

Residential co-ownership changes

Several provisions concerning property law in the Czech Civil Code are about to change soon. The relevant amendment is now being discussed in the Czech Chambers of Deputies and it is expected to come into effect in 2020. The main aim of the amendment is to amend provisions on residential co-ownership to eliminate some interpretative problems that have risen in practice. The purpose of the proposed amendment is also to improve the clarity of the legislation on residential co-ownership, while respecting the concept established by the Civil Code. Below we present a brief summary of the most important changes introduced by this amendment.

Pre-emption right regarding the non-residential unit (garage parking lot)

One of the most significant changes is that the pre-emption right ceases to exist regarding the part of a non-residential unit, particularly garage parking lots. The current complications started in 2018 when the pre-emptive right was reintroduced for co-owners. It is common that a garage parking lot used together with a residential unit comprises one non-residential unit and the unit owner only owns a share of it. The unit owner could not transfer his share of a non-residential unit (parking lot) together with the residential unit to the new acquirer without first obtaining the consent of all of the co-owners of non-residential units. The seller of the residential unit is obligated to offer its share of a non-residential unit (parking lot) to all other co-owners. Such a procedure substantially prolongs the sale of a prop-

erty. Thanks to the upcoming legislation, the pre-emption right will cease to exist, which will help developers in particular when selling new apartments.

Establishing an association of unit owners by the developer

Furthermore, the amendment changes the possibilities for establishing an association of unit owners, which manages the common parts of the building and related land. The upcoming change makes it possible for an association of unit owners to be established by only one owner of all units, which means it will be easier for developers to establish an association of unit owners before each unit is transferred to their customers. It will make managing and administering residential buildings much easier.

Requirements of declaration of unit owners

A declaration of unit owners is a document under which the building is legally divided into individual residential/non-residential units. A declaration of unit owners will no longer contain statutes. This makes it easier to divide the building into apartments while a statute can be adopted separately.

Changing of statutes of an association of unit owners

Changing the statutes (i.e. the document governing the operation of an association of unit owners) is a very complicated process under the current legislation. The upcoming change could lead to an overall simplification of the process. The new legislation should simplify the process of accepting a change of the statutes by making a more consistent distinction between what exactly affects individual unit owners.

A stylized map of Central Europe in shades of blue and white, showing country borders and names like Austria, Hungary, Czech Republic, Slovakia, Poland, and Romania. The map is positioned in the upper right quadrant of the page.

CERHA HEMPEL CEE NEWSLETTER *Czech Republic*

Managing and maintaining the apartment and common areas

Other changes affect the management and maintenance of the apartment and common parts of the property. Under the current legislation, it is unclear whether an obligation is imposed on the unit owner to manage and also maintain common parts reserved for the exclusive use of a unit owner, i.e. windows, outside doors. Therefore, it is not clear whether the unit owner is obliged to pay for major repairs (e.g. replacing windows) to common parts exclusively used by him. The amendment of the Civil Code should clearly state that the unit owner is only obliged to maintain and carry out minor repairs to the common parts.

Transfer of debt relating to the residential/non-residential unit

The current legislation has brought interpretative problems leading to uncertainty over whether the debts concerning management contributions for services related to the unit are transferred

with the transfer of the unit to the new acquirer or whether they remain with the original owner of the unit. The amendment addresses this situation and explicitly states that when transferring ownership of a unit, the debt is transferred to the new acquirer together with the unit.

Contractual penalty in lease agreements for apartments

The current legislation prohibits contractual penalties in lease agreement for apartments. Such contractual penalties are deemed null and void. The proposed new legislation makes it possible for contractual penalties to be effectively included in the lease agreement; however, the amount of the contractual penalty together with security may not exceed three months' rent.

For more information

JUDr. Petr Kališ, Ph.D.
Managing Partner Czech Republic
petr.kalis@cerhahempel.cz
Tel: +420 221 111 711