

Garage Sales – Problems Solved?

Long-standing practical problems might be set to disappear after certain legislative changes were recently introduced in Hungary. The new rules seek (and have hopefully found) the solution to two key problems: firstly, compliance with requirements applicable to rights of first refusal concerning parking spaces in a condominium garage will be more regulated and clear-cut, and secondly, condo associations might have an easier time registering garages and parking spaces as individual properties. The rules took effect on 2 May 2022, and so it is too early to tell just how effective and actually beneficial they are, but the legislative intent is a cause for optimism in itself.

Background and the current situation: mandatory notice to holders of rights of first refusal

Under the relevant rules, if you want to buy a parking space in a garage that is in the common ownership of all condo owners, all of the owners *ex lege* hold a right of first refusal in the parking space. Therefore, your seller is required to send a letter by post to all rights holders and inform them about the key terms of the sale or the offer the seller received, and to call upon the rights holders to state whether they wish to exercise or waive their right of first refusal.

The problem is that such a parking space may have hundreds of owners, and sending a letter to each and every one of them can be very challenging. The challenge is to locate every owner (some of whom might live in the building, but others might live in another country or on another continent), which can take up a lot of time, effort and entail considerable costs, and can in many cases render the seller's and the buyer's objectives unattainable. Therefore, the buyer's and the

seller's rights (and in particular, the right to dispose over property) might be limited by third parties, which can create problems for the transaction.

The regulations attempted to respond to this issue in the past, but due to their subjective interpretation and application, a consistent practice never crystallised.

Development 1: easements in the modified rule

The modified rule (Section 75 of Decree No. 109/1999 of the Ministry of Agriculture and Rural Development on the Implementation of Act CXLI of 1997 on Real Property Registration) offers a new solution by making it possible to replace the notification to each owner with a single announcement, meaning that the validity of the transaction cannot be challenged on the grounds that an individual notice was not given. In other words, if a property is registered separately from the condominium property and specifically as a garage, a declaration issued by the condo manager stating that the purchase offer was prominently placed in a common area of the condo while it was binding will be accepted, instead of postal confirmation of the delivery of individual notices, as sufficient evidence to give effect to the transaction.

Development 2: registration of parking spaces as individual property

It was also problematic that the individual lots in a parking garage could not be treated as individual properties, and therefore the challenges associated with rights of first refusal and the question of how such parking spaces could be transferred to a new owner made it difficult for people to dispose over their own property. Another modification that also took effect on 2 May 2022



CERHA HEMPEL CEE NEWSLETTER *Hungary*

(that of Section 52 of Decree No. 109/1999) now allows parking spaces in a condominium garage to be registered as individual (rather than common) property in the property register. The upshot of this is that such parking spaces will become truly marketable because the statutory right of first refusal will only apply to them if the condo owners specifically agree in the condo deed of foundation that individually owned properties are subject to such a right (condo owners can agree on such a provision, but they rarely do in practice).

Under the modification, a parking space qualifies as one that can be registered in the property register with an individual lot number, and therefore as a stand-alone marketable parking space, if it is entirely located in the garage and meets the following statutory requirements: it is an area that is located in the garage of a building, with one side connected to the driveway and the other three sides delineated by walls or physical markings on the floor, that meets those statutory dimension requirements.

Conditions of registration

Under the modified Decree, to register a parking space as an individual property it is sufficient if the existence of the parking space is “confirmed” and the condo deed of foundation is modified in accordance with the modified layout drawing of the building, i.e. official certification is not required for the registration.

For more information

Attila Marjai
Partner

attila.marjai@cerhahempel.hu

Tel: +36 1 457 80 40

Bence Kampits
Attorney at law

bence.kampits@cerhahempel.hu

Tel: +36 1 457 80 40