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REPORT ON THE HR EUCC

1. Scope of the Report.

This Report has been produced at the request of the Committee and in order to explain the background, the development from 2009 to date, and the future of the Urban Planning Entity of Conservation Hacienda Riquelme (from now on EUCC).

2. Basic Concepts of the HR EUCC.

A EUCC has been legally defined as a “*private association of legal composition with urban planning character*” that carries out municipal functions by delegation, and keep the works of urbanization and maintain the resources and installations of public services

The first legal step to start working as a EUCC is the “*recepción*” (which means the adoption by the Town Hall of the works of urbanization). “*Recepcionar*” (To adopt) is an administrative act by which, the municipal technicians and the building developer sign an official document declaring that the works have been properly finished.

3. Background on HR

The Bylaws of the Entity were approved by Murcia Town Hall on 11th March 2009, modifying the proposed (which were different at the point of the street lighting consumption), which were presented by the Building Developer “Hacienda Riquelme SL”.

On 7th July 2009, and after knowing the official approval of the EUCC Bylaws by Murcia Town Hall, it was held the first meeting of the EUCC. At this meeting were called all the Presidents of Phase, the representative of the building developer and the representative of the Town Hall (who did not attend).

The main decisions were:

The Presidents of the Phase showed their nonconformity about the EUCC assumes competences of conservation, administration and maintenance of road cleaning, street lighting consumption and garbage collection.

As well, it was decided to appoint the representatives of the EUCC making them to coincide with the Presidents of Phase and it was considered that the owners were properly represented through the Presidents of Phase. With regards to the integration of Budgets, it was discussed the integration, but a final decision was postponed until a next meeting, which was never arranged.

The Urbanization was officially adopted by Murcia Town Hall on 22th December 2011.

Therefore, in the years 2009, 2010 and 2011, the Community and the EUCC has been acting legally, given that the Urbanization was not “*recepcionada*” (adopted), so it proceeded the application of the article 7 of the Bylaws of the General Community, which obliged to the General Community to pay those expenses.

On those days, RESORTALIA considered, due to the recent judgement at that time (Judgement of the Superior Court of Justice of the Región from Murcia nº 695, issued on 8th July 2011) that there was a possibility to start the lawsuit against the “*recepción*” (adoption) as well as against the obligation of the EUCC to pay the street lighting consumption.

For that reason, RESORTALIA met 2 experts, Mr. Juan Enrique Serrano and Mr. Santiago González - Varas. Both issued quotations and the Committee finally decided to contract the Professor González Varas to start the legal actions.

Besides, it was included a technical report done by the Architect, Mr. Juan de Dios Moñino, to accredit that some areas of the Urbanization weren't properly finished.

According to the expert advice of Mr. Varas, the EUCC started a legal claim on 9th March 2012.

The legal claims was based on:

- The inadequate ending of the Town Hall zones, which make that the adoption was incorrect, asking the building developer or, secondarily, the Town Hall to finish the works.
- Lack of legal obligation for the EUCC to pay the street light consumption.

Due to that in the claims was questioned the own origin of the EUCC, the Lawyer in charge advised to not to pass a budget of the EUCC, because we were questioning the beginning of it. If the Complex used the EUCC coefficients it could be used as a weapon by the other parties to claim that the Complex had tacitly accepted the adoption (“recepción”).

Therefore, from year 2012, it could have been possible to start working with the system of percentages established in the EUCC and with its own Budget, but the Professor González –Varas recommended not to start with that system due that it could be detrimental for the procedure.

After that, and after some discussions, and in order to obtain further information about EUCC, a Report on EUCC was prepared by RESORTALIA on December 2012, with the aim of explaining what an EUCC is, with the information and knowledge at that time. In this report, the Lawyer advised to wait until, at least, a first instance judgement to start working as a EUCC.

After that, the legal claim continued their normal procedure and 2 Assemblies were held:

- In January 2014, and in order to carry out some improvements in the Local Authority Lands, an **Extraordinary General Assembly**.

There was a legal claim (administrative procedure) against these agreements, which was finally won by the EUCC, with the legal support from González – Varas Law Firm and RESORTALIA.

- Following RESORTALIA’s advice with the support of Mr. Varas, In March 2014 the General Assembly of the EUCC was held. At that meeting, the owners approved some modifications of the Bylaws, which looked for to adapt the Bylaws to the reality of the URBANIZATION, and appointed the Board (the

Presidents of Phase). This election was based on the modification of the Bylaws, which now establishes the integration of posts.

In compliance of the article 22.3 of the EUCC Bylaws, these modifications were communicated to Murcia Town Hall, in order to get the approval. We have not received the official reply yet, but we must consider, according to the article 43 of the Bylaws, that the consolidated text is in force.

Finally, the legal claim, which started in 2012, was rejected on 16th January 2015, and the Committee decided to lodge an appeal, which has already been presented. After a consultation, Mr. González Varas stated that, as established in the 2012 report, this is be the moment to start working, at all levels, as a EUCC. When he was asked, they have stated that the application of the EUCC budgetary system should be, at this moment, automatic.

Therefore, the coefficients and the Bylaws are of full application, by Law.

4. EUCC HR 2015

RESORTALIA issued a report on Friday, 30th January with the draft of possible allocation of items. After an exchange of impressions at the Committee Meeting held past 5th February, it was decided to modify it. Please see below the differences:

MANTENIMIENTO SISTEMAS DE TV / TV & BROADBAND	221.822,76 €	73.732,12 €	148.090,64 €
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This item has been modified on the basis on the contract and the own functions of the EUCC and the General Community.

SEGURO / INSURANCE	60.896,72 €	60.896,72 €	
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This item will be under the General Communities, because with this insurance, already signed, all the Urbanization's zones are covered.

ADMINISTRADOR / COMMUNITY ADMINISTRATOR	85.000,00 €	70.000,00 €	15.000,00 €
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RESORTALIA already explained at the meeting held on March 2014 that all the actions regarding the EUCC have been carried out by RESORTALIA for free, so as it was announced at that meeting, it seems that now is the moment to propose fees for this post, due to the volume of work that it causes for all the departments.

(PLEASE NOTE (27.2.2015): Finally, after a negotiation with the President, RESORTALIA will not charge fixed fees to the EUCC, but any work will be charged individually, depending on the own action).

5. Conclusions & proposals.

Conclusions:

- The EUCC Bylaws are in force from 11th March 2009. The EUCC could have started running from 22th December 2011 but the “recepción” (necessary step to start running) was challenged. Therefore, Professor González – Varas recommended not to apply the EUCC Budget due to it could be detrimental for the legal claim.
- The legal claim has been initially rejected, so according to González Varas’ legal opinion, already expressed in 2012, there are no more juridical reasons that avoid to apply the EUCC budgetary system for the corresponding items, which is compulsory by law.
- Therefore, it is compulsory the application of the EUCC for the EUCC zones.
- All the actions related to the Assembly will have to be prepared under the last version of the Bylaws. If, finally, the Town Hall does not approve the modifications, all the actions would have been legal.
- With regards to the debtors question, RESORTALIA advised on the report prepared on December 2012 to modify the Bylaws in order to be able to take the lawsuits to the Civil Courts and to use the “monitorio”. This was approved on 10th March 2014. Furthermore, the Spanish Law of Horizontal Property was modified on June 2013 and now it establishes that the HPA will apply to the

EUCC if this is established in the Bylaws. Therefore, we don't consider that this will suppose a main inconvenience on the managing of the debtors.

Proposals:

- To call a General Assembly of the EUCC to pass the budget. To this meeting, all the owners will be called and will take place the same day that the AGMs are called. At that meeting, all the owners will vote the budget, which has to be passed by simple majority.
- To include the line of expense for the EUCC in the lines of the Budget of the SC, as in the case of the General Community.
- Every SC will vote the budgets integrating the expenses and maintaining just 1 fee.
- The debt will be settled at the General Assembly and there will be 1 lawsuit for each debtor, including both debts. This does not affect the previous claims as in Spain as in UK.
- In the case, the commercial plots and the Golf Course would be sued from the Entity, using the "monitorio".