



A PRACTICAL GUIDE FOR (FUTURE) APARTMENT OWNERS



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INTRO

Buying your own home is the dream of many people. This dream may take the shape of a flat or studio apartment. In that case, you are not simply buying your own home. In Belgium, you will also become co-owner of the building in which the apartment is situated. Would you like to carry out work on the building? Then, you will have to consider the other co-owners of your condominium – *la copropriété* in French or *de medeigendom* in Dutch. These are the owners of the other flats in the building, whether they live in them or not. Your condominium may also include lots which are occupied by shops or offices, rather than residential accommodation. When buying a flat, you are not just buying your own home, you become a member of a community.

Life in a condominium is not always as easy as you expect. Managing a building with people you have not chosen can be an arduous journey. It is not always easy to predict the costs and to assess whether building works are warranted. Regulations and standards further complicate matters. Not to mention concerns over sustainability and energy efficiency. To avoid problems, you will need to get involved and take a certain amount of responsibility.

When buying a flat, it is essential to always be aware of the collective aspect of co-ownership. It helps to be well prepared in advance. This publication can help you on your way.

WHAT DO I NEED TO KNOW WHEN I OWN AN APARTMENT?

WHAT IS CO-OWNERSHIP?

A building simply needs to be divided into lots belonging to different people for it to be defined as being in co-ownership and subject to Belgian laws on condominiums. A building with several flats all owned by the same person is not regarded as being in co-ownership. But if there are even just two lots with two owners, it's a condominium.



Becoming a co-owner is like buying into a company. Except that you generally do not know your fellow shareholders beforehand. You will participate in the decision making concerning your shared property - but you will not have sole control over all the decisions.

IF A CONDOMINIUM HAS SEVERAL BUILDINGS, IS THERE STILL ONLY ONE CO-OWNERSHIP?

Some condominiums have several buildings, with common parts such as gardens, car parks, entrance halls... These buildings are often managed separately. This is known as 'partial associations', i.e. subsets of co-ownerships that operate independently. There is always an overall management body for the condominium as a whole. This possibility exists, under certain conditions, for buildings with 20 or more lots.

PRIVATE AREAS AND A COMMON PARTS?

The private areas are those whose property rights belong to only one of the co-owners or which are reserved for the exclusive use of only one of them: flats, sometimes houses, offices, parking spaces, cellar cupboards, workshops, certain garden spaces, etc.

The common parts are for the use of all or some of the co-owners. As soon as there are common facilities, the law on co-ownership applies to them.

WHO DECIDES WHAT IS PRIVATE AND WHAT IS COMMON?

In general, this is decided when the property is divided for the first time, either when it is built to be sold to different buyers or when a single building owner divides it into different lots. It is the person who has the articles of association drawn up who demarcates the private and common parts.

If someone is considering buying an apartment, they must quickly and before making any other commitment consult the building statutes (the basic deed and condominium regulations) and the building's internal regulations. These will contain the description of the building and its features, both for the common parts and for the co-owner's individual lot. They will find all the information on rights and obligations in the building, including on access to the garden or the roof. They will discover the lot's share of the common parts –

generally expressed in thousandths. These are particularly important because they define the apartment owner's voting weight at the general assembly and the share they must contribute to common expenses.

AS A CO-OWNER, DO I NEED TO TAKE OUT INSURANCE?

There must be a collective policy covering the whole building and the building manager, known as *le syndic* in French and as *de syndicus* in Dutch, is obliged to ensure that it is fully and adequately insured. However, it may be wise to take out additional insurance. This can cover your fixtures and fittings inside your flat but also the property. This is a protection against under-insurance of the building as a whole.



A co-owner should be invested in the condominium. It is very important to attend the general assemblies or, at least, to give proxy voting instructions to someone else. Decisions can be blocked if attendance fails to reach a quorum.

CO-OWNERSHIP: AN IDYLL?

There are types of community housing where the collective aspect is not seen as an irritant but as an opportunity for exchange and sharing.

This is the case, for example, with group housing. People buy together in order to share the costs of a house but also to help each other out. For example, in kangaroo housing, an elderly person occupies the ground floor of his or her house, while a family occupies the rest. The two living units are separate but they lend each other a hand, for example with grocery shopping or babysitting. This original idea was developed in the Netherlands and Italy, but it also exists in Denmark and Belgium.

There are also co-ownership projects with car and bicycle sharing, collective services (childcare, cleaning...).

Sometimes the only common aspect of a project is the purchase of a property. For example, people buy industrial buildings or old schools together, which they renovate and divide into separate living units.





In Belgium, apartment buildings and blocks of flats represented, in 2020, 218,093 buildings and almost 1.5 million dwellings housing more than 4 million people out of a Belgian population of 11.6 million. The number of condominiums is expected to increase in the coming years.

Directorate General, Statistics (Statbel) : April 21, 2021



Co-ownership should not be confused with time-share, which is the right to live in an apartment for a certain period of time each year and is mainly used as an alternative to holiday rentals.



HOW A CONDOMINIUM IS RUN

LIFE IN CO-OWNERSHIP IS REGULATED BY LAW.

In a multi-apartment building, decisions have to be made concerning the collective. There are generally three bodies that have specific powers: the general assembly of co-owners, the co-ownership council (formerly the management council) and the building manager or *syndic*.

The general assembly of co-owners takes the most important decisions concerning the building. The day-to-day management is entrusted to the manager. The general assembly also appoints an auditor to check the accounts every year. Sometimes, the size or the complexity of the condominium justifies the general assembly appointing several auditors who then form a college.



The law of June 30, 1994, laid the foundations of co-ownership in Belgium. The law of June 2, 2010, goes further in setting out the organisation and management of condominiums, in particular by providing greater transparency. The law of 2010 set out new requirements in terms of accounting, professional and disciplinary skills. The law of June 18, 2018, with some more recent modifications, completed, clarified or modified these rules.



It is very important that there is an atmosphere of trust in a building. An efficient syndic, controlled by a co-ownership council and an auditor, is a good asset.



1. THE GENERAL ASSEMBLY

Every owner is a member of the general assembly, the main body of the condominium, where all important decisions are taken. What work is to be carried out in the common parts? How to reduce the charges? How to maintain or decorate the common parts? Which safety rules do we want to establish for the building? How can we improve life together?

The general assembly is therefore made up of all the co-owners. Tenants are not part of it.



Sometimes, co-owners have little in common beyond the common parts of their building. In some buildings, the owners are very diverse; it may have been so from the start, or it has evolved over time. Different generations and cultures run the building together: first-time buyers, landlords or investors, young people, senior citizens, families with children, singles, etc. Some co-owners have already paid off their loans, while others are burdened with debt. Getting everyone to agree can be a real headache.



WHO IS PART OF THE GENERAL ASSEMBLY?

Each co-owner is part of the general assembly. In order to vote, they have a number of votes corresponding to the share of their lot in the common areas. This is generally expressed in thousandths and reflects each lot's value ¹.

HOW TO TAKE PART IN THE GENERAL ASSEMBLY?

Each co-owner attends either physically by going to the chosen meeting place or remotely if the notice of meeting so provides.

AS A CO-OWNER, DO I HAVE TO PARTICIPATE IN ALL THE GENERAL ASSEMBLIES?

It is not compulsory to attend all the general assemblies, but it is often very useful and it is highly recommended. If you are unable to attend, you can be represented by another owner or by an employee of the condominium, such as the concierge, or even by someone else, such as a friend. It cannot, however, be the syndic. You must give this person a power of attorney. The importance of the decisions taken at the general assembly and their impact on the daily life of the co-owners require the active participation of each co-owner. The best thing to do is to systematically put the scheduled dates in your diary.

WHAT DOCUMENTS DO I BRING TO A GENERAL ASSEMBLY?

You must have your identity papers. It may be useful to have your statutes of co-ownership with you and/or to have reread them before attending.

CAN I PUT AN ITEM ON THE AGENDA?

Each co-owner, alone or with other co-owners, can ask the syndic to put an item on the agenda. This must be done at least three weeks before the start of the period foreseen in the condominium

¹ There is a limit for a very large co-owner. No one can vote with more votes than all the other co-owners present or represented at the assembly.

by-laws for holding the general meeting. If it is later, the item will be put on the agenda of the next general assembly.

WHO CONVENES THE GENERAL ASSEMBLY?

It is usually the syndic who convenes the ordinary general assembly within the period of 15 days set by the co-ownership regulations. He also convenes an extraordinary general assembly whenever a decision must be taken urgently in the interest of the co-ownership, such as for urgent repairs. The general assembly may also be convened by one or more co-owners who own at least 1/5th of the shares (if the syndic does not respond to their request within 30 days) or by a Justice of the Peace, at the request of any co-owner, if the syndic neglects or obstinately refuses to do so. Exceptionally, if the property is without a syndic (death or resignation), owners who own at least 1/5th of the shares, as well as the co-ownership council or the president of the previous general assembly, can convene an extraordinary meeting to appoint a new syndic for the property.

HOW IS THE MEETING CALLED?

By recorded delivery, unless another method of communication has been explicitly foreseen, in writing. And this is normally done at least 15 days before the date of the general assembly.

If the general meeting is to be held remotely, it is important that each co-owner provides the managing agent with an electronic (or digital) contact address beforehand.

WHAT SHOULD THE SUMMONS CONTAIN?

If the assembly is held in person, the summons should indicate the place, day and time of the general assembly and the agenda. The agenda should include all written proposals from the co-owners which have been submitted within the time limit. The summons must also specify how to consult all the important or useful documents for the agenda.



If the general assembly is held remotely, it is important that the condominium decides in advance how it will be organised (how debates will be run, voting methods, scrutiny, and the taking of minutes).

WHO CHAIRS THE GENERAL ASSEMBLY?

It is a co-owner who chairs the general assembly and not the syndic, as was often the case before the law.

ARE THERE CONDITIONS FOR THE DECISIONS OF THE GENERAL ASSEMBLY TO BE VALID?

Yes, at the beginning of the general assembly, more than half of the co-owners must be present or represented and together they must own at least half of the shares in the common areas. If the owners represent more than 3/4 of the quotas in the common parts, the decisions are also valid without the first condition having to be met. If a first general assembly does not meet these conditions, a second general assembly can deliberate without any condition of members present or of quotas. This is the attendance quorum.

HOW ARE VOTES TAKEN AT GENERAL ASSEMBLIES?

In principle, standard decisions are taken by an absolute majority of the votes of the co-owners present or represented at the general assembly. This means that 50% plus one of the votes is required. Invalid and blank votes are not considered as votes cast for the calculation of the required majority. Some more important or delicate decisions are taken by a qualified majority (2/3 of the votes or 80%) or even by unanimity.

For some decisions a **qualified majority** is required.

2/3 of the votes:

- to modify the statutes of the building with regard to the enjoyment, use or administration of the common areas. E.g.: you want to put prams or bicycles in the entrance hall;
- for maintenance in the common areas, such as repainting the stairwell or updating the electrical wiring (except for work imposed by law and voted by an absolute majority, or urgent conservation work or odd jobs which can be decided by the syndic, such as changing a light switch);
- to decide on contracts for which competitive tendering is mandatory;
- to decide, in certain cases, on work in a private area. For example, work on private terraces to prevent seepage into the building.

4/5ths of the votes are required for exceptional decisions, such as other amendments to the articles of association, changes in the rules for the distribution of charges, changes in the purpose of the building (e.g. part of the building is converted into offices), the purchase of property (e.g. part of a plot of land to extend the park) or the division or merger of lots, as well as the demolition and total reconstruction of the building for reasons of health and safety or because the cost of compliance with official regulations is too high with respect to the value of the building.

When the general assembly has decided on works, a purchase or a sale of common areas (by a 4/5ths majority of the votes), it may decide at the same time on the distribution of the new thousandths, also by the same qualified majority.

The **unanimity of all the owners** (not only those present and represented) is required at the general assembly to, for example, change the distribution of the quotas in the common areas. If some co-owners practice an empty chair policy, it will be unanimity of the co-owners present and represented at the general assembly and this under certain conditions. However, there are possibilities of appeal.

HOW CAN I FIND OUT ABOUT THE DECISIONS OF THE GENERAL ASSEMBLY IF I DID NOT ATTEND?

The minutes of the general assembly must be sent to the co-owners within the month following the meeting.

The decisions must be recorded in a register which is kept at the headquarters of the condominium association.

WHAT CAN I DO IF I DO NOT AGREE WITH THE DECISIONS OF THE GENERAL MEETING?

The decisions of the general assembly must be respected by all; however, there is a possibility to ask for the annulment of a decision in court. It may be that the decision is irregular (a decision that the assembly could not take or that was not taken by the right majority), fraudulent (there was an intention to harm someone, an important point was hidden from them) or abusive (it is not justified by the common interest and causes disproportionate harm). The request for annulment must be made within 4 months of the general assembly. All co-owners can challenge a decision of the general assembly before the judge unless they were present and voted in favour of the decision.



THE TENANT HAS A SAY

In some cases, an occupant who does not have a vote at the general assembly, a tenant for example, can go before the *Justice of the Peace* to have a provision of the internal regulations or a decision of the general assembly annulled or modified. Tenants also have the right to make written comments on the common areas of the building. The syndic must inform the tenants of the date of the general assembly.



ROLL UP THOSE SLEEVES

In a co-ownership, not all the co-owners have the same financial means, the same approach, the same interests. The management and the maintenance of the common property can be a real headache. However, everyone must be aware that

- he/she has an interest in acting for the good of the co-ownership, that he/she must be concerned with the maintenance and conservation of their own property and the common property;
- they can and must participate in the decision making, using the appropriate structures advisedly: general assembly, co-ownership council;
- he/she must take care of the condominium's accounts and his/her own solvency.



IN CASE OF CONFLICT

In general, dialogue between owners and occupiers should be encouraged, even though it may not solve all the problems and its outcome is never certain. Moreover, afterwards, you will still have to keep in touch with the other party and relations will be all the more difficult.

Remember that the Justice of the Peace is less familiar with the situation than you are. If you do go before the Justice of the Peace, it may be useful to take a lawyer with you, even if this is not compulsory. The judge only answers questions that are asked. The lawyer will help you to ask the right questions.

2. THE CO-OWNERSHIP COUNCIL (FORMER MANAGEMENT COUNCIL)

A co-ownership council (management council until 2010) is now compulsory in any building or group of buildings with at least 20 lots (such as flats or offices, with the exception of cellars, garages and parking spaces). For smaller co-ownerships, it is optional and will be decided by an absolute majority (50% +1).

This council, made up of persons holding a real right in the building with a right to vote at the general assembly, is responsible for ensuring that the syndic carries out his duties properly.

The co-ownership council is usually composed of a president and two assessors, possibly more. It is advisable to limit the number of members for greater efficiency.

3. THE SYNDIC

The syndic is appointed by the general assembly to represent the co-ownership, to ensure the day-to-day management of the building and to manage the condominium's funds. He must also convene the general assembly, draw up the minutes and keep them.

The trade of the syndic has evolved considerably with, in particular, more obligations and transparency.

WHAT IS A SYNDIC?

The syndic takes care of the day-to-day management of the co-ownership. He takes all the necessary and urgent decisions and measures, he executes the decisions taken by the general assembly. He manages the condominium's funds. All the basic information relating to the syndic must be defined in the internal regulations of the condominium.

WHO APPOINTS THE SYNDIC?

Generally speaking, the syndic is appointed by the general assembly. The assembly defines the extent of his powers, the duration of his mandate, the terms of his renewal and what happens at the end of his mandate. In practice, all these details and his remuneration must be included in the written contract between the syndic and the co-ownership.

Only the first syndic can be designated by the co-ownership regulations². Sometimes, he is appointed by the judge at the request of a co-owner or a third party with an interest.

² This may be the case for a developer of a property before the sale.



HOW DO YOU FIND YOUR SYNDIC?

For example, by being attentive to the good management of buildings in the neighbourhood. Each year, professional syndics must file with the Professional Institute of Real Estate Agents (IPI) a list of the co-ownerships they manage. This is a possible source of information on the quality of services offered by professional syndics.



WHAT IS A GOOD SYNDIC?

A good syndic must have a number of qualities: sufficient knowledge of the law, practical skills, good technical knowledge, but also good interpersonal skills and a good dose of psychology (ability to listen, for example).

A new syndic is often great, but he or she can disappoint over time. He or she may also bring bad news: major repairs needed, increased charges, a lawsuit in the building, etc. Distrust can arise in the syndic's choice of service providers. It is important to take a step back and judge the syndic as neutrally as possible. It is also important to remember all that he does for the price charged.

HOW CAN I FIND OUT WHO THE SYNDIC IS?

You can find out from the co-owners. The name and address of the syndic should be displayed at the entrance to the building.

In addition, each condominium association must, in principle, be listed in the Belgian companies' register, the Banque Carrefour des Entreprises or Kruispuntbank, which can be consulted online. The identity of the person acting as syndic can be found there.

IS IT POSSIBLE TO APPOINT A SYNDIC FROM AMONG THE CO-OWNERS AND WHAT DOES THIS MEAN IN PRACTICE?

It is possible, when the contract of the current syndic comes to an end, to replace them by a non-professional syndic from among the co-owners (he or she must own a lot, even a very small one: a flat, a parking space, etc.). This decision must be taken at a general assembly and by an absolute majority. Obviously, the person must feel invested in the condominium and have time available. The tasks are identical to those of the professional syndic.

He or she will also have to open separate accounts for the building and it is in their interest to take out civil liability insurance as they could be held liable for mismanagement – even if this is generally judged less harshly than for a professional syndic. The condominium will probably still have to pay management costs, even if these are lower. The co-ownership will have to reimburse the syndic's expenses: telephone, postage, photocopies, etc.

A voluntary syndic (like a professional syndic) does not always have the necessary legal, technical or accounting skills and will sometimes need paid assistance for certain tasks. The voluntary syndic can also ask for a fee. Despite these costs, a voluntary syndic will often be cheaper than a professional syndic.

CAN THE SYNDIC TAKE DECISIONS ALONE?

In principle, the syndic executes the decisions of the co-owners taken at the general assembly. However, they can act alone in some circumstances to safeguard the building (carrying out minor repairs, maintenance work, cleaning of the common parts).

When he executes the decisions of the co-owners, he is rather limited in his choices. He can represent the association of co-owners in court.

HOW TO VERIFY THE CONDOMINIUM'S ACCOUNTS MANAGED BY THE SYNDIC? HOW TO CHECK THE WORK OF THE SYNDIC?

The condominium association has funds available. The syndic must put the money into accounts. An account is needed for working capital and a different account for the reserve fund (see below). The accounts must be opened in the name of the condominium association. The syndic administers these assets but is not the owner. He or she must keep the accounts in a clear, precise, and detailed manner according to the minimum standard charter of accounts established by Royal Decree. However, small co-ownerships, with less than 20 lots, may have simplified accounts: income and expenditure, cashflow, movements, amount of working capital and reserve fund. The professional syndic is subject to stricter rules.

IS THE SYNDIC INSURED IN CASE OF LIABILITY ON HIS PART?

The syndic must take out liability insurance and provide proof of this insurance. If his mandate is free of charge, the association of co-owners pays the insurance. IPI estate agents are insured via their professional contribution.

HOW CAN I CHANGE MY SYNDIC?

The syndic's mandate is limited to 3 years. The general assembly can always dismiss the syndic earlier. This can be done with or without compensation, depending on what has been agreed in the contract. The mandate can also be renewed in writing for a maximum of 3 years.

WHO IS RESPONSIBLE FOR MISTAKES?

If the syndic makes a management mistake, the co-owners are responsible to third parties because the syndic represents the association of co-owners. He or she is its agent. The co-ownership can subsequently claim against the syndic if they are at fault.

THE CO-OWNERS' ASSOCIATION

The condominium association is a legal entity. This gives it rights and obligations, just like a person: it has a name, a registered address, a nationality, assets, and the right to acquire, administer and dispose of assets. The condominium association owns only those assets necessary for its mission, and for the working capital and reserve funds. The association cannot use its assets to speculate on the stock market or to invest. Being a legal entity means it can be sued. For example, an unpaid creditor can sue the condominium association without pursuing each of its members.

The condominium association can also initiate legal action. It can sue on behalf of the owners, which means that they do not have to sue separately. It can also take legal action against a co-owner who does not fulfill his obligations or against a tenant who does not respect the internal regulations. If the association employs staff, it will be considered as the employer.

Of course, if a third party obtains a ruling against the condominium association, it can enforce this debt not only against the common assets belonging to the condominium association but also against the assets of each of the condominium owners separately.

Enforcement against the personal assets of the co-owners may not exceed their share in the common parts or, if applicable, their share used for voting. The co-owners are jointly but not indivisibly liable. If some co-owners are insolvent, their creditor shall bear the consequences.

THE LEGAL DOCUMENTS FOR CO-OWNERSHIP

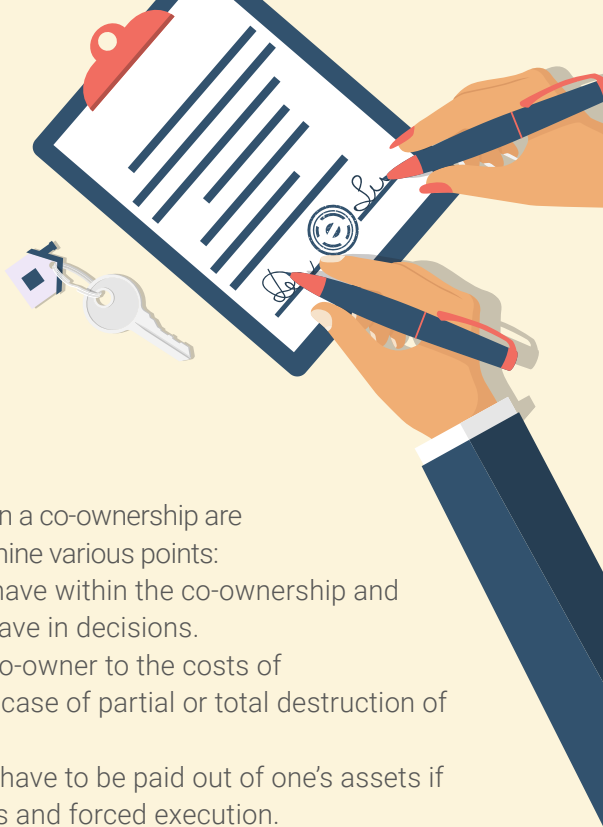


WHAT ARE THE BASIC DEED AND THE CONDOMINIUM REGULATIONS?

These are the statutes of the building and they must be the subject of a very official procedure: an authentic act. This deed will be contracted before a notary. It will be transcribed in full in a register at the appropriate office of the Administration générale de la Documentation patrimoniale/Algemene administratie van de Patrimoniumdocumentatie (usually referred to as the office of the 'Conservation des Hypothèques' of 'het hypotheekkantoor').

The basic deed contains the description of the property with the private and common areas. It determines the share in the common parts of each private part. This is expressed in thousandths ³, determined according to the value of the various lots.

³ A reasoned report from a notary, surveyor, architect or real estate agent must be included in the basic deed. They will take into account the surface area, the use and the location of the private part.



THOUSANDTHS: NO SMALL MATTER

The thousandths that one has in a co-ownership are of great importance and determine various points:

- ✦ The number of votes you have within the co-ownership and therefore the weight you have in decisions.
- ✦ The contribution of each co-owner to the costs of reconstruction or repair in case of partial or total destruction of the building.
- ✦ The possible part that will have to be paid out of one's assets if there are legal proceedings and forced execution.
- ✦ The price to be paid if the co-owners decide in the general assembly to buy a property intended to become common (a plot of land, an apartment to be converted into a concierge's office, etc.).
- ✦ The distribution of insurance compensation.
- ✦ In general, your share of the condominium's expenses. However, the co-owners may decide to share the expenses according to the usefulness of the common goods and services. A typical example is the lift for people living on the ground floor. They can also take into account both criteria.

Sometimes, when a common part of the condominium is only useful to certain co-owners, the statutes provide that only these co-owners will pay for it. They will be able to decide on these expenses more than the others.



MAKE SURE THAT YOUR THOUSANDTHS ARE CALCULATED AS FAIRLY AS POSSIBLE.

The condominium regulations contain:

- ✦ a description of the rights and obligations of each co-owner: rules regarding repair or renovation work, banning of certain activities, use of the garden, etc.;
- ✦ the method of sharing the costs of maintenance and repair of the common areas.

It is useful to also include the answer to these two questions: Can I change the designated use of my property? Can I combine two flats?

WHAT HAPPENS IF THE BASIC DEED IS NOT CLEAR ABOUT THE PRIVATE OR COMMON PARTS?

If nothing is stated or there are contradictions in the basic deed and the deed of purchase of one's flat, all the parts used by all the co-owners or by some of them are common. For example, a balcony or a lift serving only certain flats will be considered common.

CAN THE BASIC DEED BE CHANGED?

Can you change the distribution of shares in the common areas, the way in which charges are distributed, etc.?

Yes, this is possible. This can be done either by a decision of the general assembly or by a decision of the Justice of the Peace following a request from one of the co-owners. A notarial deed will be required. The costs can be relatively high. There is still no uniformity in terms of co-ownership fees, but there are nevertheless practices that are being put in place.



Many basic deeds are not in order. It is worth reading yours carefully, possibly with the help of a professional, before purchase. The syndic must have submitted a version of the existing basic deed, the condominium regulations and the adapted internal regulations to the general assembly for approval. An authenticated deed is required for changes to the basic deed and for changes to the condominium regulations but not for internal building regulations.

DO I HAVE TO RESPECT THE STATUTES OF CO-OWNERSHIP IF I DID NOT PARTICIPATE IN THEIR ELABORATION, WHETHER I AM A NEW OWNER OR A TENANT?

Yes, these deeds are the 'law' of the building and everyone must respect them, whether they are the owner, the tenant or the person benefitting from the lot – the usufructuary. They can be requested from the owner or the seller or consulted at the Bureau des Hypothèques. For example, a shopkeeper or a person practising a liberal profession (such as dentist, doctor or accountant) would be well advised to check that the regulations authorise him to carry on his activity in the building, to put up a sign, etc.

WHAT ARE THE INTERNAL REGULATIONS?

This document is compulsory. It can be drawn up privately, i.e. without the formalities of an authenticated deed.

It contains all the rules relating to the administration of the co-ownership.

- Those relating to the general assembly: the method of convening, operation, powers, the fifteen-day period during which it must be held.
- The rules relating to the syndic must also be included: the method of appointment, the powers and the procedures for termination of renewal.

It will also define certain practical arrangements: at what time must the doors be closed? Are pets allowed? Can Christmas decorations be put up in the common areas? Can you wash your car in the car park? The co-owners draw up these rules, possibly with the help of the syndic.

The rules can be consulted at the headquarters of the condominium association. All occupants must respect the rules. The owner who rents out his property must pass them on to the tenants or tell them where they can find them. The rules can be modified by the general assembly. The internal regulations are therefore very important for the management of the condominium and to facilitate relations between the occupants. They establish the basis for community life.

It is the syndic's responsibility to adapt the internal regulations to changes in the law and to update them regularly according to the decisions of the general assembly.



Difficulties in living together sometimes arise when owners and tenants live in the same building. In case of conflict, always contact the owners first. It is the landlord who passes on the house rules to the tenants and must ensure that they respect them (e.g. noise pollution).

WHAT TO DO BEFORE BUYING AN APARTMENT?

What are the questions to ask yourself before signing the sale agreement?

WHAT QUESTIONS SHOULD YOU ASK WHEN LOOKING FOR A PROPERTY IN A CONDOMINIUM?

When looking for a flat, there are a whole series of questions that you should ask yourself. Some of these questions are the same whether you are going to be in a condominium or not. For example, it is interesting to find out about the neighbourhood and its possibilities: are there schools, shops, public transport? You should also look carefully at the state of the property: is there much renovation work to be done on the heating, electricity, gas, paintwork? Is the property insulated, are there double glazed windows, are the charges high? In general, the older the property, the more expensive the renovations, but this is not always the case. At certain times, houses or buildings were built with more solid materials.



Think carefully about your budget and do not exceed it under any circumstances. A loan is expensive and you need to have reserves for future costs, both for your own property and for the commons. Also consider that if you have to sell very quickly, you may have to pay capital gains tax.

If you are about to buy a flat, there are other points to consider. Do not only pay attention to your own flat, but consider the building in which it is located.

When visiting a building, be aware that it and its facilities (lift, gas and electricity supplies, hot water, oil tank, asbestos insulation) are subject to various legal obligations and you risk having to pay to bring them into line with norms. Be aware that renovations will be more expensive if there are, for example, a lot of facades, balconies, garages with roofs or if there is no double glazing. Check whether the lift has been brought up to standard. There may be hidden costs. A cistern under a tree that needs to be moved... Look at the common areas: are they well maintained, secure? How is the entrance to the building? The entrance to the lifts is also an important element for your safety.

For the flat you are interested in, check the state of its private installations (boiler, electric circuits, fireplaces) and remember they may need periodic inspections and maintenance required by law and enforced by the condominium; failure to comply can have serious consequences. Also think about how much space you need. It is important not to buy too big because you will need to heat all the rooms and you will have more thousandths in the condominium and will therefore pay more in terms of charges and contributions to repairs and renovation. Check that there are separate meters for all flats.

Also check that you will be able to afford demands from the condominium for working capital and reserves funds as well as the building charges for your apartment. These can be high, especially if there are large communal areas or a caretaker. Many people have been forced to sell their property because they have misjudged the charges. Don't forget to check what debts the condominium has. The size of the flat will also affect your share in the condominium. Find out if you will be able to influence decisions with your thousandths. There are buildings where only a few owners have a majority and can therefore make many decisions about life in the co-ownership.

If you are buying into a condominium with one (or more) business(es), make sure that the business(es) is (are) not bankrupt, as this could have consequences for your property. It is possible that the business(es) can no longer pay their debts to the condominium and that this places a significant burden on the other co-owners. In general, it is better to enter a condominium with creditworthy people, although this is difficult to verify.

If you are buying a floor in a single-family house that has been divided, pay attention to the soundproofing, to the fact that individual meters for the charges have been installed, and to the fact that the private and common parts have been well defined. This type of property, which is found in large numbers in Brussels and other large cities, may have been converted in a hurry. Sometimes, some alterations have even been carried out without the necessary permits.

Also check, if the building is newly constructed, when the provisional acceptance of the common parts was carried out. Sometimes the initial statutes are modified during the course of the project for technical reasons or in the interest of the condominium association. Keep yourself informed and check that the planned

changes do not affect your (future) rights and obligations. If this is the case, check that the seller has expressed his opposition in accordance with the law.

A building that is not yet built but is going to be built is also a condominium, if the plots are going to be built or are likely to be built.



BUYING WELL

Today, there seems to be no real difference in price between a flat in a well-managed and well-maintained building and the same flat in a building that is much less well-maintained or even abandoned. People are used to buying quickly so as not to miss an opportunity. They often do not analyse the situation of the condominium. They look at the decorative aspect of the building (mirror in the entrance, small lamp in the lift) but do not dwell on the state of the building or the accounts of the co-ownership. However, the costs will not be the same in either case.

IS BUYING A CONDOMINIUM A GOOD INVESTMENT?

Many people say that they are totally unfit to manage a property. You can have administrative skills and not have technical skills. The advantage of co-ownership is that you have a lot of technical support.

WHAT DOCUMENTS SHOULD I REQUEST WHEN I AM INTERESTED IN A PROPERTY?

Once you have made your initial observations, and if they are conclusive, it is essential that you go further in your search for information and this before signing the compromis. In order to ascertain the cost of any future works and the cost of charges, various documents can be requested from the syndic. The seller, the estate agent or the notary responsible for the sale must also be able to provide them to you when asked. You do not have to have made an offer to be able to request them.

If you are buying a flat that has already been built, you must receive from the seller or his agent:

- a copy of the articles of association and any amendments. It is particularly important to ensure that the description of the lot purchased, the thousandths allocated to the lot in the common areas and the exclusive rights of use recognised therein, as well as the way in which the common expenses will be calculated among the co-owners, are included;
- the minutes of the general assemblies for the last three years: you will find all the important decisions taken for the future. Are there any plans to redo the facade, the roof, the lift?
- the statement of accounts, the state of the working capital and the mandatory reserve fund.

In concrete terms, you should check the following points: does the condominium have any debts or loans? Are there any legal proceedings outstanding? Are there any calls for funds (has the

general assembly taken decisions that are in progress)? What is the amount of arrears owed by the seller or the co-owners in general? What are the charges for the last two years?

It is essential to read all these documents, possibly with the help of a professional.



The **working capital** is made up of provisions paid by all the co-owners to pay periodic expenses: heating costs for the common parts, lighting costs, management costs, insurance, caretaker costs, etc.

In principle, the co-owners make periodic payments, monthly or quarterly, according to their shares.

The **reserve fund** is used to pay expenses which are not periodic: replacing the boiler, renewing the roof, renovating the lift. Normally, this fund is provided for in the condominium regulations, but its constitution may also have been decided previously by the general assembly.

Both funds exist in most condominiums and are mandatory.

It is the general assembly that determines the amount to call for these funds. In any case, the minimum contribution to the reserve fund has been set since September 1, 2019 at 5% of the total ordinary common expenses of the previous financial year.

WHEN MUST THE SYNDIC GIVE ME THE DOCUMENTS CONCERNING THE CO-OWNERSHIP?

The syndic must provide the documents and information within 15 days of the request (made by the notary or the vendor or the estate agent). These documents will normally be provided free of charge before the signing of the compromis. The syndic may charge the seller for exceptional work if this is foreseen in his contract. The notary also automatically requests other information from the syndic after the sale in order to prepare the deeds.

WHAT HAPPENS IF THE SYNDIC DOES NOT PROVIDE ME WITH THE DOCUMENTS?

Unfortunately, there are no penalties if the syndic does not provide these documents. In this case, be aware that you may not have enough information to make a good purchase. By then it will be too late to forgo.

DO I NEED TO HAVE ANY PARTICULAR CERTIFICATES WHEN BUYING A PROPERTY?

When you make your offer and if it is accepted, the seller's notary will take care of collecting various certificates (see selling a property), particularly concerning energy consumption and the state of the electrical installation. These certificates vary depending on whether you are buying in Brussels, Wallonia or Flanders.



Please note that once you become a co-owner, you will have to pay:

- the amount of the expenses for conservation, maintenance, repairs, etc. decided by the general assembly or the syndic;
- the debts indicated in the statement of calls for funds;
- the debts due as a result of any legal disputes of the condominium association;
- the contribution of the lot to the constitution of the working capital;
- any requests for advance payments for the working capital and reserve funds.

If there was a general assembly between the time of the conclusion of the sale agreement and the execution of the deed of sale, and if the new owner had a power of attorney to attend, the new owner will also have to pay these extraordinary expenses and the decided calls for funds.



DO I HAVE TO PAY THE CHARGES FOR THE CURRENT YEAR?

Yes, for the part of the year that concerns you. From the time of purchase, the charges will accrue to the new co-owner.

WHAT HAPPENS IF THE PREVIOUS OWNER HAS NOT PAID THE CHARGES?

When the deed is signed, the buyer's notary must deduct the arrears of ordinary and extraordinary charges from the price. If the seller contests this debt, the syndic has 20 working days to make a conservatory attachment. The condominium association may exercise its legal privilege to the extent of the charges for the current and previous year.

There is a difference between ordinary and extraordinary expenses:

- ordinary expenses are shared between the outgoing co-owner and the buyer pro rata temporis, i.e. according to the actual time of ownership (for example three months for one and nine months for the other in the last year);
- more exceptional expenses that are decided before the purchase but requested afterwards are to be paid by the buyer.

WHEN SELLING AN APARTMENT

WHAT SHOULD YOU THINK ABOUT WHEN DECIDING TO SELL A PROPERTY THAT IS IN A CONDOMINIUM?

If you decide to put a flat up for sale in a co-ownership, the first thing to do is to contact your syndic so that you have an updated statement and can provide all the information that the buyer would like to obtain. It is better to have discussed the final statement of account with the syndic before putting the property up for sale than to find yourself in a *fait accompli* situation. Indeed, if there is any contestation, there is a simplified opposition procedure. As the deadlines are very short, you must react very quickly. You have to collect the minutes of the general assemblies, the statutes (with the basic deeds and the amended basic deeds) and the internal regulations.

HOW DO YOU GET BACK THE MONEY YOU PUT INTO THE CO-OWNERSHIP THAT WAS NOT USED?

This will be done through your notary.

You will be able to recover the funds injected into the working capital fund for the months when the lot is no longer your property. However, the sums paid into the reserve fund

are not recoverable through the co-ownership. The rule is that the share of the outgoing co-owner (in case of transfer of ownership of a lot) remains the property of the association. You may negotiate with the buyer about reimbursing you for these funds before signing the sales agreement, or take them into account in the asking price. This agreement must be included in the deed of sale ('compromis').



CHARGES AND WORKS: PREVENTION RATHER THAN CURE

HOW ARE THE CHARGES ALLOCATED?

Normally, the charges are determined in relation to the thousandths available (your share in the common parts). However, the co-owners (possibly through the co-ownership regulations) can decide to distribute these charges differently, such as according to the usefulness for each party. The typical case is that of the lift which may not be useful for a ground floor flat.

HOW TO LIMIT EXPENDITURE ON CHARGES?

Overall, charges have increased: heating, hot water, electricity, syndic, general maintenance and equipment maintenance, insurance contracts, etc.

To limit expenditure on charges:

- occupants must be made aware of the over-consumption of heating and/or water, particularly in the common parts;
- the efficiency of the boiler should be checked and brought into line with current energy performance regulations;

- service and maintenance contracts may need to be renegotiated;
- read the syndic's contract carefully and check that he is carrying out the tasks he has undertaken to perform. Consider a voluntary syndic, one of the co-owners of the building, for example. Note that this person must be appointed by a majority of the co-owners present or represented at the general assembly.



For energy-saving work, incentives and subsidies are available from federal, regional, provincial and municipal services. Find out more.

WHEN AND HOW ARE CALLS FOR FUNDS FOR THE WORK MADE?

Each condominium decides at the general assembly on the work to be carried out and the funds to be invested. The condominium council will be one of the driving forces in specifying a reasonable contribution to the reserve fund.

All works affecting the common areas, except those which can be decided by the syndic and those which are imposed by law, are decided by the general assembly by a two-thirds majority of the votes.

An absolute majority of votes is required to decide on the amount allocated to the works fund, known as the reserve fund. It is mandatory. It is very useful. This amount can be based on anticipatory research by the syndic. He or she can, in fact, draw up a programming plan, by carrying out possible audits and by seeking estimates for these works. He will put this item on the agenda of the general assembly. If the general assembly does not set a higher amount, the minimum amount of the reserve fund is 5% of the ordinary common expenses of the previous accounting year of the condominium. Similarly, the actual work needs to be quantified and planned. The syndic's planning work can constitute

a first step towards comprehensive technical audits of the co-ownership with an inventory of fixtures, preferably comprehensive, by having recourse to audits by professionals.

Examples of work: restoration or repair of the roof, replacement of the boiler, replacement of the lift.

IS IT BETTER TO MAKE CALLS FOR FUNDS ON AN AD HOC BASIS OR, ON THE CONTRARY, TO HAVE A POLICY OF REGULARLY SETTING FUNDS ASIDE?

Many co-owners think that having such a “hoarding policy” is useless because when they sell their property, they automatically lose the benefit that they have patiently built up through the reserve fund.

This has been found not to be true. They will be able to recover their share of the (over-provisioned) reserve fund in agreement with the buyer. In a condominium, and in this period of economic crisis, it is much better to have a consistent reserve fund, protected from seizure by the personal creditors of the condominium owners since it is the property of the condominium association. This avoids unpleasant surprises, for example, when major work has to be carried out, and therefore allows the association to meet major expenses if necessary.

It is much better to have realistic savings policies in terms of investments collected over very long periods rather than piecemeal policies which ultimately generate a much higher administrative cost (you have to chase down the co-owners, there is stress). If you have an increasing number of insolvent co-owners at a given time, those who have a solvency capacity will have to borrow on behalf of the co-ownership. And indirectly they risk becoming over-indebted themselves.

Having a substantial reserve and a rigorous policy of recovering unpaid charges from indebted co-owners will also be a strong argument to convince banks to lend money to the co-ownership. This may allow the co-ownership to consider and pursue more ambitious renovation and energy performance improvement projects.



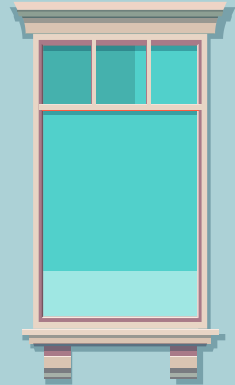
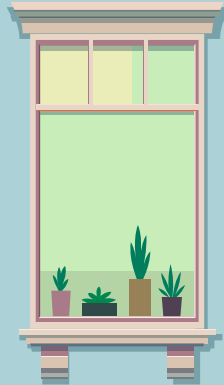
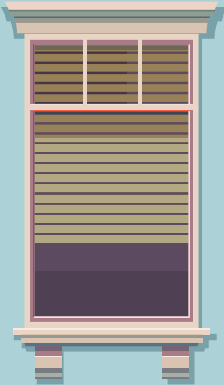
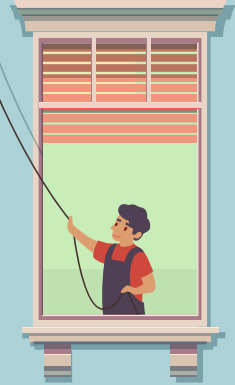
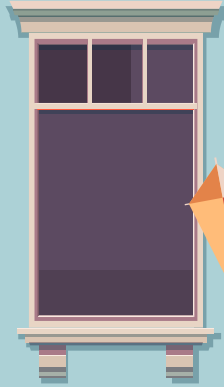
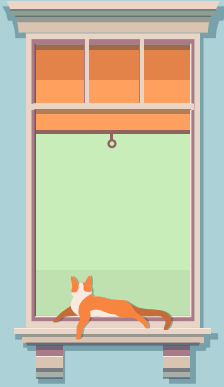
To limit the cost of the work, the common parts must be maintained regularly, bearing in mind that work carried out in a hurry, often uncoordinated, is always more expensive.



IS THERE A REAL CO-OWNERSHIP POLICY IN BELGIUM?

When some co-owners do not manage to pay the charges or to fulfil their commitments for the payment of works, this can put the whole co-ownership at risk. In Belgium, lawyers can help owners to solve their problems but there is no comprehensive policy on co-ownership. The fragmentation of competences does not help to see things clearly. The law on condominiums is a federal matter, whereas housing is a regional matter. When the co-owners are no longer able to pay the charges or finance the work, there can be major difficulties which have repercussions on all the co-owners. Common parts are no longer maintained, amenities are no longer repaired, some flats are empty while others may be over-occupied, the inhabitants become poorer, etc.

Since January 1, 2019, under certain conditions, the Justice of the Peace can appoint provisional administrators to take the place of the bodies of the condominium association and take the necessary measures in their place. This is the case if the syndic or co-owners (owning at least 1/5th of the shares in the common parts) can establish that the financial equilibrium of the co-ownership is seriously compromised or that the building can no longer carry out the necessary conservation work or the necessary compliance with the law.



A PRACTICAL GUIDE FOR (FUTURE) APARTMENT OWNERS

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rue de la Montagne, 30-34, 1000 Brussels

AUTHORS

Virginie De Potter
Lief Vandervoort

ENGLISH ADAPTATION

Alastair Macdonald

COORDINATION FOR THE KING BAUDOUIIN FOUNDATION

Françoise Pissart
Brigitte Duvieusart
Pascale Crikemans

COORDINATION FOR THE FEDERATION OF BELGIAN NOTARIES

Margaux Dewitte
Lorena Fernandez

GRAPHIC DESIGN

Pieter Ver Elst [victoria.be]

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- Syndicat National des Propriétaires et Copropriétaires: www.snpc-nems.be

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King Baudouin Foundation

Rue Brederode 21

1000 Brussels

info@kbs-frb.be

+32 (2) 500 45 55



Federation of Belgian Notaries (Fednot)

Rue de la Montagne 30-32

1000 Brussels

fednot@fednot.be

+32 (2) 505 08 11