

AI advice regarding Junta de Compensacion

OPEN CABRERA
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The wonders of modern technology today! We thought that we would use an artificial intelligence (AI) platform to ask some questions about how a Junta de Compensacion operates. The results obtained from ChatGPT were quite illuminating and very relevant.

Sadly, there still appears to be a very small number of remaining 'old guard' Homeowners who are hankering for the past in Cabrera.

These people say that other homeowners who challenge the Junta fees "wish to live in Cabrera for nothing". They claim that they are "realistic and accept that they must pay the price for services offered in Cabrera". They say that they have "never had any reason to complain about the services offered or the level of costs for these services".

We say the following:

- 1. We have no concerns about the fees that have to be paid as long as the fees are calculated according to the Law. It is not a question of money.*
- 2. We do have significant concerns about where the money is being routed. We do have a reason to complain.*
- 3. While some people are "perfectly happy with the fee level and the services provided", we believe that this is a very selfish outlook as the Price that we are all paying is to turn a blind eye to Corruption purely out of self interest. In addition to this, the development of Cabrera is being held back by this self-serving attitude.*
- 4. When you abandon your core moral values, arguing that the 'fees are perfectly reasonable', you are enabling the ongoing Corruption to just to save yourself a few Euro's.*

So, we posed a few questions to an Artificial Intelligence platform.

We share the ChatGPT responses with you together with some comments of our own in BLUE.

HOW DOES A JUNTA DE COMPENSACION WORK?

A Junta de Compensación, often referred to as a Compensation Board in English, operates financially through a collective funding mechanism. It is typically established in Spain and other Spanish-speaking countries for the development of urbanization projects. Here's how it generally works:

- 1. Contributions:** Property owners within a specific urban development area form the Junta de Compensación. Each owner is required to make financial contributions, usually based on the size of their property or the potential benefit they'll gain from the project.

In the case of Cabrera, the contribution should be made on the basis of land ownership according to the Statutes.

- 2. Fund Pooling:** The contributions from all property owners are pooled together to create a fund. This fund is used to cover various expenses related to the urbanization project.

In the case of Cabrera, only the contributions from the Homeowners have been pooled. The Developers (the "non-payers" of today) have generally not put any money into any pool to date

although they have decided on the budgets and how to spend the money (and not necessarily according to the declared budget).

3. Project Expenses: The fund is used to finance the costs associated with the development project. These expenses may include land acquisition, infrastructure construction (roads, utilities, etc.), urban planning, legal fees, and administrative costs.

In the case of Cabrera, there has been no ongoing fund created to finance the costs associated with the development project (which should have been fully completed in November 2002). Some funds were collected in the early days but there were problems collecting funds from Developers. The Developers, under the guidance and control of the Town Hall, were permitted to go “off-piste” and this is why the development infrastructure is only 39% complete 35 years after the development project was signed off in 1998.

There are no Junta de Compensacion records of the financial investment in infrastructure in Cabrera. The pooled funding has not been managed correctly which is a dereliction of legal duty.

4. Administration: The Junta de Compensación is responsible for managing the fund and ensuring that the funds are used efficiently and transparently for the project's development.

There continues to be a lack of transparency in the Junta de Compensacion 32 years after it was formed. This is the result of 32 years of maladministration. There is no Development fund and there is no credible plan to complete the Development.

5. Legal Framework: The operation of a Junta de Compensación is governed by specific legal regulations and agreements that outline the financial responsibilities of property owners and the procedures for fund management.

The current Junta de Compensacion is not following the Legal Framework which includes the Statutes. The JDC Board has not yet complied with a Court instruction which was issued in 2020.

6. Benefits: As the urbanization project progresses and the area becomes developed, property values often increase. Property owners benefit from this appreciation, and their initial contributions to the Junta de Compensación are considered an investment in the project's success.

Although Homeowners have made their ‘fixed, concrete contributions’ to the Developers in the purchase price of their homes, these contributions have not been pooled into a fund administered by the Junta de Compensacion to deliver the infrastructure.

Homeowners do not benefit from the full infrastructure as the Developers have failed to provide it and this will probably result in lower property values for everyone. In addition, the lack of completeness of the infrastructure means that the urbanisation cannot be handed over to the Town Hall.

The net result is that Homeowners have to pay fees to the JDC for maintenance and conservation of the urbanisation and IBI to the Town Hall as well. If the Development had been completed in 2002 as promised by the Developers, Homeowners would not have had to pay Maintenance and Conservation fees for the past 30 years.

7. Distribution: After the completion of the project, any remaining funds in the Junta de Compensación may be distributed among property owners based on their contributions or used for maintenance and future improvements of the urbanization.

It's important to note that the specific operation and regulations governing a Junta de Compensación may vary by region and country, so it's essential for property owners to understand the local laws and agreements that apply to their specific development project. Consulting with legal

and financial professionals is often advisable when participating in such boards to ensure proper compliance and protection of individual interests.

HOW DO SOME DEVELOPERS EXPLOIT A JUNTA DE COMPENSACION?

While Junta de Compensacións can serve a legitimate purpose in urban development, there have been cases where developers have exploited them for their benefit. Exploitation of Junta de Compensacións can occur through various unethical practices, including:

1. **Misallocation of Funds:** Developers may manipulate the allocation of funds within the Junta de Compensación, directing a disproportionate amount of resources towards their own interests rather than the collective benefit of all property owners.

We have concerns on multiple fronts. Homeowner maintenance funds have gone into building an additional water deposit, upgrading the Arch transformer and connecting a number of Townhouses, re-surfacing the little used road leading up to the Treasurer's restaurant which he is trying to sell, purchasing €47,241.65 of cable ducting, repairing walls owned by private individuals at the Arch Bar and providing drainage, attempting to take €250,000 off the Homeowners to install 2 new transformers and the list goes on.

2. **Opaque Financial Practices:** Lack of transparency in financial dealings can make it difficult for property owners to track how their contributions are being used. Developers may keep financial information hidden or provide incomplete reports.

We have concerns on multiple fronts. For example, no further detail was provided on the €250,000 investment in two transformers other than "we want €250,000 of your money to buy two transformers". There was no breakdown of budgets or how the funds would be spent.

Towards the end of 2022, it was discovered that the Developers had taken out a +/- £60k loan on behalf of the Homeowners. No one knew about this until they cleaned out the Junta bank account because the loan was called in by the Bank.

3. **Unfair Profit Margins:** Developers might negotiate favorable terms for themselves, such as receiving larger parcels of land or more profitable sections of the development, leaving other property owners with less valuable property.

4. **Overcharging:** Developers could overstate project costs or charge excessive fees for their services, resulting in higher contributions from property owners and potentially inflating their own profits.

We have concerns on multiple fronts. The €250,000 for two transformers is a case in point. Further to this, Homeowners are forced to pay the Treasurer €15,600 each year for 'Administrative Services'. This is in a Development which is absolutely stagnant and has been since 2008 (15 years).

5. **Influence and Control:** Developers may use their influence within the Junta de Compensación to make decisions that primarily benefit their interests, rather than the best interests of all property owners.

Say no more!

6. **Lack of Oversight:** In some cases, there may be inadequate oversight or regulation, allowing developers to exploit the Junta de Compensación without sufficient checks and balances.

The Town Hall has failed dismally to control the Developers since the inception of the Junta de Compensacion in 1991. This is its legal obligation.

7. ****Legal Loopholes:**** Developers may take advantage of legal ambiguities or loopholes to manipulate the operation of the Junta de Compensación to their advantage.

Examples include:

- *Appealing Court Orders repeatedly.*
- *Trying to change the official Statutes.*
- *Manipulating the Voting percentages by reducing the Town Hall's vote from 29.7% to 10%.*
- *Asking for fee 'Donations' from Homeowners instead of raising legal invoices.*
- *Interfering with the appointment of Homeowner Delegados.*
- *Providing misleading requirements for proxy voters.*
- *Cancelling the 2023 EGM one hour before it was due to commence.*
- *Paying friends and family (using Homeowner funds) to draft Financial Reports in favour of the Developers.*
- *Creating a new set of financial rules instead of following the Law and the Statutes*
- *Misleading Homeowners by saying 'You are all Developers now because the 1993 Agreement has been declared null and void'*
- *Trying to claim historical infrastructure expenditure from current Homeowners (for a second time)*
- *Classing infrastructure costs as 'maintenance and conservation costs' to pass on the costs to the Homeowners.*
- *Routinely delaying the release of financial Accounts until 11 months after the year end.*
- *Providing little detail regarding the expenditure against individual budget lines.*
- *Not releasing information by email and insisting that individual Homeowners need to come to the Junta Offices to obtain information.*
- *Not engaging with Homeowners regarding inclusion of AGM agenda items, and preventing Agenda items from being included.*

WHAT TYPE OF CORRUPTION CAN TAKE PLACE IN A JUNTA DE COMPENSACION?

Corruption in a Junta de Compensación can manifest in various ways, undermining the fairness and legality of urban development projects. Here are some examples of corruption within such boards:

1. ****Embezzlement of Funds:**** Board members or individuals responsible for managing the Junta's finances may embezzle funds, diverting money meant for the development project into their personal accounts.
2. ****Bid Rigging:**** Corrupt board members may manipulate the bidding process for construction contracts, ensuring that contracts are awarded to companies with personal connections, rather than those offering the best value or quality.
3. ****Kickbacks:**** Developers or contractors may offer kickbacks or bribes to board members in exchange for preferential treatment or contract awards. This practice can inflate project costs and reduce quality.
4. ****Inflated Invoices:**** Contractors may submit inflated invoices for work done on the project, with the excess money later being funneled back to corrupt board members.

5. **Conflict of Interest:** Board members with a vested interest in a development project may use their positions to push for decisions that disproportionately benefit them financially, such as acquiring more lucrative parcels of land.
6. **Bypassing Regulations:** Corrupt board members may use their influence to bypass zoning or building regulations, allowing for the construction of projects that are not in compliance with local laws.
7. **Phantom Workers:** Contractors might claim to employ more workers than they actually do, inflating labor costs and siphoning off the extra money.
8. **Misallocation of Funds:** Funds intended for infrastructure development, such as roads or utilities, may be misallocated to non-essential aspects of the project or even personal expenses of board members.
9. **Forgery and False Documentation:** Corrupt individuals may submit forged documents or falsify records to deceive property owners or regulatory authorities regarding the use of funds or project progress.
10. **Bullying and Intimidation:** In some cases, corrupt board members or developers may resort to bullying or intimidation tactics to silence dissenting voices or prevent property owners from raising concerns.

It's important to note that these are examples of corruption that can occur within a Junta de Compensación, but not all boards are affected by corruption. Proper legal and regulatory oversight, transparency, and the vigilance of property owners can help prevent and uncover corrupt practices. In cases where corruption is suspected or identified, legal authorities should be notified to investigate and take appropriate action.

We simply state that this is a very good description of the type of corruption that can take place in a Junta de Compensacion.

Well done CHAT GPT – you seem to have captured the lot! We award you 10/10 !!

WHO IS RESPONSIBLE FOR THE URBANIZATION COSTS?

In a Junta de Compensación, the responsibility for urbanization costs typically falls on the property owners within the defined urban development area. These property owners collectively contribute to funding the costs associated with the urbanization project. Here's how this responsibility is generally structured:

1. **Property Owners' Contributions:** Each property owner within the Junta de Compensación is required to make financial contributions to cover the costs of urbanization. The amount of each owner's contribution is often determined based on factors such as the size of their property, the potential benefit they'll gain from the project, or other agreed-upon criteria.
2. **Pooling of Funds:** The contributions from all property owners are pooled together to create a fund. This fund is used to finance various expenses related to the urbanization project.
3. **Urbanization Costs:** The urbanization costs may include land acquisition, infrastructure development (e.g., roads, utilities, parks), urban planning and design, administrative expenses, legal fees, and other related expenses.

4. **Board Management:** A governing board, often composed of representatives from the property owners and potentially developers, manages the fund and oversees the use of the contributed funds for the project's development.
5. **Developer's Role:** In some cases, developers may also contribute to the urbanization costs, especially if they have an interest in the development project. Their contributions may be in the form of land, infrastructure development, or financial contributions.
6. **Property Benefits:** Property owners expect to benefit from the urbanization project through increased property values, improved infrastructure, and enhanced living conditions.

It's important to note that the specific allocation of costs and contributions can vary depending on the terms established in the legal agreements, bylaws, and regulations governing the Junta de Compensación. These agreements will outline the responsibilities of property owners, developers, and the governing board regarding the funding and execution of the urbanization project.

Property owners should review these documents carefully and consult with legal and financial professionals to understand their financial obligations and rights within the Junta de Compensación. Additionally, transparency and accountability in managing the contributed funds are essential to ensure that the costs are allocated fairly and used efficiently for the benefit of all involved.

HOW DO HOMEOWNERS STOP BEING EXPLOITED?

To prevent exploitation and protect the interests of property owners, it is essential for individuals involved in a Junta de Compensación to:

1. **Seek Legal Advice:** Property owners should consult with legal experts who are knowledgeable about local regulations and ensure that they understand their rights and obligations within the Junta de Compensación.

The newly formed Homeowners Association (**HOA**) is facilitating access to expert Legal Advice on a collective basis. This means that Homeowners do not have to do so individually and carry the costs. It also means that collective knowledge can be leveraged for maximum effect.

2. **Transparency:** Advocate for transparency in financial matters and decision-making processes within the Junta de Compensación.

Open Cabrera has continuously advocated for transparency since 2018. This was the reason for our formation and this is rooted in our name. Please see the Document Library on the website: www.opencabrera.com

3. **Regular Audits:** Consider conducting regular financial audits to ensure that funds are being managed appropriately and used for their intended purpose.

Open Cabrera has carried out some individual audits but we need to intensify our scrutiny against the backdrop of shielded access to information.

4. **Collective Action:** Property owners can work together to voice their concerns and protect their collective interests within the Junta de Compensación.

Collective Action has been enabled by the formation of the new **Homeowners Association (HOA)**. We encourage all Homeowners to join forces.

5. ****Legal Agreements:**** Ensure that legal agreements and contracts with developers are fair, well-defined, and protect the rights of property owners.

6. ****Local Regulations:**** Familiarize themselves with local regulations governing Junta de Compensacións and urban development projects to ensure compliance.

By being informed, vigilant, and collectively organized, property owners can reduce the risk of exploitation by developers within a Junta de Compensación and help ensure that the development benefits all parties involved.

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