

# AGM CONCERNS

28 October 2021

Dear Junta Board

We have received your recent notification for an AGM meeting on 26 November 2021. You have stated your intention to present “a detailed explanation of the **proposed restructuring of the Cabrera maintenance payments** and associated budget”.

It must be noted that many of the present Junta Board members’ terms of office have long expired. The Junta Board members are therefore not legitimate representatives of the members of the Junta (including the 200 or so homeowners). The Treasurer, Secretary and Noeline Ramsay have no standing whatsoever as their terms of office expired a year ago. When will the elections be held to establish legitimate Junta Board representatives with the right to act on our behalf and to make restructuring proposals?

This “proposal” for the restructuring has now been under consideration by the Junta Board since at least June 2021. Obviously, consideration should have been given to complying with the law when the first court judgment was made on 13 December 2019, almost two years ago. Any competent Junta Board would have managed this properly. Perversely, we are now being asked for donations to support Cabrera while you have spent your time “thinking” of new ways for the Developers to avoid their Services and Maintenance obligations.

Any competent Junta Board would publish their proposals well in advance of an AGM. So, when will you be able to release your detailed proposals in written form? We need sight of the proposals so that the Junta members can understand them, raise queries or objections and provide feedback for any adjustments prior to the AGM. How would proxy voters be expected to cast a vote without any advance knowledge of what they would be voting on?

Or, is it your intention to only release sparse details for the first time when you send out invitations for the AGM at the last possible moment. If so, this just looks sly and we would urge you to cease the traditional ‘cleverness’ that has been the hallmark of the Junta Board for so long.

Before anything can be voted on any resident should be given adequate opportunity to individually examine the costing basis and challenge what has been done. This must be done prior to the AGM as it is too late after the event.

You say that the proposal will be “presented by members of the local administrative, legal and financial representatives that are involved in the discussions”. Please could you name the “inner circle” that has been involved in these discussions. We have a right to know who these people are and how much they might be being paid. Why have other parties been engaged while no consultation has taken place with the 200 Homeowners who form the Junta? Why have we not been involved in the discussions but so many unnamed individuals have been involved?

You say that all persons involved in determining the proposals are Spanish and will present them in Spanish, while you will provide a translator at the meeting. Who are all these people?

We would also like detailed confirmation of the extent that all these legal and other costs are being funded by the Developers that have engaged them to provide advisory services. Or, is it only homeowner money that is being used (abused)?

Please could you provide the names of those that will be making the presentation to us at the AGM and confirm that the current Junta Lawyer will not be one of them, given the amount of Homeowner money that has already been wasted on his legal services to fruitlessly challenge the Court's decision.

We would also ask that a suitable Junta budget is provisioned to enable the Lawyer that represented the Cabrera Residents Association to attend the AGM to clarify the position with regard to any proposals that the illegitimate Junta Board might put forward. This was the Lawyer that has been successful in all the Court proceedings and the Lawyer that has demonstrated a clear and correct understanding of the Law. This is the only Lawyer that we owners should be listening to so please could we have some of our own money assigned to fund his input into the process?

The Junta Board has proposed that a further EGM is convened as soon as possible after the AGM to deal with "other topics, in particular the future planned Infrastructure completion works and funding".

Again, we need to understand the Developers' plan for the completion of the works as no plans have been submitted for decades. We do not need an EGM for the plans to be submitted – this is not supposed to be an 'extraordinary event'. The Development plan can be submitted at any time.

In addition to the Development plans, we also wish to see the Developers funding arrangements to support the plans. When the Developing Companies have raised their funds to support the plan, they need to pay their funds into the Junta so that the work can be outsourced to credible 3<sup>rd</sup> party contractors and the finances can be controlled.

We look forward to the momentous day when the Developers deposit their funds with the Junta for the infrastructure development. It will be a 'first' for Cabrera.

With the infrastructure in place, the value of the Developers' plots should increase vastly once urbanised and they should make a good return on their investment. Without the investment in the infrastructure around their plots, their plots are, in reality, worthless.

Surely, the Developing Companies will have no expectation at all that the existing Homeowners will have to pay towards the creation of future infrastructure that will enhance the value of their plots.

**Remember and understand that we are not "all Developers now" simply because the Developing Companies have failed to meet their obligations under the guidance and control of the Town Hall. Please cease spreading this untrue myth to unsettle the residents.**

The Developing Companies do know that they will fully recover their investment in infrastructure from the sale of urbanised plots with significantly enhanced value.

**At the present time the owners are perceived by the Developers as being "captive investors", putting forward the monies to allow progress but having no say in how the monies are spent and no share in the profits.**

As such, the inventive Developers have some serious misconceptions that need to be firmly rejected because their notions are, quite predictably, those of a **parasite**. We are not 'all Developers now' simply because of the Developers failed to provide the infrastructure that people paid them for, failed to deliver the against the approved Urbanisation Plan and failed to comply with the Law.

Under rule 9 of the Statutes, we ask you to include a motion at the AGM that all future urbanisation works will have to go out to public tender. This motion only needs to be supported by 10% of the Junta Members so 25 homeowner votes will be more than sufficient to pass it.

Although it is very unlikely, we look forward to the Developers depositing their funds with the Junta for the completion of the infrastructure for the houses that they have already sold to the existing homeowners. Having already received the infrastructure contributions from every existing home in Cabrera, it would be morally right for the Developers to provide 100% of the infrastructure that was paid for by the homeowners. It is always disappointing to pay for a full pizza but be given a small slice instead.

We look forward to finally getting the electricity connections, pavements, and properly constructed services that we have already paid for. Many owners have not yet been provided with the infrastructure that they have bought from the Developers.

Finally, please do not use the AGM as the vehicle for establishing another “1993 Agreement”. We do not wish to hear some vague words or see some loose statements in a set of AGM minutes. We do not wish to find English documents with different content to any documents that might be published in Spanish.

We do not wish to hear you trying to pass on any Services and Maintenance costs solely to the Homeowners by conveniently creating new categories of cost which are not supported by the Statutes or the Law.

We have already seen you passing off ‘Arch Transformer Upgrades’ as a ‘maintenance cost’ instead of an infrastructure cost. We have seen you trying to buy new transformers (infrastructure) costing several hundred thousand euros using the Homeowner ‘maintenance budget’. We have little confidence in your integrity.

Imagine the following:

If the Developers create a new separate category called “Services” in order to avoid their legal obligations, this will be used to pass on all costs to the Homeowners if they can be labelled as “services”. You can just imagine what will become labelled as a “Service” if an ‘Arch transformer upgrade’ and the ‘two new transformers’ could be described as a ‘maintenance cost’ by our Junta Board!

If we needed €100,000 of road maintenance to be carried out in Cabrera, what are the odds that the Developers would agree to the works being done if they had to fund 65% of the cost? We believe that the Developers will simply say that the homeowners will need to fund it themselves if they want the work done. Cabrera runs the risk of future maintenance works being neglected.

We really do hope that you are not going to try to pull off the 1993 confidence trick again. One way of doing this would be to:

- Hive off anything deemed by Developers as ‘services’ to homeowners for payment – especially water services which have been artificially positioned to be the bulk of the costs. Have free access for Developers to legal services and accountancy services as these could be classed as ‘services’ to be paid for by the Homeowners.
- Get the workers to be paid for by the homeowners under ‘services’ such as water services; use the workers that are employed for the services to do the maintenance.

- If there are any unavoidable 'maintenance costs', award the work to their own development companies at such favourable prices that the Developer contribution is easily covered.

So, any proposal to separate out costs is likely to be unworkable in practice, subject to dispute and will lead to even more problems.

**This is why the only possible way forward is to follow the Statutes and the Law.**

If the Statutes are followed and the Developers do not pay their way, they will lose their **rights** in the Junta. This will still be a very positive outcome for Cabrera as the non-payers will not be controlling our finances or deciding where the money is spent.

The free ride for the Developers needs to stop and Homeowners need to insist that there will be no **"proposed restructuring of the Cabrera maintenance payments"**. This **"restructuring of the maintenance payments"** is precisely what took place in 1993 and the Lawyer at that time, Mr Moya, rightly said that he continued to advise his homeowner clients to follow the Statutes. If the Homeowners had listened in 1993, we would not be in the mess that we have today.

The Almeria Court order has instructed the Town Hall and the Junta Board to follow the Statutes, but it seems that this illegitimate Junta Board is still intent on creating another new "1993 Agreement".

**Remember: You cannot simply take a vote on simply anything at an AGM. You cannot take an AGM vote on a matter of Law.**

You need to follow the Statutes and the Law to the letter as instructed by the Court. This needs to take place until such time as Cabrera is handed over to the Town Hall as a completed urbanisation. Anything else is likely to find the Town Hall and the Junta Board facing contempt of Court proceedings very quickly indeed.

The Town Hall was in cahoots with the Developers in 1993 and subsequently lost control of the Junta Board. The Court will not view it lightly if the Town Hall repeats this behaviour by not exercising control of the Junta Board in 2021 following its Court Order.

**Under Article 39 of the Statutes, "the Junta will be forcibly dissolved, with no need for Municipal Approval, when it may be so laid down by judicial mandate or legal prescription".**

**It will be up to the Courts to decide on what action to take if their instructions are not followed.**

However, this may be the only possible way forward if the Town Hall is unable or unwilling to exercise appropriate control of the Junta Board and the Junta Board refuses to operate according to the Law.

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