

Fairytale of Cabrera

13 April 2024

Fellow Homeowners

While we are faced with all sorts of challenges in Cabrera, we should also remember those people that are less fortunate than ourselves and perhaps have less to celebrate.

Imagine yourself as a potential buyer in a fairy tale town called Cortijo Corrupto in 2004. Taken in by the beauty of the area, you buy a plot and engage with a Company to build you a house. Let's call the head of this Company "Honest Joe" in this cautionary tale.

Honest Joe cracks on with the work and you make 80% of the required payments. However, one day Honest Joe springs a surprise by saying that there is no building licence or electricity connection and it is not his responsibility to get it either. It is apparently your responsibility.

Imagine you call in a Technical Architect who also finds material flaws in the construction. At this point, you decide to withhold the final payment although the bulk of the purchase price has already been paid.

Imagine if the lawyers got involved in this story and in 2007 it is agreed that Honest Joe will make good on getting the relevant licences within a set timeframe and, if he doesn't do so, he agrees that he will refund your money. It is agreed that an escrow holding will be established for the refund amount.

Imagine if Honest Joe didn't secure the relevant licences in the set time frame. Imagine that the Escrow holding simply 'vaporised' between the Lawyers and the Authorities. You would be shocked and would probably take the matter to court again.

Imagine your joy in 2014 when the Court confirms that Honest Joe has to repay you circa €500,000. After repeated efforts to sell the house, Honest Joe finally does so in around 2015 so you would think that your refund was on its way.

Imagine if the money from the sale 'vaporised' too! Just imagine if the house had already been embargoed by the Tax Office and the tax office got all your money instead to pay Honest Joe's company tax debts!

Imagine if you were instead invited in 2018 to peruse Honest Joe's portfolio of land so that some land could be put up for auction so that you could recover the circa €500,000 that was due to you.

Imagine your delight when Court decided that you, as the victim, need to stump up a further €15,000 for the lands to be valued for auction purposes by the appraiser appointed by the Court.

There are some lessons to be learned from the cautionary Fairytale of Cortijo Corrupto – a **shocking, shocking, shocking** possibility. Choose your developing Company very carefully!!

Surely, nothing this appalling could ever happen in Cabrera. But, just imagine if your life savings were taken from you in this way. So, while you are filled with bonhomie at the Arch Bar, enjoying the wonderful Cabrera sunshine and being regaled with tales of bygone years, spend a little time thinking about some of life's unfortunate victims.

All of a sudden, taking out your own trash does not seem to be so life-changing!

Investigation of municipal management around the houses built in Cortijo Cabrera in Turre (Almería)

In 2017, The Court of Instruction 3 of Vera (Almería) opened preliminary proceedings to investigate the urban situation of the Partial Plan of Cortijo Cabrera, in Turre, with 200 homes built and to determine if there has been a crime in the municipal management of this residential area, specifically, an alleged crime of prevarication (continuing to do what you are doing in spite of knowing it is illegal) by previous corporations.

<https://www.europapress.es/andalucia/almeria-00350/noticia-juez-investiga-gestion-municipal-torno-viviendas-construidas-cortijo-cabrera-turre-almeria-20171206111233.html>

In particular, mention is made of partially executed urbanization works or the allegedly irregular division into "Functional Units that are not Execution Units without real independence of infrastructures, possibly with the aim of patching up and granting first occupancy licences to some dwellings".

Along these lines, the complaint reports on first occupancy licenses granted in homes located in "Functional Units not received with the guarantee checks to finish the urbanization and not subsequent execution, not even subsidiarily by the City Council".

Now, it will come as no surprise in Cabrera to hear that the above criminal proceedings and investigations have been in progress since 2017 for the last 7 years. The Court is allegedly in the process of "collecting information".

It may be that the Town Hall Architect, Simon Rubio, has been concerned for the past 7 years because of this unfortunately slow process.

By way of explanation, it is possible to carry out "partial urbanisation" in steps as long as each of the Execution Units is fully independent and autonomous ie. Each Functional Unit must have its own roads, water supply, sewage system and must not rely on other functional units around it to keep it alive.

Cabrera has been divided into 19 suitably named "Functional Units" or "FUs" as we like to call them. Only one FU has allegedly been "handed over to the Town Hall". This is FU8 which is distinguished by the fact that it incorporated a home previously owned by Junta President Segundo Ramirez. Actually, the President's House did not initially fall into FU8. However, this was easily changed by the Developers when they went to the trouble of modifying the FU8 boundary to include the President's House.

It should be abundantly clear to anyone that none of the 19 Functional Units in Cabrera are in any way “fully independent and autonomous”. It should therefore be abundantly clear that it would be illegal for the Town Hall to carry out a ‘partial urbanisation’ exercise by “accepting” Cabrera Functional Units as being fully executed.

That is why the Court is supposed to be examining whether the alleged crime of “prevarication” has been committed – ie. Continuing to do something illegal when you well know that it is illegal.

Homeowners Association Meeting with the Mayor

The HOA met with the Mayor on Wednesday 13 December 2023 to discuss the possibility of coming to an agreement with the Developers to move Cabrera forward in a positive way.

The Junta President and Treasurer did not attend although they were invited. The meeting was attended by the Diputacion Lawyer, the HOA Lawyer and the new Town Hall Secretary and the Town Hall architect (Simon Rubio).

While the Junta President and Treasurer did not attend, surprisingly the Mayor did invite a new Spanish landowner in Cabrera to this meeting with the HOA. This new landowner has recently purchased a number of plots in La Pilica (Functional Unit 1 area) and is looking to build a number of houses. The plots are believed to have been purchased from a bank and the new buyer already seems to have a seat at the ‘top table’.

It is understood that the HOA Lawyer pointed out to the Town Hall Architect, Simon Rubio, that it was very evident that the Functional Zones had not been properly established. This assertion was met with silence, and a quizzical tilt of the head.

We turn our attention again to the possible crime of prevarication. It seems that the new Spanish Landowners may have been assured by the Town Hall Architect, Simon Rubio, that they will be able to build on their newly purchased plots in La Pilica. The reason seems to be that the Town Hall Architect views the Functional Unit 1 to be almost complete as an autonomous unit, although it is believed that the Spanish Buyer may still need to hand over some money to complete ‘some infrastructure works’. We would welcome any clarification on this that the Town Hall Architect might like to make.

This will, off course, be a complete surprise as everyone in Cabrera has been of the belief that all building licences in Cabrera have been suspended until such time as the required infrastructure is completed in its entirety according to the Proyecto de Compensacion (PDC). This will also come as a shock to the existing homes that have been unable to secure an Endesa electricity supply because the Developers have not provided sufficient electrical infrastructure in Cabrera. (6% of all homes in Cabrera).

It seems that the new Spanish buyers have held preliminary discussions with Endesa and they see no difficulties in getting Endesa connections which is puzzling. The Treasurer’s 2019 report states:

“Due to the continual Endesa upgrading of the requirements for the increase of power of the 35-year infrastructure installation, two additional transformers must be installed, one at, Avenida Abenjoar and the other on Avenida de Cortijo Grande at an estimated cost of 198,000€. To finance this upgrading, it is proposed to increase the budget by 7% (it’s the first increase for the past 8 years) and taking a 5-year bank loan of 110,000€ as well as a voluntary loan/contribution with interest paid from some owners, amounting to approximately 80,000€.

Of course, the Treasurer did not mention at the time that the Developers were responsible for providing and paying for the 6 transformers that should be provided in the Proyecto de Compensacion. After all, the Developers had said that they would provide all the required infrastructure under the 1993 Agreement. Instead, the declared intention was to make the Homeowners pay for the transformers out of the Maintenance & Conservation budget.

The Treasurer also failed to mention at the time that he was in discussions with Endesa to add 34 new Endesa connections in Cabrera, not simply the 12 houses that were not provided with Endesa connections since around 2007. Had the Treasurer simply asked for 12 Endesa connections instead of asking for an additional 22 presumably for his own purposes, all the houses in Cabrera may possibly have had Endesa supplies by now. Had he not prioritised the connection of 7 of his own Townhouses when Homeowners paid for the Arch Transformer upgrade in 2019, the story could be different as well.

2024 AGM

The Developers have released their minutes of the 2024 AGM which was held on 23 February 2024. No AGM was held in 2023. The Developer’s minutes contain selective reporting, selective omissions, and a selective portrayal of the legal position.

There were a number of key factors which were **not highlighted** in the Developer’s Minutes.

- a) The Town Hall reclaimed its 29.7% voting rights after the Developers tried to inflate their vote share by previously reducing the Town Hall’s holding to 10%.
- b) The Minutes do record that “The owner of plot 1F2B asked why the 2022 budget included €250,000 for the installation of two transformers. The President told him that it was indeed a budget but that, until now, it had not been no transformer had been built or installed, however, steps are being taken to request a bank guarantee and carry out this installation, explaining that there were currently three transformers.”

It was **not recorded** that the Treasurer refused to inform homeowners where the alleged 3rd Transformer was located in the La Pilica area. For the record, until proven otherwise, we believe the 3rd transformer is a fictitious invention of the Treasurer.

It was **not recorded** noted that a Homeowner asked the President:

If you are so insistent on working according to the 1993 Agreement where Homeowners pay only for the Maintenance and Conservation, why was it that you were asking, no

rather “demanding”, €250,000 from the Homeowners a few years ago to pay for transformer infrastructure?

It was **not recorded** that the President avoided confirming that the €250,000 would be paid by the Developers, given that they were insisting on implementing the “1993 Agreement”.

It was **not recorded** that the President stated:

The President replied that ALL Owners will have to pay for the transformer infrastructure. There are no “Developers”. They have all died. The President said that he was not a Developer, he was just a Landowner.

Our concern is that the Developers will be committing us, behind our backs, to more AVAL bank guarantees for transformers, more loans for transformers, more building licences on the basis of 'partial urbanisation' and further irrecoverable damage.

It is evident that the Developers do not intend to fulfil their obligations under either the “1993 Agreement” OR the “Proyecto de Compensacion” which they should be following.

This brings us to the reason why the Homeowners Association (HOA) is campaigning for a New Future for Cabrera.

A New Future for Cortijo Cabrera

Please see the attached leaflet which was published by the Homeowners Association (HOA). This sets out a proposal and vision to transform Cabrera and to provide Homeowners with the Village and Governing Body that we all deserve.

Conclusion

If you are one of the Homeowners who supports the “1993 Agreement” way of working, the above should serve as a reason to reflect very, very carefully on exactly what you are supporting.

There are many, many victims in Cabrera. There are many lives that have been affected by stories without a fairy tale ending. This is why the turnover rate on properties is so high in Cabrera and why people have lost so much money on their property investments.

It is time for the Homeowners to stand together and to fix the problems of Cabrera once and for all. We urge you to support the HOA proposal for a new future for Cabrera as soon as possible. Things are moving very quickly!!

The HOA can be contacted by email: cabrerapol1services@gmail.com

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