he has to give an opinion whether the bookkeeping has been executed in a proper manner and whether the annual accounts comply with the rules set by the law.
- When executing their duties the auditors have to verify to a sufficient extent that different items of revenues and expenditures have been entered into the books correctly.
- Finally, each auditor must give an opinion whether he can recommend that the board members and the administrator can be discharged from liability or whether they have been guilty of actions or neglect which can result in a claim from the homeowners' association for compensation for damage caused by their actions or neglect.

Main responsibilities of the owners

- The owner must pay the monthly management fee and other charges decided by the general meeting
- The owner must take care of his or her apartment. However, the homeowners' association is required to repair internal faults arising from structures and maintain all piping, ducts and wiring installed in the apartment for heating, electricity, telecommunications, gas, water, sewerage and ventilation.
- The owner must inform the homeowners' association without delay of any fault or deficiency in the apartment for which the association is responsible.
- The owner or resident in the apartment must not cause any disturbances or bother the neighbours, nor violate the rules necessary for maintaining order in the building and outside areas.

Main functions of the homeowners' association

- Collects the monthly management fees in order to maintain and improve the quality of the common parts of the building and outside areas. Ensures that the temperature in each dwelling can be kept at a decent level and that the hot and cold water supply is secured. Ensures also that the electricity and telecommunications networks are kept in good working condition.
- Makes certain that individual owners or their tenants do not disturb the neighbours or do not carry out repairs which can cause damages to the building.
- Decides how the outside areas are to be used, e.g. type of landscaping, children's playground, and parking spaces for cars (and also how the parking spaces are allotted and reserved for residents and guests, as well as the fees for parking spaces).

In conclusion

- On the whole, it must be emphasized that the major responsibility of a homeowners' association (or similar administrative body) can be compared to running a business, with the need for an organisational structure with clearly defined rights and obligations at each level.
- It should also be emphasized that the buyers are not just buying the housing unit itself, but rather the housing unit within the building. Therefore, the quality of the common parts and, as a whole, the capability of the management to maintain the quality of these parts into the future is an important aspect when determining the price of the unit and in maintaining the value of the unit owners' personal property.