Condominium regulation in France

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French Order of Licensed surveyors
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Vertical housing to meet the challenges of sustainable urban development
Sustainable Urban Development: The stakes

- 70% of human population will live in urban centers by 2050
- About 2.5 billion people could be added to urban areas by the same date
- Cities occupy 2% of the earth's surface and produce 80% of greenhouse gas emissions

Control of urban development and densification had become a priority in both the richest and developing countries.

Its is necessary to:
- limit the extension of urban areas to the detriment of agricultural land;
- promote spatial planning by making it technically and financially easier.

One response to this challenge may be the development of a vertical condominium housing offer.
Sustainable Urban Development: The stakes

- **Globalisation does not spare housing modes**
  
  - Collective housing, because of its density, is the only one likely to limit urban sprawl and unnecessary space consumption;
  
  - Even in countries where exists individual housing tradition.

- **Apartment building becomes an essential element of sustainable urban development**
  
  - Its size is increasing. Real estate complexes can have tens of thousands of inhabitants;
  
  - This trend is reinforced by the very concept of Smart Cities that are emerging around the world to try to address demographic and environmental issues.
Sustainable Urban Development: Findings

- This new stage of living together in the history of human civilizations requires:
  - Definition of land rights allowing this vertical housing and;
  - Operating rules for all owners and structures that manage vertical housing.

- Many countries either ignore or are aware of condominium regime but have legislation that is not adapted to their environment;

- Many legal systems are therefore still looking to existing rights and techniques to govern their own vertical urban development;

- From this point of view, French law and experience of condominium management particularly deserve to be taken into account.
Legal framework of condominium: the French model
Condominium in France: Main figures

- **Nearly 11 million of condominium units** (33% of a total of 36.3 million housing units (INSEE, 2018 housing data).

- The **social rental stock** includes 5.0 million housing units that are not considered as condominium units because it belongs to social landlords.

- Condominiums are essentially an urban phenomenon: **2/3 of them are located in urban areas** with more than 200,000 inhabitants and **30% are in the Paris region**.

- Most condominiums are limited to **one building**.

- Nearly **30% of condominiums have less than 10 units** and **70% of them** have less than **30 units**.
1. Co-ownership refers to legal relations in which two or more entities have equal rights to the use and enjoyment of property;

2. In a Condominium development, each property owner has an individual interest in a defined parcel of property, and shares in the ownership of various common spaces and facilities.
Condominium in France: Brief history

- Under French law, **condominium operates under the regime of forced undivided ownership**, i.e. a regime inspired by common ownership.

- This system was established to meet the legal needs resulting from the **increasing number of buildings owned by a single owner** (common practice until the 19th century) **and which were sold by lots to different owners** (more frequent during the 20th century).

- This exceptional situation led the legislator to **facilitate the management and maintenance of these "divided" buildings** and to address new problems unknown in the houses of the past: **common areas, distributed maintenance costs**, etc.

- In France, the first specific text for this new statute was the law of 28 June 1938, replaced by the **law in force on 10 July 1965**.
Condominium in France: Main principles

- The condominium regime is binding in France:
  1. It is imposed not only by its **legal and mandatory nature** but also by its usefulness;
  2. Making it necessary for the proper balance of private property and the management of common areas;
  3. It contributes to the experience of “living better together”, and also by adapting to the changes in the city.

- Since its early beginnings in the 18th century, the regime has been completed through practice and evolved to the nearest of need.
Condominium in France: Main principles

1. The condominium regime is binding in France by its mandatory nature on the basis of a combination of objective elements:
   - Mandatory elements & essential role of professional actors (Licensed surveyor, Notary);
   - Sanction: Legal framework (texts and strengthening of controls)

2. The condominium regime is essential because of its usefulness and necessity for a ‘living better together’
   Regulator of private property
   - Guarantee of private property: a strong property right - the owner has a full and entire right over his private parts
   - Controls and guarantees: area measurement standards (Loi Carrez), decent housing…
Condominium in France:
Main principles

Regulator of common and shared property

- Each owner has a right of ownership over the common areas, in joint ownership with the others;
- The common areas belong directly to the co-owners without the screen of a legal person;
- The calculation of the shares ensures the equity (surveyor: proportional calculation and weighting);
- The syndic/trustee is responsible for managing the building and controlling its proper functioning: charges, like collective decisions, are a reflection of equity.

Increased control, and sanction: privilege of the syndicate of co-owners, opposition to the sale
Condominium in France: Main principles

3. The condominium regime contributes to the experience of “living better together”, and also by adapting to the changes in the city.

A. Resource of built land
   • The right of elevation,
   • The right to pluck,
   • The right to build new buildings.

B. Resource of the multi-functionality of the building
   • The social mix,
   • The diversity of destinations,
   • Smart cities issues.
The La Rochelle Principle
The La Rochelle Principle: What is it?

- In France, the **delimitation of (land) private property** is the **exclusive responsibility of Licensed surveyors**, subject to a professional order under the control of the State.

- However, this regulation (dated 1946) didn’t mention explicitly private property under condominium regime (regulation dated 1965).

Therefore, should we consider that 2 regimes of property are co-existing with unequal protection?
The La Rochelle Principle: What led the Surveyors to position themselves

- Facing this issue during the 41st Congress of Expert Surveyors (La Rochelle, Sept. 2012), the Government Commissioner confirmed that the plan annexed to the condominium regulations is the exclusive responsibility of the Licensed surveyor.

- The Notary in charge of the condominium regulations cannot attach to the minute of the deed a plan drawn up by another professional.
Condominium in France: Role of Licensed surveyors
Condominium in France: Role of Licensed surveyors

Licensed surveyors’ work and services for condominium (approx. 10% of overall annual turnover of the profession; ie. 76 M€)

- **Condominium conversion:**
  - Survey of surfaces and preparation of interior plans of the building.
  - Description of the common areas and private areas (by lot), and general shares attached, this is the **Descriptive Statement of Division**. (The drafting of the condominium regulations is carried out by the notary).
  - Technical diagnoses that must be carried out beforehand, including: asbestos, lead (for buildings built before 1949) and real estate technical diagnosis.
Condominium in France: Role of Licensed surveyors

- **Modification of the Description Statement of Division:**

  It is necessary to establish a modification of the Descriptive Statement of Division in the following cases:

  - **Acquisition of common areas**, such as the acquisition of attic space, a part of a corridor to enlarge an apartment, or the exclusive use of a garden, a terrace...
  
  - **Regrouping or subdivision of lot(s)**, such as dividing a five-room apartment into two apartments will result in the creation of two new condominium lots.
  
  - **Regrouping or division of existing condominiums** (change of property tax base of the condominium).

  Any change must be recorded by an amending act that may update either the designation of the entire building, or the numbering or composition of the lots.
In some cases an in-depth revision of the Descriptive Statement of Division may be necessary to take into account a large modification of the condominium:

Scope of application:

- Condominium regulations prior to July 10, 1965, where the general shares do not comply with the criteria imposed by law, nor the distribution of charges,

- As well as condominium after July 10, 1965, if the criteria are not met, or if the distribution of lots described in the regulations is very different from the reality observed on the spot.
FOCUS – The Volume Division

- The legislation allows the division of a building complex into volumes without common areas when there is a complex building complex, a building complex in which there is an overlap of public and private property, shopping centres, solar panels, etc.

- The real estate volume is a real right of ownership, detached from the ground, relating to a three-dimensional and homogeneous portion of space, corresponding to a building built or to be built, identified by its base (dimensions and surfaces) and by its height.

- The Descriptive Statement of Volume Division defines, on a land base, the distribution and constitution of property rights detached from the land, without undivided ownership between them, and each acting on a geo-referenced property volume both in planimetry and altimetry.
Condominium in France: Role of Licensed surveyors

Activity of Condominium syndic:

Few Licensed Surveyor are also acting as Condominium Syndic.

• Its role is to ensure the maintenance of the common areas of a condominium building on behalf of a syndicate of condominium co-owners.

• In this context, it implements the decisions taken at the co-owners general meeting under the supervision of the co-owners syndicate.

• In the event of an emergency, he/she shall have any work necessary to safeguard the building carried out on his or her own initiative.

• He/she also represents the co-owners syndicate in all civil acts and in court.
Practical case
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - 1er étage
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - 3ème étage
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - 4ème étage

LEGENDE :
- Parties Communes
- Parties Communes Spéciales "Logements Bâtiment A"
- Parties Communes Spéciales "Bâtiment A"

FOND DE PLAN :
CABINET ARCHITECTURE Niveau 4 Réf : Dossier DCE Plan n°06 du JJMM/AAAB
Figure du fond de plan non contractuelle état du projet à la date référencée ci-dessus

CABINET DE LA JUSTE MESURE
Echelle 1/100 201599999-N4-A de MM AAAA
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - 5ème étage

LEGENDE :
- Parties Communes
- Parties Communes Spéciales "Logements Bâtiment A"
- Parties Communes Spéciales "Bâtiment A"

CABINET DE LA JUSTE MESURE
Echelle 1/100 201595999-N5-A de MM AAAA
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - 6ème étage
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment A - Sous-Sol

LEGENDE :
- Parties Communes
- Parties Communes Spéciales "Stationnements en Sous-sol"
- Parties Communes Spéciales "Bâtiment A"
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment B - 1er étage

LEGENDE :

Parties Communes
Parties Communes Spéciales "Bâtiment B"
Plan d'identification des lots de copropriété
« Le jardin tranquille »
Rue du Scanner - LA BORNE
Bâtiment B - 2ème étage

LEGENDE :
Parties Communes
Parties Communes Spécialisées "Bâtiment B"
Questions/answers
Thank you for your attention
GÉOMÈTRE-EXPERT
SUSTAINABLE LIVING GUARANTEED