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## CIRCUMSTANCES OF THE DECISION MAKING, AND SOCIAL POLICY AND PSYCHOLOGICAL FACTORS OF CONDOMINIUMS DUE TO OWNERSHIP INITIATIVES

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*Condominiums are the most common housing solutions in Hungary. Condominiums, as operational forms, allow the preservation of the proper technical condition of buildings. This operational form enables community decision in which we can also discover psychological and social psychological factors. Due to the high number of condominium communities, factors affecting community decisions, and the significance of those also affecting urban rehabilitation have to be examined. Condominium decisions involve information asymmetry, where owners are vulnerable to the elected representative of the condominium, and therefore the owners' ability to enforce their interests must be examined. The owners' informal and formal relations have a significant influence on the capacity to assert their own interests; psychological and social psychological factors can be highlighted from these relations, which can also change the individual's preferences. Besides the significant involvement, the justification for the topic is also supported by the interests of the owners.*

**KEYWORDS:**

community decision-making, condominium, conflicts of interest of condominiums, conflict of interest, economic decision

## 1. PROLOGUE

In Hungary, condominiums have started to develop since 1924,<sup>1</sup> and reached their current form as they followed societal changes. The development of self-management<sup>2</sup> plays an important role in condominiums, which involves the emergence of conflicts. “Conflict develops when interdependent actors of a given case (individuals or groups) perceive that their actions or positions are incompatible. Their interdependence means they need to resolve the conflict because otherwise they would act against their own interests or values, or their interests/values would be violated.”<sup>3</sup>

As the quotation highlights, resolving the conflict is considered necessary by those involved, it is acceptable that for the conflict resolution the circumstances of the decisions and the social psychological and psychological factors affecting the decisions should be recognized. If circumstances and factors affecting the circumstances are known, the form of dispute resolution can be effectively chosen and the resolution of conflicts can become more permanent, as “risk perception of individual decision-makers of organizations is influenced by their personality traits, past experience and the circumstances of decision making.”<sup>4</sup>

## 2. THE CIRCUMSTANCES OF CONDOMINIUM DECISIONS

Decisions in condominiums are also influenced by the operation and legal background. According to the Tht. the following decision positions can be securely distinguished:

- Operational decisions:
  - decisions relating to foundation
  - decisions relating to change of operation
- Time-definable decisions:
  - may be postponed
  - cannot be delayed
- Types of decisions:
  - one-man decisions
  - commission decisions
  - decisions in accordance with the rules
  - participation-based decisions (owners)

<sup>1</sup> Hungarian Act XII of 1924 on Condominium property.

<sup>2</sup> Hungarian Act CXXXIII of 2003 on Condominiums (Tht.) 12 §.

<sup>3</sup> PALLAI Katalin: *Kooperatív tárgyalás és konfliktuskezelés*, [Cooperative Negotiation and Conflict Management], 2013. Available: [www.pallai.hu/](http://www.pallai.hu/) (Downloaded: 23.04.2017.)

<sup>4</sup> BRAUNNÉ FÜLÖP Katalin: *Kockázatmegosztás a magán- és közszféra kapcsolatrendszerében*, [Risk Sharing in the Private and Public Relations System], 2011. Available: <http://ktk.pte.hu/sites/default/files/mellekletek/2014/07/Braunne%20Fulop%20Katalin%20-%20disszertacio.pdf/> (Downloaded : 23.04.2017.)

- personal participation
- based on votes sent in writing
- Subject of the decision:
  - expenditure
    - decisions on repairs, renovations
    - decisions on investment, maintenance, and development
    - decisions on personal payments
  - income
    - decisions on the collection of fees
    - decisions on other revenues
- Based on convocation:
  - decisions to be taken regularly under statutory regulations
  - decisions taken at the initiative of the owners

On the basis of decision-making, several legislations have to be taken into account, which have implications for the condominium decisions.<sup>5</sup>

From the above-described data, it is visible that more than one decision-making situation may occur. An important feature of condominium decisions is that the regulations of the Act on Condominiums (Tht.) enables to ascertain the elements of the proposed decision in advance, and eight days prior to participation-based decisions so that the owners can establish their position. In case of decisions that cannot be delayed (e.g. elimination of

<sup>5</sup> Legislations: Hungarian Act XLV of 1991 on Metrology; Hungarian Act LXXVIII of 1993 on Certain Rules on the Lease of Apartments and Rooms and the Alienation Thereof; Hungarian Act CXVII of 1995 on Personal Income Tax (Szjt.); Hungarian Act CXIII of 1996 on Home Savings and Loan Associations; Hungarian Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for these Services (Tbjtv.); Hungarian Act LXVI of 1998 on Healthcare Contributions (Ehotv.); Hungarian Act C of 2000 on Accounting (Sztv.); Hungarian Act CXXXIII of 2003 on Condominiums (Tht.); Hungarian Act XCII of 2003 on the Rules of Taxation (Artv.); Hungarian Act CXV of 2004 on Housing Cooperatives; Hungarian Act XVIII of 2005 on District Heating Services; Hungarian Act CXXVII of 2007 on Value Added Tax (Áfatorvény); Hungarian Act LXXXVI of 2007 on Electricity; Hungarian Act XL of 2008 on Natural Gas Supply; Hungarian Act CCIX of 2011 on Public Water Utility Service; Hungarian Act CLV of 2011 on Contributions to Vocational Training and Training Support; certain provisions of the Hungarian Act CLVI of 2011 on the Amendment of tax laws and other related regulations; Hungarian Act CLXVII of 2013 on the Amendment of certain Acts necessary for the implementation of the reduction of overhead expenses; Hungarian Act LIV of 2013 on the Enforcement of Utility Cost Reduction; Hungarian Act V of 2013 on Civil Code (Ptk.).

Government regulations/regulations: Government Decree 127/1991. (X. 9.) on the implementation of the Act on Metrology; Government Decree 215/1996. (XII. 23.) on the state support of precautionary savings for housing; Government Decree 253/1997. (XII. 20.) on the national requirements regarding town planning and construction; Government Decree 189/1998. (XI. 23.) on central heating and hot water services; Government Decree 224/2000. (XII. 19.) on the reporting and bookkeeping obligations of other organisations as provided in the Accounting Act; Government Decree 12/2001. (I. 31.) on state housing allowances; GKM Decree 78/2003. (XI. 27.) on the safety of children's playground; NGM Decree 11/2013. (III. 21.) on technical safety prescriptions related to gas connection pipelines, user equipment and site pipelines and related tasks of the authorities; Government Decree 181/2003. (XI. 5.) on guarantee commitments in connection with housing construction; NGM Decree 19/2012. (VII. 20.) on the technical safety inspection of gas connection pipes and user equipment.

a life-threatening risk), there are three days available for participants to make their decisions.

The most common type of decisions of condominiums are economic decisions made by people who are not familiar with the subject, so the information asymmetry significantly prevails. “Asymmetric information problems overwhelm the economy, but from the point of the consumer protection view, some cases of hidden information have proved to be important. Out of these, those in which the consumer typically does not have as much information of the characteristics of a product or service as the seller does, are outstanding.”<sup>6</sup> In this case, the owners in the condominium are the consumers, while the elected representatives/representatives of the condominium is the seller.

*Summing up*, condominium decisions are mainly operational decisions that are rather complex, and decisions are subject to many legal regulations. Decisions have to be made by owners, where the skillset cannot be determined, and they cannot be expected to have full knowledge on the operation of condominiums. For this reason, information asymmetry develops that renders the owners vulnerable to the elected representative of the condominium. “Now those findings of behavioural economics are primarily concerning us that empirically prove that misleading and deceiving are realistic market opportunities.”<sup>7</sup>

### 3. THE SOCIAL PSYCHOLOGICAL AND PSYCHOLOGICAL FACTORS OF CONDOMINIUM DECISIONS AT THE INITIATIVE OF THE OWNERS

#### 3.1. *The social psychological and psychological factors of condominium decisions*

“The direction of the development of certain residential areas in Budapest, the physical and social de- and appreciation, and the reasons behind these processes was the subject of several studies in the last decade, but we cannot say that we have exhaustive knowledge of the subject [...]. The transformation of the living environment due to social polarization and spatial segregation is becoming ever larger and its multiplayer characteristics makes it almost impossible to ease or suppress its negative effects.”<sup>8</sup>

The above quotation also highlights the importance of dealing with processes in condominiums, and it is worth examining how the community interacts with the owner’s beliefs, emotions, and behaviours, including the impacts that will determine the later decisions. “By individuals being concentrated in communities that are managed privately, they adopt their own rules, practically they are choosing a common identity and

<sup>6</sup> VINCZE János: Miért és mitől védjük a fogyasztókat? [Why and from What Do We Protect the Consumers?], *Közgazdasági Szemle*, Vol. 57, 2010, 727–752.

<sup>7</sup> VINCZE: *op. cit.*, 729.

<sup>8</sup> FÖLDI Zsuzsa: A Coleman-modell alkalmazása a lakókörnyezeti kutatásokban, [The Use of Coleman’s Model in Residential Research], *Tér és Társadalom*, Vol. 18, No. 1, 2004, 43–58.

destiny without the central role of the state.”<sup>9</sup> The condominium environment that affects individuals is best observed in the system of authorization, as the owners may request or give authorization so their interests could be represented at the general meeting, which raises the question of how rationally the individual can decide in a crowd. Jawwad Noor points out<sup>10</sup> that individuals make their economic choices based on a non-permanent preference order, and they can also create a preference sequence that is not optimal.

Accordingly, it can be concluded that condominium decisions do not always reflect the optimal preference order. The decisions are influenced by the opinions of the other owners, the will of the more active owners may more often prevail, simply because they tell their opinions more often and to more people, and because of their activity they can have more authority than others, and conformism may also appear.

Following Pallai,<sup>11</sup> we can distinguish conflicts of interest and grievance. Accordingly, conflicts of interest and grievance can occur in condominiums. For example, the conflicts of interest in a condominium include rational debates arising from the usability of common areas. Condominium conflicts may arise from bad relationships among residents, or intentional harm (e.g. defamation). The nature of a grievance conflict is that one party is the victim and the other party is the perpetrator.

*Summing up*, condominium decisions can be traced back to social psychological and psychological reasons. In most cases, the owners initiate the convening of decision-making forums to solve some kind of harm. The grievances can be rationally manageable conflicts of interest, or non-rational grievance conflicts.

“The history of groups, differences in their values and identities, their prejudices, their local power relations, the anomalies of the public administration system, and many other – relatively constant – stressing factors may be behind such conflicts and can contribute to the intensification of those. Those involved, usually talk about a conflict event, which is just the tip of the iceberg. The context, that is, what’s under water, basically determines whether a given conflict can be treated with a short process that focuses on the particular event.”<sup>12</sup> Conformity can result in acquiescence in a decision.

<sup>9</sup> GYORGYOVICHNÉ KOLTAY Elvira: Magán-önkormányzás Magyarországon. A magán-önkormányzás vizsgálata a hazai lakóparkok példáján keresztül, [Self-government in Hungary. Examining self-government through the example of condominiums], In: KONCZ István, SZOVA Ilona eds.: „Együtt a biztosabb tudományos karrierért, a jövőtervezésért”, [Together for a more secure academic career, for future planning], Professzorok az Európai Magyarországi Egyesület, Budapest, 2013.

<sup>10</sup> NOOR, Jawwad: *Commitment and Self-Control*, 2005. Available: <http://econwpa.repec.org/eps/mic/papers/0509/0509008.pdf> (Downloaded: 23.04.2017.)

<sup>11</sup> PALLAI Katalin: Részvételi eljárások települési és közösségi viták és konfliktusok kezelésére – javaslat egy konzisztens terminológiára, [Participation Procedures for Dealing with Settlement and Community Disputes and Conflicts – Proposal for a Consistent Terminology], *Magyar Közigazgatás*, Vol. 62, No. 1, 2012.

<sup>12</sup> PALLAI: *op. cit.*, 9.

### 3.2. Condominium decisions at the initiative of the owners

Decisions on ownership initiatives apply to cases of mandatory convocation of the general meeting. The Tht. 35 § (2) states this, but also such cases<sup>13</sup> where the convocation of the annual general meeting does not happen due to the negligence of the Condominium Board President or the Chair of the Syndicate.<sup>14</sup> From the point of view of the topic under consideration, the decisions made at the initiative of the owners and the preparation of the decisions are relevant.

In this case, the owners' decisions must be submitted to the general meeting by the joint representative. According to the Tht. the following documents are required to prepare the owners' decision:

- list of items on the agenda
- the designation of the cause of the general meeting
- proposals for the general meeting resolution

The request must be sent in writing to the joint representative. The joint representative shall convene a general meeting within 30 days of receipt. If the Joint Representation fails to fulfil this obligation, the elected Audit Committee shall take action within 15 days. If the Audit Committee does not take action either, then the initiating owner or another owner authorized by the initiating owner shall be entitled to act. The Budapest–Capital Regional Court stated that it is not enough to convene a general meeting to discuss the items on the agenda, if the agenda items are not discussed, then the desired legal effect will not be affected by the legal regulation.<sup>15</sup>

It is important to mention that the regulation mentions the documents to be attached to the initiative during the preparation of the decision, but does not provide any formal guidance that may be a basis for psychological pressure.

*Summing up*, the relevant legislation defines the scope of the documents to be submitted, but no formal guidance is included. Lack of formal guidance can make the initiating owner apprehensive and set back the decision process. At the same time, this gives freedom and by referring to formal errors the decision-making process cannot be stopped. The regulation does not determine the expenses, so the initiating owner may have to finance the tasks related to the decision-making process, which can be seriously dissuasive.

### 3.3. Tasks to be addressed regarding the owner initiative

As discussed in the previous chapter, the owner/owners initiating the general meeting must collect the support of 1/10 of the ownership share, compile the agenda, the proposals

<sup>13</sup> Cases referred to in Tht. 51. § (1) d. and Tht. 35. § (1).

<sup>14</sup> Hereinafter together: joint representative.

<sup>15</sup> FB 53.Pf.633.344/2010/4.

for decisions and designate the cause. Fulfilling the conditions is not so easy, and with the increase in the ownership share – the more residents a condominium has – the more difficult or more complicated the gathering of the required share of ownership will be. This already raises the possibility that mistakes can be made when collecting support, as in a larger house it is not certain that everyone knows everyone, or that they are up to date with the property rights. In Table 1 I summarize the conditions for making a decision.

**Table 1 • Decision preparatory tasks at the owners' initiative**

Condition	Responsible for performing
Designation of the cause	Initiating owner
Gathering owners with 1/10 of the ownership share	Initiating owner
Defining the agenda	Initiating owner
Wording of the proposal for a general meeting resolution	Initiating owner

Source: Compiled by the author

There is no guidance on the fulfilment of these tasks in the relevant legislation, so the assessment of the formal requirements may differ. This may also cause a new psychic test to the initiating owner or the executive officer, as they must undertake different types of confrontation with both groups and individuals.

Another major disincentive may be the issue of financing, as the owner, in case the elected representatives of the condominium do not take action, must convene the general meeting at the expense of own resources. This can be significant in condominiums with a larger share of ownership, since it is likely that the venue of the meeting for smaller condominiums will be easier to assure. Another significant source of conflict is the resistance of the joint representative, as information asymmetry suggests that the attitude of a joint representative can legitimize processes or undermine the confidence of the owners. Such a case may occur when the dismissal of a joint representative is subject to decision.

The disincentives are shown in Table 2.

**Table 2 • Decision preparatory tasks at the owners' initiative**

Condition	Responsible for performing	Disincentive
Designation of the cause	Initiating owner	The judgement of how local or global the issues are, is subjective.
Gathering owners with 1/10 of the ownership share	Initiating owner	The form of the signature sheets is not specified, the list of owners is unavailable, the portions of the ownership shares increases the complexity.

<b>Condition</b>	<b>Responsible for performing</b>	<b>Disincentive</b>
Defining the agenda	Initiating owner	the owners are not always familiar with the law, thus the interpretation of the wording is not always the same, formal requirements may be missing
Wording of the proposal for a general meeting resolution	Initiating owner	The formal requirements of the proposals for the resolutions may be missing, their formulation is not simple.

*Source:* Compiled by the author

If the decision-preparatory work is over, then the general meeting must be convened as required by the legislation. The law calls such convened meetings extraordinary general meeting. The extraordinary general meetings shall be subject to the statutory provisions described for the annual reporting general meeting.

*Summing up*, the major tasks of the owners' decision preparation are difficult to fulfil without experience, which can partially save the condominium from unfounded meetings, but may also set back the owners' self-determination. The lack of formal support can discourage the owners and thus the decision preparation may fall short. Formal support can help avoid disputes over interpretation. The non-transparent data of ownership shares further complicates the implementation of the initiative, but the protection of property shares can be justified in terms of data protection.

## 4. SUMMARY AND CONCLUSIONS

### 4.1. Summary

Condominium decisions are mainly operational decisions that are complex, and decisions are regulated by a variety of legislations. The decision making process must be carried out by the initiating owner, but decisions must be made by the owners.

In most cases, the owners initiate the convening of decision-making forums to solve some kind of harm. The grievances can be rationally manageable conflicts of interest, or non-rational grievance conflicts. The relevant legislations define the scope of documents to be submitted but do not include any formal guidance that leads to additional incidental conflicts.

It is difficult to fulfil the major tasks of the owners' decision preparation without experience, which can partially save the condominium from unfounded meetings, but may also set back the owners' self-determination.

#### 4.2. Conclusions

Ownership decisions can be influenced by the following factors, which can result from both group pressure and individual habit. Clarifying the legal frameworks, examining the interests of the owner and that of the community group can further help achieve the desired legal effects and reduce conflicts. Knowledge of decision-making mechanisms also entails the possibility of more effective measures of the administrative bodies, which helps in the rehabilitation of the city and the preservation of existing results.

Factors of the most affecting ownership decisions:

- conformity: belonging to groups, group norms enables opinion leaders to set the tone, which can suppress the individual’s personal interests, that could lead to a later conflict
- fear: in case of condominium decisions, fear of the group’s criticism, fear of exclusion
- insecurity: a “What if I am not right?” feeling may overwhelm the initiating owner, and the lack of formal guidance together with the information asymmetry can render the initiative impossible to implement
- financial issues: financing a condominium is through joint representation, if it has not been given, or the joint representation is not interested in making a decision, the initiating party finds itself in a position to finance the decision-making process at its own expense, that is in itself a major disincentive
- personal experience and knowledge: if there is insufficient information or practical knowledge, the initiator may easily create insecurity and fear, or develop stubbornness, which also does not serve the decision processes of the condominium.

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