

Institutional aspects of housing stock management, best practices

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Introduction

- This presentation deals with privatized owner-occupied apartment buildings in countries in transition, because these buildings constitute a fairly high proportion of residential buildings in these countries and because there are clear problems in management, maintenance and refurbishment activities.

UNECE recommendations

- There is need to develop the legal structure of the owner-occupied apartment buildings in order to guarantee that the necessary decisions can be made.
- In this regard the United Nations publication “Guidelines on Condominium of Countries in Transition” (which also exists in Russian language: ПО ВОПРОСАМ ЖИЛИЩНЫХ КОНДОМИНИУМОВ В СТРАНАХ С ПЕРЕХОДНОЙ ЭКОНОМИКОЙ) can be recommended. It offers an organizational structure described in this presentation.

- The condominium model means that the owners own their dwelling, but, more accurately, they own the space within the internal walls of the building. The common parts are, however, owned jointly by all owners.
- Apartments themselves are usually in good condition, so problems focus on common parts, which include: roofs and ceilings, walls, windows, staircases, including lifts, water, electricity and heating.

Decision-making in condominium blocks

- Owners' associations, or similar bodies, have been used in established market economies to administer the common parts of apartment buildings based on condominium ownership. This is, however, not the case in most countries in transition in which owners' associations are optional. Thus, they have been set up in only a fraction of condominium blocks.
- It should be emphasized though that even if owners' associations exist, they are not functioning in most cases well partly due to their inadequate organizational structure.

Main differences in the management structures of owner-occupied apartment buildings

- Homeowners associations (or similar bodies) always exist in Western European countries the United States and Canada. (However, there can be exceptions for small buildings).
- This is not the case in most post-socialist countries (except, for instance, the Czech Republic, Hungary, Poland and Georgia).
- The division of labour between different actors is well established in Western European countries. This is not the case in most post-socialist countries where the role of dwelling owners compared to the managing companies is often weak.
- In Western European countries the decision-making is, in most cases, done by simple majority. On the other hand, even unanimous decisions are sometimes required in post-socialist countries regarding major repairs.

Creation of homeowners associations has been slow in many post-socialist countries

- The owners' association should be the basic decision-making structure in buildings based on condominium ownership. The reason is there is a need for a body which manages, for instance, the common parts of the building.
- In Estonia it has been considered that the management of owner-occupied apartment buildings should not take place without homeowners' associations. Hence, the Apartment Ownership and Apartment Association Act, approved in February 2014, provides that if a homeowners' association has not been created by the owners, the state itself shall create the homeowners' association by 1 January 2018.
- These associations will function under the same legal framework as the homeowners' associations created by the owners.

THE HOUSING CODE OF THE RUSSIAN FEDERATION NO. 188-FZ OF DECEMBER 29, 2004

Article 161. Choosing a Method of Management of Blocks of Apartments

2. The owners of premises in a block of apartments shall choose one of the methods of management of blocks of apartments:

- 1) direct management by the owners of premises in the block of apartments;
- 2) management by a partnership of home-owners or housing cooperative or another specialized consumer cooperative;
- 3) management by a managing organization.

Housing Relations Law

Law of the Republic of Kazakhstan

April 16, 1997 N 94

Chapter 7. Management of the Condominium Object

Article 42. Forms of Condominium Object Management

2. Form of condominium object management is determined by agreement of its members. These forms can be:

- 1) direct management of all joint owners if their number does not exceed twenty;
- 2) cooperative of owners of premises (apartments);
- 3) condominium object management by members of third party: elected or hired physical persons- managers of apartment buildings (managers) or legal persons;
- 4) other forms not contradicting the legislation of the Republic of Kazakhstan.

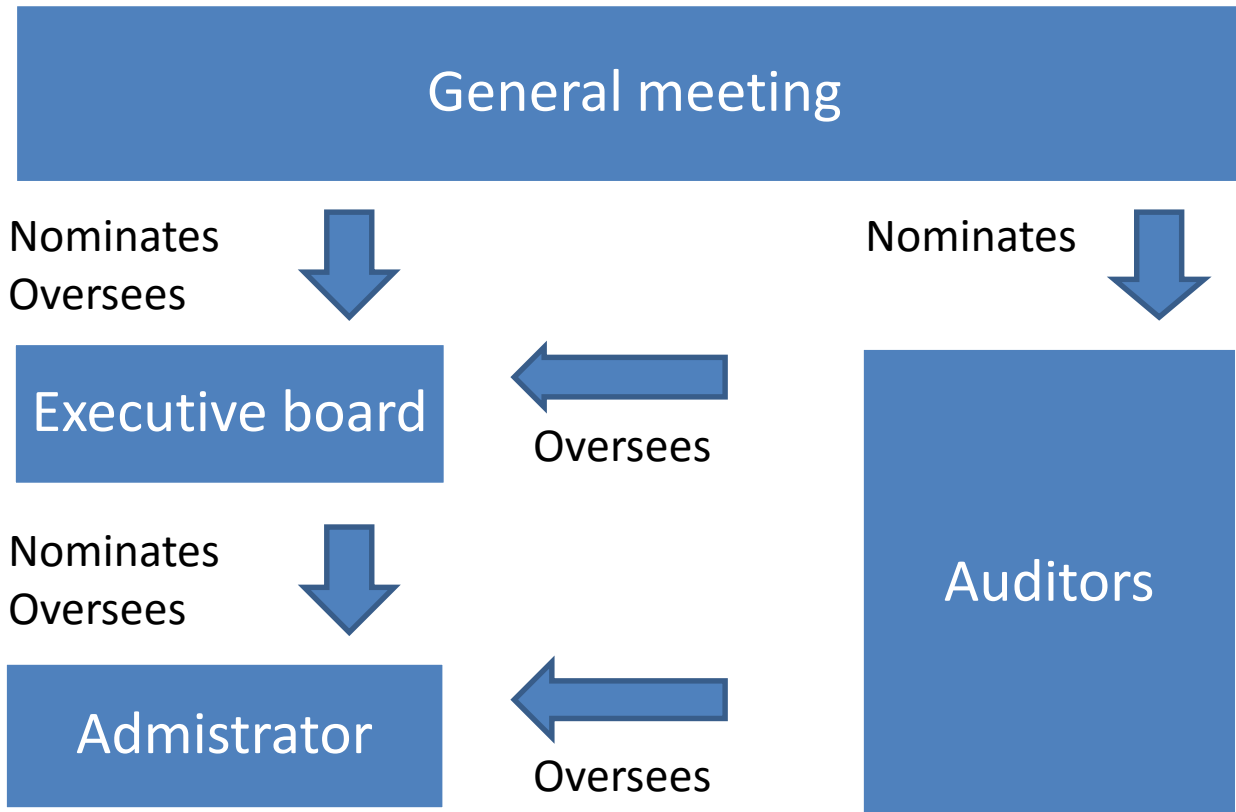
Main functions of the owners' association

- Collects the monthly management fees in order to maintain and improve the quality of the common parts of the building and outside areas. Ensures that the temperature in each dwelling can be kept at a decent level and that the hot and cold water supply is secured. Ensures also that the technical networks are kept in good working condition.
- Makes certain that individual owners or their tenants do not disturb the neighbours or do not carry out repairs which can cause damages to the building.
- Decides how the outside areas are to be used, e.g. type of landscaping, children's playground, and parking spaces for cars (and also how the parking spaces are allotted and reserved for residents and guests, as well as the fees for parking spaces).
- In order to preserve the interests of the owners in the jointly owned property, an owners' association must be able to enter into contractual agreements, to raise capital and to sue and be sued in the courts.

The role of different actors

- The decision-making bodies representing the owners (the general meeting of the owners and the executive board).
- The administrator serving the decision-making bodies in supporting the preparation of meetings mentioned above and implementing the decisions made by the decision-making bodies.
- Auditors overseeing the bookkeeping functions of the executive board and the administrator.
- Actors who are contracted by the executive board in order to provide different types of services (e.g. cleaning services for the staircase, planning and execution of repairs and utility services, like electricity, water and heat energy).

Administrative structure of an owners' association



Main functions of the general meeting

The general meeting of the owners decides the most important matters, such as:

- Elects the executive board.
- Elects the auditor(s).
- Approves the financial statements, comprising the profit and loss account, the balance sheet and the annual report, and discharges the board members and the administrator from liability.
- Approves the annual activity plan and the budget for the next year and, as a part of it, approves the amount of the monthly management fee and other charges to be paid by the owners.
- Approves the execution of major repairs.
- Approves the decision to take a loan.

Main functions of the executive board

- Sees that the financial management, including bookkeeping, is properly supervised.
- Prepares the general meetings.
- Appoints and discharges the administrator.
- Decides on contracts with different contractors (e.g. for cleaning the staircase, planning major repairs, executing major repairs and supervising these repairs).
- Guarantees that tendering is used as the rule when selecting the contractors.
- Decides on contracts with heat and water suppliers and garbage disposal services.

Main functions of the administrator

An administrator:

- Implements decisions of the general and board meetings.
- Takes care of the day-to-day management of the common parts.
- Has the authority and responsibility to execute emergency repairs (like repairing a leaking roof).
- Sends the invitations for the general and board meetings.
- Collects the monthly management fees and other charges from the owners.
- Pays the invoices owed by the homeowners' association and the salaries of employed personnel.
- Keeps the books of the homeowners' association.

An administrator can be an owner of a unit in the condominium building, an external professional, or a company.

Main functions of the auditors

Each auditor presents the auditors report to the general meeting:

- In his report he has to give an opinion whether the bookkeeping has been executed in a proper manner and whether the annual accounts comply with the rules set by the law.
- When executing their duties the auditors have to verify to a sufficient extent that different items of revenues and expenditures have been entered into the books correctly.
- Finally, each auditor must give an opinion whether he can recommend that the board members and the administrator can be discharged from liability or whether they have been guilty of actions or neglect which can result in a claim from the homeowners' association for compensation for damage caused by their actions or neglect.

In conclusion

- On the whole, it must be emphasized that the major responsibility of a homeowners' association (or similar administrative body) can be compared to running a business, with the need for an organisational structure with clearly defined rights and obligations at each level.
- It should also be emphasized that the buyers are not just buying the housing unit itself, but rather the housing unit within the building. Therefore, the quality of the common parts and, as a whole, the capability of the management to maintain the quality of these parts into the future is an important aspect when determining the price of the unit and in maintaining the value of the unit owners' personal property.