

From: David Levin
Sent: Monday, June 13, 2022 10:11 PM
Subject:

HOMEOWNER REPLY TO LETTER OF MAY 24TH FROM THE JUNTA DE COMPENSACIÓN BOARD

Dear JDC Board,

We are writing in response to your email of 24th May 2022. As your email was directed to all homeowners, we hope you don't mind that we address the reply to our neighbors as well.

We apologize in advance to those that would prefer not to receive unsolicited mail. Please feel free to delete it.

As new homeowners in Cabrera, we can't help but be aware of the on-going issues related to the governance of our community. These issues are complex and provoke strong emotions and yet they need to be worked out. Not doing so will simply perpetuate what looks to be an untenable situation with huge uncertainty - and importante potential risks - for homeowners now and in the future.

Given the need to move towards some type of reasonable consensus and compromise, we were somewhat disturbed by the content of the email in question as it raises some serious "red flags" that we believe all homeowners, regardless of their current position on the governance of the JDC, should be alarmed about, specifically:

CUTTING OFF SERVICES TO CABRERA HOMEOWNERS

What is especially troubling is the fact that the JDC Board does not appear to dispute the allegation that they have cut off the water supply to SEVEN of our neighbors "for non-payment of services".

We would ask that the JDC kindly respond to the following question?

By what authority does the JDC Board, or its officers, "cut off" services to a homeowner in Cabrera?

From our reading of the original statutes (Article 6), only the Town Hall has the authority to recover "...by means of a writ any amounts due from any member of the Junta". Furthermore, the statutes clearly establish an appeals process, whereby the Town Hall is to resolve disputes about decisions by the Junta. One can only hope that our unfortunate neighbors were able to avail themselves of this appeals process before such a draconian measure was taken by the JDC Board. After all, under Spanish law, the Town Hall is **legally responsible** for ensuring that all homeowners have access to water, regardless of the issues in Cabrera (Law 7/1985, art. 26 LBRL).

The other question we would ask of the JDC Board is the following:

Has the JDC provided documentation, in the way of invoices, for services rendered and which it deems to be unpaid?

The JDC Board laments the uncertainty about how services will be paid for and yet, based on our reading of the case (readily available to all), the Spanish Courts appear to have established a very clear roadmap for how this should be done, based on the stipulations in

our own Cabrera Statutes: simply put, JDC members must be billed based on their proportional landholdings. So this matter can be resolved very easily: the JDC can, and should, issue invoices as mandated by the courts and Cabrera may be assured ample funds for its on-going maintenance.

So why have they not done so?

WATER IN CABRERA

The allegations also raise serious concerns about the management of the water. We would ask that the JDC Board also respond to the following which we believe to be of interest to all homeowners:

What is the ownership situation of the water currently being provided to Cabrera homes? Specifically, is it a private asset of any one JDC member or is it jointly owned by the JDC as an entity?

Clearly, were the water to be provided by an external supplier - Galasa for example - homeowners would be billed directly by the supplier based on metered usage. Equally, if the Town Hall were eventually the supplier (municipal water), it would also charge homeowners directly. In any event, as noted above, the Town Hall **must** ensure the supply of water to all homeowners.

PROVISION OF SERVICES IN CABRERA

As the JDC Board is also clearly aware, under the terms of the Cabrera Statutes the JDC **must** provide services to the area (Cabrera Poligono 1) until such time that area is turned over to the Town Hall, either upon completion of the development or liquidation (Base 16^a, Statutes of C. Cabrera, Pol. 1, June 7, 1990 , stamp/signature of Town Hall).

Furthermore, based on a reading of the Spanish Court ruling, it is not true -, as alleged in the JDC email - that the *“legal decisiondeclares that utilities cannot be the responsibility of, or funded by, the Junta.”* On the contrary, the legal decision states just the opposite: the 1993 Agreement is deemed illegal and invalidated; the JDC **must** operate as it was intended to do, as per its original statutes, **providing services and funding them based on proportionality of ownership.**

THE FUTURE FOR CABRERA?

As for future governance structures that might be implemented to provide for services in Cabrera, quite frankly this is straight-forward and does not require much imagination.

In fact , Spanish law (and our own Statutes) stipulate quite clearly how services should be managed once the JDC has run its course: eventually Cabrera homeowners will govern their own affairs through the equivalent of a “homeowners association (HOA)” and it is this body that will contract and manage the provision of services that are not directly provided by the Town Hall. It is our experience that HOA’s in Spain are very capable of managing their own affairs, with a high degree of transparency, usually with the assistance of an outside administrator appointed and supervised by the homeowners.

Let’s remember that what is happening here in Cabrera is very much an **anomaly**. By definition, a JDC is meant to be **temporary**, a legal structure that allows for the management of a collection of landholdings for development by promoters. It is extremely rare in Spain for a JDC to continue to exist for over 30 years. Indeed, the only reason for its continued

existence would be for future development. So another valid question for the JDC Board might be:

What is the plan for development of the area and, in the absence of a plan, why isn't the JDC being wound down ?

I will end this long email by saying that, when we bought our home here in Cabrera last August, our only desire was to get away from the hustle and bustle of Madrid and enjoy the peaceful, idyllic environment in Cabrera. Despite the unexpected turmoil that we have encountered, we are not disappointed. Cabrera is a truly unique corner of Spain and we hope to enjoy its beauty and the friendship of good neighbors from around the world for years to come.

We are confident that all Cabrera homeowners share common values, not the least of which is a concern for preserving or enhancing the value of our property and having a voice in the governance of their own affairs. I believe that, if we all focus on these goals, we will be able to work through the current challenges.

We welcome a frank and open discussion with all of our neighbors and hope that these can take place regularly and spontaneously and not just in the limited constricts of an AGM meeting.

Sincere regards to you all,

David Levin
Lesley Simmonds