

## ADDITIONAL AOB ITEMS FOR THE 23 FEBRUARY 2024 AGM

### 1. Challenge to the appointment of a General Manager

On 13 October 2023, the Treasurer wrote:

Finally, we have appointed Cabrera a **General Manager, Rodrigo Sanchez**, a lawyer with vast experience with Urbanisations Law and Management. His responsibilities will be dealing with everything the Junta de Compensación has to deal with, supervising maintenance, services, finances, organising meetings etc., thereby taking on the tasks previously undertaken free of charge by the unpaid delegados. He will shortly provide his own introduction together with the complex final list of the historical contributions.

Regards.

Jose L. Jerez

Por último, hemos nombrado a Cabrera como Gerente General, Rodrigo Sánchez. Un abogado con vasta experiencia en Leyes de Urbanizaciones y la administración. Sus responsabilidades consistirán en ocuparse de: todo lo que tiene que hacer la Junta de Compensación, supervisar el mantenimiento, servicios, finanzas, organización de reuniones, etc., asumiendo así las tareas que antes se realizaban a título gratuito por los delegados no remunerados. En breve proporcionará el suyo propio Introducción junto con la compleja lista final de las contribuciones históricas.

Saludos.

José L. Jerez.

On 28 November 2023, President Segundo Ramirez writes:

Por otra parte, **la Junta de Delegados ha decidido nombrar, en uso de sus atribuciones recogidas en el art. 19.g) de los Estatutos, NOMBRAR UN GERENTE**, designando para estas funciones a un profesional independiente, abogado con más de 20 años de experiencia en gestión de Entidades Urbanísticas Colaboradoras y Administración de Fincas, que se va a encargar de Administrar y gestionar la Junta de Compensación con arreglo a las leyes y a los Estatutos. Para este cometido, la Junta de Delegados ha decidido **contratar los servicios de D. Rodrigo Sánchez Haro**.

On the other hand, the Board of Delegates has decided to appoint, in use of its powers set forth in art. 19.g) of the Statutes, APPOINT A GENERAL MANAGER, appointing for these functions an independent professional, lawyer with more than 20 years of experience in management of Collaborating Urban Entities and Property Administration, who will be in charge of Administering and managing the Compensation Board in accordance with the laws and Statutes. For this purpose, the Board of Delegates has decided to hire the services of Mr. Rodrigo Sánchez Haro.

We oppose the appointment of the General Manager for the following reasons:

1. Article 19 of the Statutes states that the Board of Delegates will carry out all managerial tasks without exception.

La Junta de Delegados tendrá las atribuciones siguientes:  
a) Administrar la Junta de Compensación con arreglo a las leyes y a estos Estatutos.  
b) Realizar actos de gestión, sin excepción alguna.

The Board of Delegates will carry out the following tasks:

- a) Administer the Junta in accordance with the law and these Statutes.
- b) Carry out all managerial tasks, without exception.

The Board of Delegates have little to do as no Development is taking place in Cabrera. The Cabrera development is stagnant. The existing Board of Delegates should carry out all managerial tasks without exception as provided for in the Statutes. If they are unable to do so, they should resign so that competent Board members can be elected.

2. Article 23 states that the Junta will operate by the personal services lent by its members.

#### Article 23 - Personal Services

The Junta will operate by means of the personal services lent by its members, unless such services should prove insufficient or too onerous for those holding office.

However, in exceptional circumstances, necessary personnel may be contracted as required: these will be remunerated within the budget resources authorised by the General Assembly.

ART. 23.- MEDIOS PERSONALES: La Entidad funcionará mediante la prestación personal de sus asociados, salvo que dicha prestación fuere insuficiente o demasiado onerosa para los que ostenten cargos sociales.  
No obstante, podrá efectuarse excepcionalmente la contratación del personal que se considere necesario, que será retribuido dentro de los recursos económicos y presupuestarios autorizados por la Asamblea General.

There are no exceptional circumstances which warrant the appointment of any additional Contractors. The Cabrera urbanisation is stagnant. No urbanisation works have been carried out by the Developers for more than 15 years.

3. The Treasurer states above that the new General Manager will be “dealing with everything the Junta de Compensacion has to deal with”. This means that the General Manager is being appointed to carry out the duties of the Junta Board of Delegates. Homeowners have not been given the opportunity to serve on the Junta to carry out these tasks. Suitable Homeowners could lend their services under ART. 23 of the Statutes.

4. Article 23 makes provision for personnel to be contracted in **exceptional** circumstances. The circumstances are not exceptional in Cabrera aside from the fact that the Developers are not doing any development works and the Developers do not intend to contribute financially to the costs of the General Manager at all (the President has stated that they intend to operate illegally according to the 1993 Agreement). The circumstances do not warrant the appointment of a General Manager, the appointment has not been approved by the General Assembly and the budget has not been approved by the General Assembly.
5. Developers should not be able to use their block vote to appoint resources such as the General Manager when they are not making their fair contribution towards the budgets. If the Developers are not paying their dues (“Non-Payers”), they should not be able to vote, contract resources or summarily direct where the funds of the Homeowners (“Payers”) are directed.

We request that:

- a) The General Manager is not appointed OR his services are terminated immediately.
- b) For the Junta Board to be compelled to reveal the costs associated with the appointment of this individual, the contractual terms and the unauthorised budget that they had provisioned for his services.

## **2. Failure to provide the Technical Report which was funded using Homeowner Money**

The Developers (Junta Board) called an EGM for 5 April 2023 to present an updated Technical Report which was funded using Homeowners money.

The Developers cancelled the EGM only one hour before the meeting was due to start.

The report has not been given to the Homeowners whose money was appropriated to pay for the technicians and architects

We request that the Junta Board be compelled to immediately release the Technical Report which was commissioned using Homeowner funds.

## **3. Failure to hold a General Assembly Meeting in 2023.**

The Junta Statutes call for two General Assembly Meetings to be held each year.

In 2023, the Junta Board did not convene a General Assembly Meeting at all.

Furthermore, the Accounts for the year 2022 have not yet been released. According to the Statutes, the Accounts should be the first item on the Agenda for the General Assembly Meeting to be held within 3 months of the financial year end. Homeowners have not yet had visibility of the Accounts for the year 2022 and it is now 2024.

In addition, Homeowners have not been provided with a proposed budget for the year 2024.

The current Junta Board should tender their resignation immediately. They have not fulfilled their obligations in terms of the Statutes and have demonstrated clear financial mismanagement.

#### **4. Notification of possible crime of prevarication relating to the issuing of Building Licenses**

It has come to our attention that the Town Hall is considering awarding building licenses in Functional Unit Zone 1, deeming it to be almost complete.

The functional units in Cabrera have not been established properly to enable 'partial urbanization' to take place. The concept of Partial urbanization requires the Functional Unit to be fully autonomous and independent. Functional Unit Zone 1 is not autonomous and independent. It will have a parasitical dependence on Cabrera Poligono 1 water supply, sewage systems, electricity transformers and roads. This applies to all 19 Functional Units in Cabrera.

Therefore, building licenses cannot be granted by the Town Hall on the basis of 'Partial Urbanisation'. The HOA Lawyer has informed the Town Hall architect in person that the Functional Units have not been properly established. Even the most junior Town Hall Architect will know this to be true.

We reject this approach of 'house-building by stealth' by the issuance of building licenses by the Town Hall while Developers avoid their obligations to complete the full Cabrera infrastructure that is required.

We wish this to be recorded in the minutes of the next General Assembly Meeting. We highlight the possibility of the crime of prevarication taking place.