

Condominium as seen by Surveyors

A compendium of national approaches on Condominium Surveying and their best practices.

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Key words: SDG, Condominium, Property Surveying

SUMMARY

CLGE's Interest Group of Publicly Appointed and Regulated Liberal Surveyors is editing a compendium on the role of Property Surveyors in the very important issue of multi-apartment buildings and the definition of ownership within these buildings – the so-called condominium design. We will see that this plays an important role in the UN-SDG.

Even if co-ownership of buildings can be traced back to ancient Egypt and the Middle-Ages, A condominium property is a relatively new type of real property in Europe that provides the possibility to establish individual ownership of a part of a building.

Condominium law is primarily designed to convert buildings consisting of residential rental apartments into individual ownership for each apartment resident, but other types of non-residential use are also quite common in many jurisdictions.

The practical conditions regarding the conversion of a property/building into a condominium property differ across jurisdictions. The role of the property surveyor in the process of determining condominium ownership is very important. It starts with measuring the building and preparing the obligatory documentation, including a map of the condominium units and a list containing details of each condominium's unit number, location address, size, and co-ownership share. The calculation of the co-ownership share determines the number of votes at the general assembly, the ownership share(s) in the common property, and the contribution to the common expenses.

Moreover, it has been acknowledged that the chartered surveyor's ability to combine rights and/or responsibilities over the common property with maps not only creates a more accurate registration but is also efficient in generating a transparent and clear organisation. Indeed, the registration of property rights over the common property is not dependent only on text documents, which sometimes are subject to misunderstandings.

In addition to measuring and preparing the mandatory documentation, property surveyors can work as a legal adviser, counselling the owner/developer on legal issues determining the co-owner share, and assisting them in preparing a customised by-law and/or easements.

Condominium as Seen by Surveyors a Compendium of National Approaches on Condominium Surveying and Their Best Practices (12119)

Matjaz Grilc (Slovenia), Nicolas Smith (France), Vladimir Krupa (Croatia) and Jean-Yves Pirlot (Belgium)

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There is reason to believe that the use of the condominium concept will increase in the future because multiple ownerships in mixed-use buildings around the world are growing. This is mainly due to an intensification in urbanisation that focuses on creating interesting, safe, and sustainable cities (SDG UN no. 11). This challenges existing condominium institutions around the world. Therefore, each jurisdiction might gain positive outcomes by analysing its condominium institution in terms of adoption of optimised solutions.

With the significant prices per square meter, it is important that surveys are performed in a precise and accurate way. Moreover, it is essential that the same measurement standards are used everywhere. That's why CLGE is promoting the European Real Estate Area Label euREAL, which is totally compliant with the worldwide standard proposed by the International Property Measurement Standards Coalition.

The evolution of 3D Cadastre and BIM leads to developments of the Condominium practice as well and CLGE insists on streamlining this process. For this reason, it is important to realise that the property surveyor is an essential link in the whole chain of involved actors (architects, engineers, notaries, solicitors, lawyers, real estate agents, ...).

All these concepts are developed in this paper and can be found in the [The Condominium Compendium](#) in a more attractive presentation.

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1. INTRODUCTION

CLGE stands for le *Comité de Liaison des Géomètres Européens*, i.e. the abbreviation of the French name of the Council of European Geodetic Surveyors, that is used in both languages. In 2010, CLGE and Geometer Europas have merged. To make sure that the specificity and strength of Geometer Eurpas wouldn't be diluted, a specific Interest Group was created and enshrined in the new CLGE statutes: the Interest Group of Publicly Appointed and Regulated Liberal Surveyors or CLGE – IG-PARLS.

Among other research and publishing activities, CLGE – IG-PARLS is editing a compendium on the role of Property Surveyors in the very important issue of multi-apartment buildings and the definition of ownership within these buildings – the so-called condominium design. We will see that this plays an important role in the UN-SDG and is also relevant to this year's theme of the FIG Working Week: Protecting our World, Conquering New Frontiers.

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In this paper, we present the compendium. Its core is composed of, currently 09 national reports, describing the situation these CLGE member countries. At first, only IG-PARLS members took part in the project but after the initial success, other CLGE member countries have joined to project. Even among the members who are not involved so far, many intend to add their chapter in a near future and contribute to the quality of our compendium. It might be interesting for FIG and the Forum of Regional Bodies to use it as a basis for exchanges with other regions in the world.

After this introduction, we give the Slovenian example, to make the paper understandable as a stand alone document. Readers can easily find the full compendium of the CLGE website.

2. THE ROLE OF PROPERTY SURVEYORS IN THE CONDOMINIUM LEGISLATION IN SLOVENIA

Condominium ownership in Slovenia is determined by the Law of Property Code, which has been in force since 2002. Registration of condominium property is conducted in the Land Registry. The condominium is created by a court decision and by an entry in the Land Registry.

The basis for entry is a Land Registry proposal, which must contain an agreement on the division of co-ownership into condominium ownership. In Slovenia, it is called a division agreement. The division agreement is usually prepared by a chartered surveyor who performs measurements in the building. In some cases, real-estate agents, designers, or architects can also prepare it. In addition to the division agreement, the Land Registry proposal must contain a decision on the registration of the building in the Building Cadastre.

Only a notary can submit a land registry proposal. The process takes place digitally, and the entry goes directly into the Land Registry.

A unique feature of Slovenia among all the IG-PARLS countries is the established Building Cadastre, which is maintained by the Surveying and Mapping Authority of the Republic of Slovenia. This is a technical registry of buildings. When establishing condominiums, the surveyor must make a plan with all the technical data, which must be entered into the Building Cadastre. The certificate of entry in the Building Cadastre must be attached to the Land Registry proposal.

Existing buildings

When creating condominiums from existing (old) buildings that are highly likely to have changed throughout their history, we must always measure the existing situation. Before the entry of condominium property into the Land Registry, each such building must be previously registered in the Building Cadastre and be subject to the rules described above. There are no exceptions. It is always necessary to measure the existing situation.

New buildings

In most cases, apartments are sold before their construction. In cases where an apartment is sold before construction, the area of the apartment (for the purposes of the contract) is taken from the project documentation. An integral part of the contract is a special supplement that in Slovenia is called the general conditions. In these conditions, it is determined that due to the method of construction, the surface can deviate plus or minus 3–5% max. If the deviation of floor area after construction is greater, it is necessary to conclude an annex to the contract and the final payment will be made following this annex.

After construction, a survey of the as-built situation is mandatory in Slovenia. This measurement is the basis for the floor plan. The floor plan is the basic document for the Building Cadastre and the basis of the division agreement.

The most important thing is that the as-built situation is always measured and recorded.

3. CONDOMINIUMS, PROPERTY MEASUREMENT STANDARDS 3D CANDASTRE AND BIM

Property Measurement Standards

The work of property surveyors in the field of condominiums cannot be seen as a task on its own. It has to be brought in connection with other related fields such as the Property Measurement Standards and the Building Information Modelling.

Based on prior work of the French and Belgian Surveying organisations, CLGE has developed a European Real Estate Area Label (euREAL). euREAL provides a clear answer to the question “What do we measure and what we do not measure?”. The code defines the concepts of “above ground” and “below ground”, and it also provides a rule for measuring the common parts. All built-up areas are classified according to their nature and purpose in two annexes, namely “the detailed area chart” and “the table of areas”.

The code was conceived as a platform for further improvement and cooperation with other bodies, especially the European Commission. This plan has already been successful since the INSPIRE thematic working group on buildings adopted the measurement code as the default description for areas in buildings. This was endorsed by the European Commission in April 2012, and our approach is now part of version 3.0 of the INSPIRE data specifications.

By offering a tool to harmonise the measurement of the floor area(s) of buildings, the code directly contributes to the cross-border mobility of surveyors and to the protection of consumers, who can easily and consistently compare the prices of buildings throughout Europe.

To share this innovative European approach with the rest of the world, the International Property Measurement Standards Coalition (IPMSC) was created. In July 2013 the IPMSC ~~selected real-estate experts from around the world to form its Standards Setting Committee~~

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After several standards were developed for office buildings, residential buildings, industrial buildings, and retail buildings, the SSC proposed to create a single universal standard that could be used for all building classes. The proposal was accepted by the Board of Trustees of the IPMSC.

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The final IPMS has been approved now and the new euREAL is undergoing the process of becoming IPMS Compliant. The CLGE General Assembly gathered in Oradea (Romania) from 11 – 13 May 2023 has organised a first reading of the new guidance. Remarks from members are awaited until end of June 2023 and if all goes well, the final version of euREAL IPMS Compliant will be adopted in second reading during the Autumn General Assembly of CLGE in Paris, gathered from 09 – 11 November 2023.

3D Cadastre and BIM

Surveyors must adapt their approach and work differently. The process should allow establishment of a condominium from a 3D model, using 3D tools, and achieving a 3D result. The surveyor would then be perfectly integrated into the very principle of BIM; this tool is indeed based on collaboration and its multi-trade and multi-use character.

The current digital revolution and the increasing ease of use of 3D tools and mobile applications will bring new perspectives to the management of cadastral survey data, in particular in condominiums. The real challenge will be to build a digital condominium directly in a BIM environment.

As far as modelling in collaboration with architects and others is concerned, the advantages are certain: more accurate and faster 3D, more reliable architectural plans, and a 3D model of the entire building. The condominium will be directly integrated into the building project!

BIM and 3D are increasingly present in the surveying profession; they are the future of the profession. Property surveyors must adapt to the new technologies and the new opportunities that they generate. The evolution is taking place right now: this is why it is so important to think now about how surveyors will adapt and transition to their roles in the future. 2D plans will gradually give way to 3D. The constitution of condominiums will greatly depend on this technological advance.

4. CONCLUSIONS AND RECOMMENDATIONS

In Europe and many other parts of the world, the profession of property surveyor is well established.

Property surveyors are the professionals who draw the property plans and establish legal limits between adjacent properties. In most countries around the world, no other professionals are allowed to do so. Hence, property surveyors are the natural partners of the notaries, solicitors, or lawyers in charge of establishing the official documents required for any conveyance.

While this is well known by the general public for land, it is not so well understood for built property, although the same legal principles are at stake.

The situation is quite a paradox, since prices per square metre are always higher for buildings than for land. Very often they are much higher, with a ratio of 10:1 not being unusual. Errors

in building surveys can therefore have even more serious effects than errors in land surveys. Thus the conclusion is clear: property surveyors should definitely guarantee both land and built property. (Schenic legal property rights are at stake. Krupa (Croatia) and Jean-Yves Pirlot (Belgium)

Our study has shown that it is important to draw attention to this divergence, which leads us to the following rules and recommendations:

- Property surveyors are the only professionals who are allowed to draw property plans and by doing so they establish the legal limits between adjacent properties.
- This monopoly applies to all kinds of property, i.e. to land and built property.
- The case of condominiums requires special attention, since, very often, lots are sold before the start or during the construction phase of the buildings.
- With the intention of establishing legal security, and regardless of the preceding specificity, it is advisable (at a State or administrative level) to impose as-built surveys after the completion of buildings, especially condominium buildings.
- These as-built surveys are not different from normal property surveys and can only be performed by property surveyors.
- If the motivated report has been established based on construction plans, a property surveyor must confirm that these plans were executed during the construction phase. If this is not the case, the motivated report establishing the shares, duties, and rights of the co-owners must be corrected.
- With their thorough understanding of property rights and spatial relations, property surveyors are very well placed to establish the motivated reports that are the basis of each condominium. If other professionals take care of this task, they need at least to rely on the advice and inputs of a property surveyor for the legal delimitation of private and common parts of the condominium.
- Frequently the official documents for property transfers are established by notaries, solicitors, or lawyers. In a few countries, property surveyors are allowed to do such work.
- It cannot be the aim of this study to challenge the predominant model in a given country; however, for the sake of increased legal security, the aforementioned notaries, solicitors, and lawyers should require that all property plans be drawn by property surveyors, whenever they establish the legal documentation of condominiums.

Our recommendations imply many efforts to be made by our partners: notaries, lawyers, solicitors, architects, engineers, real estate agents, ... This doesn't mean that property surveyors have nothing to do. The challenge for them consists in bringing together the condominiums, the property measurement standard, the 3D cadastre and BIM. That's a lot to do. Let's start without waiting any longer.

REFERENCES

[The Condominium Compendium](#) announcement.

[The Condominium Compendium](#)

[International Property Measurement Standards: All Buildings](#)

[The European Real Estate Area Label euREAL](#), to be updated soon.

CONTACTS

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