

THE PRESIDENT'S SPEECH – THE 2022 AGM

15 January 2023

Fellow Homeowners,

So, what did we learn from the 2022 AGM?

The President read out a speech with a mix of pseudo-legal references coupled with yet another defence of the 1993 Agreement. This was interspersed with a rambling defence of the way the Developers are avoiding compliance with the Court Order.

Instead of wading line by line through the claptrap, we consider a few pertinent statements extracted from the AGM minutes (in blue):

The polygon 1 has an area of almost 1 million m² (991,525 m²), currently 40% of urbanization works are currently executed for an amount of more than 3.5 million euros of the material execution budget, since 1993, according to work certifications already presented to the Turre TownHall

The following table provides a progress report on the Infrastructure development in Cabrera as assessed by the Town Hall in 2016:

Functional Unit (ZONE)	% of Total Infrastructure Spend	Infrastructure % complete	Total Build Cost per Zone	Remaining Build Cost	Value of work completed
1	15.0%	100.00%	€ 532,109.53	€ 0.00	€ 532,109.53
2	1.8%	0.00%	€ 64,991.67	€ 64,991.67	€ 0.00
3	3.6%	90.24%	€ 127,821.33	€ 12,481.75	€ 115,339.58
4	9.5%	91.00%	€ 338,607.81	€ 30,474.70	€ 308,133.11
5	2.2%	84.00%	€ 77,781.29	€ 12,445.00	€ 65,336.29
6	3.0%	0.00%	€ 104,670.25	€ 104,670.25	€ 0.00
7	3.5%	91.84%	€ 124,285.49	€ 10,143.13	114,142.36
8	2.3%	100.00%	€ 80,842.74	€ 0.00	€ 80,842.74
9	1.7%	0.00%	€ 60,926.57	€ 60,926.57	€ 0.00
10	6.1%	0.00%	€ 216,985.00	€ 216,985.00	€ 0.00
11	1.0%	0.00%	€ 35,205.22	€ 35,205.22	€ 0.00
12	5.3%	91.00%	€ 188,907.65	€ 17,001.69	€ 171,905.96
13	8.5%	0.00%	€ 303,065.15	€ 303,065.15	€ 0.00
14	6.9%	0.00%	€ 244,066.15	€ 244,066.15	€ 0.00
15	7.1%	0.00%	€ 251,884.73	€ 251,884.73	€ 0.00
16	5.2%	0.00%	€ 185,990.92	€ 185,990.92	€ 0.00
17	9.5%	0.00%	€ 336,411.04	€ 336,411.04	€ 0.00
18	4.2%	0.00%	€ 147,758.90	€ 147,758.90	€ 0.00
19	3.5%	0.00%	€ 125,085.43	€ 125,085.43	€ 0.00
TOTAL:	100.0%	39.12%	€ 3,547,396.87	€ 2,159,587.30	€ 1,387,809.57

The President seems correct with the 40% figure as the Town Hall has assessed the level of completeness as 39.12% in the above table (2016). However, the Town Hall's assessment of the value of the completed work is € 1,387,809.57. This amount varies considerably from the rather vague "more than 3.5 million euros" which the President put forward.

The President said that two technical reports had been commissioned:

A technical report for the determination of the cost of the urbanization works carried out to date
An accounting report for the determination of payments made in conservation and services.

So, we are again advised that two reports have been commissioned using Homeowner money. The President suggests that these reports may have been completed. As Homeowner money has been used to compile these reports, why have the Homeowners not been given a copy to scrutinise?

The President goes on to say:

Once these reports have been made, the Junta Compensation has proceeded at the beginning of the study for the distribution of costs among the owners, to the regularization between the amounts actually paid and those that each owner should have paid, and the compensation, if it has taken place, in order to comply with Judgment 257/2019, Order No. 181/2021 of 06/17/2021, and the Ordinance Diligence dated 09/22/2022.

So, do these reports still have to be prepared or are they readily available at the Junta Offices? We continue to get double speak from the Developers about this. If the reports are available, please circulate them electronically – we paid for them!

Then, the President says:

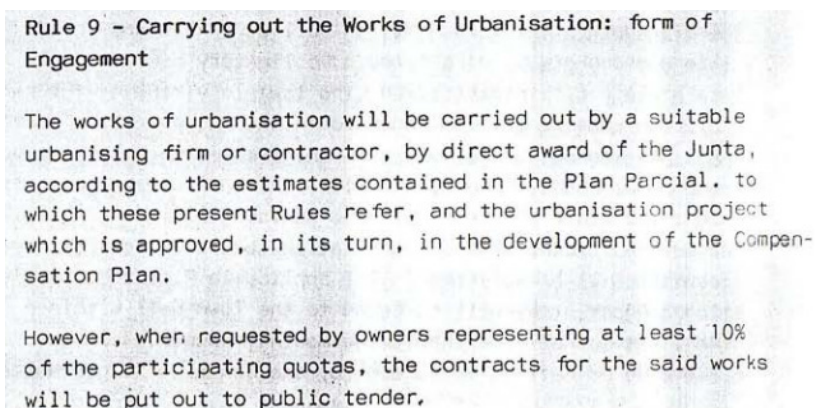
And this distribution and regularization of the costs and compensation among the owners will be carried out by the Junta Compensation once the sentence becomes firm. Let us not forget that the sentence, and the execution, is provisional, pending the Resolution by the Superior Court of Justice.

We say - Let us not forget that the Court Order has been enacted and immediate compliance is required. The Court has not given these rogue Developers an extension until the latest JDC Appeal is rejected by the Superior Court of Justice.

The President also states:

These reports were commissioned in the manner established by our Statutes for contracting, which is regulated in Base 9 of the Statutes and Bases of action: "(...) PROCUREMENT METHOD: (...) will be carried out by a development company or suitable contractor, by direct award of the Junta Compensation (...)"

Rule 9 is shown below:



Rule 9 - Carrying out the Works of Urbanisation: form of Engagement

The works of urbanisation will be carried out by a suitable urbanising firm or contractor, by direct award of the Junta, according to the estimates contained in the Plan Parcial, to which these present Rules refer, and the urbanisation project which is approved, in its turn, in the development of the Compensation Plan.

However, when requested by owners representing at least 10% of the participating quotas, the contracts for the said works will be put out to public tender.

Rule 9 refers to Procurement of the “works of urbanisation”. It does not state that the Developers on the Junta de Compensacion can appoint “their own man” to carry out a financial and technical investigation into the mismanagement of Cabrera by the self-same delinquent Developers on the Junta Board.

The sooner the Homeowners band together to get 10% of the votes to insist on going out to tender, the better!! We do not need to wait for an AGM.

The President continued to introduce to Mr. Jesus Valera Torrecilla as a former secretary of the Town Hall, who has been advising the Junta Compensation as an independent professional.

This individual was allegedly sacked by the Town Hall years ago and received compensation for procedural anomalies as so many people do. In our view, he would not be a suitable candidate for the Homeowners to invest their money in. We have no evidence that the Developers have paid their 65% share of his costs.

Approval of minutes of Annual General Assembly 25th November 2021

Since everyone received the minutes before this act, he asked if there were comments about it, There was no any comments in this regard

Put to a vote on this point, with the votes present and represented:

Votes in favor: 67.25%,
Votes against 12.86%,
Abstention 0.41%,

A few comments on the above extract:

- The Developer vote share has increased significantly since they unilaterally reduced the Town Hall vote share from 29.7% to 10% in 2021. This change has not even been on any AGM Agenda and has not been satisfactorily explained.
- The few Developers hold the vast majority of the vote which means that the Homeowners' vote has no power. This is why the Vote in favour is 67.25%
- The Town Hall proxy vote was given to the President. There does not seem to be any trace of the Town Hall vote in the above figures. It would be astounding if the Town Hall simply passed their vote to the President to use as he sees fit – not impossible in Turre though!

The President stated:

According to the Statutes:

DEVELOPMENT COSTS must be distributed among all owners according to the Statutes.

The CONSERVATION/MAINTENANCE COSTS are distributed among all the owners according to the BUILDABILITY OF EACH PLOT AND WHETHER IT IS BUILT OR NOT, and we have carried it out following the determinations of the economic/accounting study.

On the other hand, for the expenses corresponding to WATER SUPPLY and SEWERAGE, the approved rate is applied to the consumption carried out individually by each owner.

This is a really interesting new invention by the Developers.

Over the past few months, we have been provided with three variants of how the urbanisation and maintenance & conservation costs are apportioned:

1. As described above (which, by the way, is **NOT** "according to the 1991 Statutes" as the President stated).
2. As described by the Treasurer on 18th November 2022:

“Once the updated Statutes have been approved, separating property service charges and the maintenance charges according to the land size of homeowners only for services and land size for all landowners for maintenance of infrastructure” (ie. **NOT** according to the 1991 Statutes)

3. Latest invoices for 2022 as described by the Secretary, John Bailey, on 11 November 2022:
“The amount of invoice is calculated on property build size, based on land size/ build quota. i.e. larger properties on larger plots will pay more than those on smaller plots.” (ie. **NOT** according to the 1991 Statutes)

The President also stated:

The distribution of expenses, as stated in the Treasurer's report presented to the Assembly on November 26, 2021 and that was sent together with the minutes of the Assembly, has been carried out in accordance with the provisions of The Statutes and not as it had been done from 1993.

This is simply not true. If it was true, the Developers would have been paying in excess of 65% of the 2022 expenses. We have asked for the breakdown of the fee calculations for each plot in Cabrera but this request has been ignored as usual.

The Developers are disguising this by asking for ‘payments on account’. Their rationale is that they are owed so much that they do not have to make payments. In the UK this type of assumption is considered to be fraudulent as you cannot claim alleged unproven debts to offset immediate obligations. The debts need to be proven first.

The President stated:

As can be easily deduced from the content of the agenda of the Assemblies, from the Treasurer's report, from the notifications made to the owners and from the agreements adopted, the Junta Compensation has not in any way exceeded its limits in the exercise of its obligations, and at no time has it caused damage to third parties, nor harmed the owners with its actions.

The President is kidding himself. All the ‘Agreements’ are simply self-serving statements and changes by the Developers that have been voted in by the Developers themselves using their massive block vote. In the AGM minutes, the Developers have admitted that they are delaying any compliance with the Court Order which has been enacted.

Agenda Item 4

4. Approval of the cost sharing groups among the owners corresponding to the costs of urbanization, conservation and services

Mr. Rafael Conchillo intervened to confirm that the only 7 owners to whom the application of urbanization costs corresponded were:

- *Sierra Leisure SL
- *Active Retirement Ltd
- *Fortview Properties Ltd
- * Promociones Vera y Garrucha SL
- *Promociones Mataix SL
- *Segundo Ramirez

Mr. Jesus Valera replied that the 1991 Estatutes were valid, and the 1993 agreement was annulled by Court.

Mr Jesus Valera is correct with his statement. However, he simply set out to confuse Mr Rafael Conchillo. Mr Rafael Conchillo is also fully correct as evidenced in **the attached document from the Town Hall in response to a question from our President as to who is responsible for the urbanisation costs. A rough translation is also provided.**

Agenda Item 5

5. Approval of the Budget for the year 2023

Mr. Butt said that the budget was increased by 50% compared to the previous year, and asked if the Junta would going to invoice **all the owners**, He was answered affirmatively

Mr. Malcolm Davies Linfield, representative of Pernille Loenberg, intervened to ask what exactly the 27,000Eur item would be used for (Provision for fees for payments to technicians and advisers), The answer was given to cover the expenses of the technicians who intervened in the preparation of reports and advice to the Junta Compensation as a result of the sentence in which it was determined that the quotas must be recalculated in order to invoice all the owners. Mr. Linfield asked if they could distribute the report by email. **The President confirmed that it was not possible due to the large size of the file, but that it was available to the owners in the Junta office.**

We need to have visibility of all the fee calculations to ensure that the Developers are going to cover more than 65% of the €27,000 fees and more than 65% of the full 2023 budget. Would it be sensible to give the Junta De Compensacion any more money if they do not provide this information.

Once again, the President hides information away in the Junta Offices, forcing people to make individual visits. In today's world it is so sad to see these two Developer Opportunists playing their age old game of making it difficult for anyone to find out what is going on. The file size is 'too big' – what a pathetic statement!

Mrs. Bird asked if the works carried out by other companies were tendered before being contracted. She was answered that these works were contracted as established in base 9 of the statutes and execution bases, that is, by direct award.

The sooner the Homeowners band together to get 10% of the votes to insist on going out to tender, the better!! We do not need to wait for an AGM.

Agenda Item 6:

6. Approval of urbanization works costs executed until December 31, 2021 and distribution among the owners (Sentence 257/2019 and Base 12 Statutes and Bases of Action)

The President and Jesus Valera played a good old game of 'smoke and mirrors' with this Agenda Item. Once again, Jesus Valera " was struck that no one went through the Junta office to examine the documentation from the date the Assembly was convened". Surprise, surprise – once again everyone has to go individually into the Junta office on a pilgrimage to find out information for the AGM only a handful of days before the AGM – what a disreputable collection of individuals these people are!

Instead of explaining all the smoke and mirrors, here is the game that they are playing:

PAST URBANISATION COSTS

Clearly the Developer-President seeks to inflate the value of the work to date (“more than €3.5 million”) as he suggests that this money is owed to the Developers by the Homeowners. Nevertheless, our view is that the Homeowners owe absolutely **nothing** as they have already paid the Developers their required infrastructure contributions in the purchase price of their homes. This view is legally supported.

SCAM No 1: Try to get Homeowners to pay for all the existing infrastructure again (after avoiding all maintenance and conservation costs for more than 30 years).

Nice money if you can get away with it!

However, 65% plus will be for the Delinquent developers to pay even if some idiot approves this. We think that this is very unlikely.

FUTURE URBANISATION COSTS

There is an estimated cost to complete the infrastructure of € 2,159,587.30 (2016). Current estimates seem to be around €5 million for some reason. We contend that the Promoter-Developers (Development Companies) need to complete this missing infrastructure at their own cost before they are ever permitted to build another house in Cabrera.

The way that they recover all the costs of Urbanisation are as follows:

- From payments (‘concrete quotas’) that Homeowners have already made to them
- From the fixed contributions (‘concrete quotas’) that come from the Buyers of urbanised plots.
- From the profits on the sale of the urbanised plots.

SCAM No 2: Try to get existing Homeowners to pay towards the future infrastructure costs. ie. The infrastructure that the Promoter-Developers should have provided 24 months after planning approval several decades ago. This, after avoiding all maintenance and conservation costs for more than 30 years. These Promoter-Developers have not so much as funded one power transformer or water deposit in Cabrera themselves in spite of the so-called 1993 Agreement.

Nice money if you can get away with it!

The notion that all the landowners (rather than only the Promoter-Developers) will have to share the costs of completing the infrastructure is being peddled by some people. In our view, this is a thoughtless, literal and expedient interpretation of the Statutes and should be challenged in Court by a Homeowners Association. If it materialises that this is an “only in Spain” outcome, it must be borne in mind that the Developers will need to fund about 65-75% of the cost in any event.

There should be a number of pre-requisites if this “Spanish Eventuality” actually comes to fruition:

1. A comprehensive and detailed plan must be published.
2. A clear budget must be set.
3. A clear timeframe must be agreed (no more than 24 months)
4. The current delinquent Developers may not supply construction services as they have proven their inability to act with integrity or complete the Development.
5. All work should go out to competitive tender.

6. All suppliers will need to provide Bank Guarantees

Only when the 65-75% Promoter-Developer funding is placed in the Junta bank account, should Homeowners should consider making any financial contribution at all.

MAINTENANCE & CONSERVATION

The Developer-Treasurer and Developer-President are two Opportunists who are again trying to avoid paying for maintenance and conservation of the urbanisation.

As Homeowners, the only reason our IBI is not covering the conservation and maintenance costs is because the Developers have been delinquent in failing to complete the urbanisation.

SCAM No 3: Try to get Homeowners to pay for all the maintenance and conservation of the urbanisation.

Nice money if you can get away with it!

For as long as the Promoter-Developers (those who profit from the sales of urbanised plots and homes in the development) fail to fulfil **their** obligation to complete the urbanisation, Homeowners should not entertain the idea of providing them with a free warranty on their infrastructure and access to this infrastructure without any obligation.

It is inconceivable that Homeowners should maintain the shoddy roads, drainage, guttering, electricity supplies and water pipes for the Developer-Promoters while they just make use of it while they build and sell houses.

SCAM No 4: Try to get Homeowners to pay for all the water supply and sewage maintenance and conservation. Call it a “service” to differentiate it from “maintenance and Conservation”.

Nice money if you can get away with it!

The two Opportunist Developers are intent on creating a ‘separate water and sewage company’ to cover the costs of **maintenance and conservation** of the water and sewage infrastructure.

Homeowners need to reject the notion that Homeowners are going to maintain the water and sewer supply while the Developers build infrastructure at their leisure using our money. This is their vision. We are not a convenient source of free finance to support delinquent Developers. The Developers need to act as Developers, complete the infrastructure at their own cost, and get out.

If the Developer-Promoters have no Plan and no Money, the Junta de Compensacion needs to be dissolved as there is no reason for its existence.

Agenda Item 9

9. Presentation and Election of candidates in accordance with the Statutes (art 19). The presentation of the candidates who volunteer for the position of Delegate, to cover the two vacancies, must be notified to the Secretary before noon on November 23, 2022

The following candidates stood for election and the voting is shown below:

For the candidacy of Mr Cochillo Votes in favour: 9.32%,
For the candidacy of Mr Harman Votes in favour: 65.78%,
For the candidacy of Mr Bonner Votes in favour: 66.57%,
For the candidacy of Ms. Marie Helene Caillaud Votes in favour: 6.14%,
Therefore, the candidacy of Mr. Harman and Mr Bonner was approved with 65.78% and 66.57% respectively in favor of the total present and represented with the right to vote.

The voting percentages clearly demonstrate that the two Developers used their block vote to support candidates Graham Harman and Con Bonner. The Developers used their land ownership (not homeownership) to over-rule the Homeowner vote for Homeowner Representatives.

If the Developer votes were removed (estimated at 65%), the picture would be approximately as follows:

For the candidacy of Mr Cochillo Votes in favour: 9.32%,
For the candidacy of Mr Harman Votes in favour: 0.78%,
For the candidacy of Mr Bonner Votes in favour: 1.57%,
For the candidacy of Ms. Marie Helene Caillaud Votes in favour: 6.14%

This would give a rough idea of how the Homeowners would have voted for Homeowner representatives (total of about 24%, 200 homeowners)

For the candidacy of Mr Cochillo Votes in favour: $9.32\%/24\% = 39\%$ of all Homeowners (78 votes)
For the candidacy of Mr Harman Votes in favour: $0.78\%/24\% = 3.25\%$ of all Homeowners (6 votes)
For the candidacy of Mr Bonner Votes in favour: $1.57\%/24\% = 6.5\%$ of all Homeowners (13 votes)
For the candidacy of Ms. Marie Helene Caillaud Votes in favour: $6.14\%/24\% = 26\%$ of all Homeowners (52 votes)

Unfortunately, the voting positions candidates Harman and Bonner firmly as “Developer Delegados” rather than “Homeowner Delegados” through no fault of their own. Open Cabrera believes that they should take cognisance of this and consider standing down to allow the Homeowners to have their choice of Homeowner representatives on the Junta Board, namely Mr Conchillo and Ms Marie Helen Caillaud.

There was a further travesty that took place via the intervention of the Treasurer. He initially tried to block Mr Conchillo and Mr David Levin from standing at all, claiming that there was some sort of vague procedural irregularity regarding the nominations. He backed down on this but still insisted that David Levin could not stand as he was not present at the AGM (another invention by the Treasurer as no mention of this is made in the Statutes at all).

These people have no shame.

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