

## URGENT AND IMPORTANT

TO: ALL OWNERS OF PROPERTY AT RESIDENTIAL LOS PINOS,  
LOS ARQUEROS GOLF & COUNTRY CLUB, BENAHAIVIS, SPAIN

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Dear Owners

This letter is directed to all Owners in "Residencial Los Pinos" in Los Arqueros Golf & Country Club in Benahavis. The President will be asked to circulate it to you all by email for expediency, but it will also be delivered by hand and/or other means to as many apartments in Los Pinos as we can manage. Further you can also view a Google translation in other languages on the website [www.lpa2023.net](http://www.lpa2023.net).

You should by now have received an email from our President convening this year's A.G.M. for the Community to be held on 6th September 2023. The President mentioned that it was not being held before 30th June, as required by our Statutes, because *"This we also would have preferred had we not faced major difficulties which required our urgent attention to resolve. In a nutshell, all had to do with how Los Pinos was administered over the past many years and what we had to do to reorganise it."*

This seems rather odd as the President has been in office for more than 2 years. If the past administration of Los Pinos is causing such great problems we would expect to have heard something about this as Owners. Generally, when comparing the detailed reports from Carl Holsters and Denis Ryan throughout much of the COVID period, Mr Azzouni's updates leave a lot to be desired.

One problem is that our President and his Committee do not seem able to understand that their duties are merely to administer the wishes and decisions of the whole Community in general meeting. Their work is, of course, very valuable and we are all grateful for it, but their job is not to make unilateral decisions about the running of the Community except in the case of small and generally inconsequential matters such as running repairs.

It is not difficult to follow the Community regulations but one must want to.

As a result and because of things which have happened over the last months the Community is now apparently faced with a complicated and potentially expensive mess.

Sagesa have informed that they have taken legal action against the Community for breach of contract for cleaning in Los Pinos and this is scheduled to be heard in Court in November this year. They also advise that a second action is in progress in relation to the gardening contract and a date is yet to be set for hearing. In addition there will potentially be a case for defamation relating to statements made by our President.

From a study of the facts it seems possible that we could lose these cases because Mr Azzouni had no mandate from the Community to cancel these contracts. Our President had not properly sought any instruction or permission to look into replacing various contractors. Some had even warned him against this course of action. Whilst he could arguably obtain information and quotations from potential new

contractors at his own volition, it was always outside the President's power to sever existing contracts and to agree and confirm terms of new contracts.

Nor maybe can he claim that his actions were duly "ratified" by the Owners meetings because, despite requests, Owners (apart from the President) had not seen the relevant contracts. This is still the case. It is clear that it is not possible to ratify the terms and conditions of a document which one has never seen.

The President presented a wording in the Agenda for the A.G.M. in 2022 which he thinks gets around having to supply owners with copies of contracts etc. regarding appointment of new service providers. However the resolution only serves to approve the President's decision in principle and does not extend as far as approving the terms and conditions of the contracts.

Now the President asks for more "ratifications" at this year's A.G.M., without giving any details for owners to consider first.

In circulars the President has stated:

Quote:

*I wish to inform you that on 29/06/2022, I served the following official notices to Sagesa:*

- To **terminate** the gardening and cleaning services as of 31/07/22.
- Two new independent providers have **already been contracted** to commence duty on 01/08/2022.
- To **terminate** Sagesa as the Administrator as of 02/09/22, this is to coincide with the AGM which will take place on the same day.

*A new Administrator has **already been contracted** to commence duty on the same day (02/09/22), dependent upon Sagesa being voted out and the new administrator being voted in by owners.*

*The three new contracts **which I concluded** after heavy research contain much better terms, conditions and prices than at present.*

Unquote

Irrespective of whether or not these decisions were ratified at the subsequent A.G.M. the President knowingly acted with no mandate or authorisation at the time he negotiated and claimed to execute these agreements. And all were choices of his alone.

For the President to make and sign off his unilateral decisions outside of his powers and then to sneak these through by trying to get them "ratified" by a General Meeting (called at a time when few people can attend) is a tactic to take advantage of your complacency, and is far beyond the spirit in which his duties should be conducted. In effect the President is choosing who should or should not provide services to the Community and the details of their contracts, along with everything else.

You may or may not feel that the "new" contractors are doing a good job, but that is not the point. We can never allow an operational structure where the President alone can effectively hire and fire whoever he chooses to perform services for the Community.

This situation is complicated because Sagesa are suing the President as representative of our Community. That means they are really suing the Community and any damages awarded by the Court would be awarded against the Community. It is not certain how this should all work in a legal process.

If it can be shown that the President acted without the authority of the Community then the legal actions could possibly be cancelled or taken against the President in his personal capacity. That would be because the new contractors were never legally appointed and so Sagesa remain.

All of this could mean that the Community has to take legal action against its own President.

You can see the problems in sorting this out. The main point is that the President acted totally without authority and at the end of the day he, personally, must bear the brunt of all costs. His insurance indemnity probably will not cover this due to his lack of authority.

We could go on forever about this but you will surely see that something must be done.

**Whatever the rights and wrongs turn out to it is clear that the actions of the President, taken at a time when he could easily have sought the approval of the Community, will have at least involved us in unknown legal costs.**

All of the above leaves aside the fact that there has been no explanation whatsoever about why the Administrator "elected" at the 2022 A.G.M. resigned after three weeks. All requests for an full explanation have been met with silence.

One further small point is that it has been claimed, although not proved, that the President ordered the removal/destruction of the nests of migrating birds from our buildings. Some of you no doubt agreed with their destruction but again that is not the point. Our President was allegedly warned that it was illegal to destroy the nests but ordered the gardeners to do it anyway. The outcome seems to be that the Community (through the President) was taken to Court and fined 900€ because of his actions. So we have a black mark against us with the authorities. None of this has ever been divulged to Owners.

Generally, Owners seem to have concerns about a lack of transparency and information coming from the President and the Committee and that your enquiries are just ignored.

It is easy to understand that you do not want to get involved in "political" matters within the Community and just want to enjoy your property. Unfortunately, if you want to preserve your property values, you have to become involved. Word gets around about problematic communities and this affects property values. You have to put pressure on if you are unhappy with anything. And you must not just rubber-stamp items at Annual General Meetings.

It seems that a good course of action would be to have a "Governance Committee" appointed to look into all the above matters and to carry out a legal audit and get all contractual matters in order. Not least because of the legal cases this will probably mean coming back to Owners for further instructions.

One major difficulty in trying to sort these matters out is the fact that Owners cannot communicate with each other communally by email. Our President may agree to circulate emails to all Owners on request, but there may come a time when he should not be party to all correspondence.

We will try to put updated information on the website [www.lpa2023.net](http://www.lpa2023.net) and you can email there at "owners+[your block and apartment in one string]@lpa2023.net" ([owners+154@lpa2023.net](mailto:owners+154@lpa2023.net)).

But whatever you do, we feel you should think twice about giving your Proxy for the 2023 A.G.M. to the President or to Michael Meyer simply for the reason that those votes will be used as the President wishes.

Best wishes

Signed: *Los Pinos Amigos*

31 July 2023