

The municipal council of Roses disregards the objections of the owners of property situated at canals in Santa Margarita and passes a resolution for a more stringent POUM!

Bad news for the begin of the year for property owners situated at the canals in Santa Margarita. On the 22.12.09 the council of Roses decided a new city building plan.

(Pla d'ordenacio urbanistica municipal de Roses – POUM) in a provisional second version.

The plan was submitted to the commission for Urbanistic in Girona for approval and passed on to other concerned authorities.

If that commission accepts the plan and if there are no other objections from other authorities it can be definitely approved.

The first version of the plan from 1997 was rejected from the responsible authority of the Generalitat for the reason that the Spanish Ley de Costas was not considered.

This was done now, they have included the demarcation as required by the coastal authorities.

The decision of the council and the plans can be looked at the website of the municipality council of Roses, (in catalan): www.roses.cat (La vila-Urbanisme- Poum)

It can be read also at the website of the APUCSM the organization of the owners located at the canals, in the spanish section, (www.euroclub24.com).

The council members passed the plan with 10 votes against 6. According to the plan the urbanisation Santa Margarita and the net of canals is part of the sea area (maritima-terreste), it is an internal Marina (Marina interior) and comes therefore, under the rule of the spanish Ley de costas, under the catalan Port law and the corresponding regulations of said law.

Responsible for the ruling of the canals is - according to the creators of POUM, the Generalitat (the responsibility was apparently given to them by the spanish state).

The city assumes – as we know from other disclosures- that the Generalitat will leave the administration to them and they in turn will then give then administration to a commercial administrator.

Contrary to the earlier version the present one is much more stringent in so far as the demarcation of the coastal authorities is applied. The Dominio public- state property-are all water areas including the private berthes. The public 6m zone starts at the waterline towards the landside and goes right through private property and possible houses. Along the river Grao exist a 20m wide protection zone.

The authors of the POUM reason that the more stringent version versus the former is that the rule of the Ley de costas and the demarcation by the coastal authorities has to be applied and for this they are not responsible.

The submitted objections by the owners of property situated at the canals who in part were very comprehensive and proved, that neither the Ley de Costas nor the Ley de Portas are applicable to Santa Margarita, because a different situation of law exist, remained unmentioned by the council. Accordingly 256 objections were filed against POUM, groups represented by lawyers and others were collectively treated (it is also unclear which objections referred to the canals or other areas) A number of objection were approved (estimades)- here also , the reason or cause of the objection is not clear- a further number of the objections were in part accepted (Parcialment estimades) and a great part were rejected (desestimades).

Those which have submitted an objection can check in the declaration how it was classified.

But again it is impossible to see for what reason the objection was accepted or rejected.

There will be no individual replies to the objections but one overall letter for a group of persons.

Apparently it is planned that the persons who have objected or their lawyers will get an overall letter.

The Spanish administration law allows to give a collective answer to objection against decisions of authorities, if the cases are similar. However contrary to the normal feeling of right or wrong and democratic practice, citizen who have objected against decisions of authorities, that are so serious as in this case, don't get an answer to which points of their objections were accepted and which were rejected.

In addition a citizen living in a democratic constitutional state should receive an answer why founded objections were not accepted. It is not acceptable that justified and legally founded arguments are not adressed.

Unfortunately it is to say that the council – the majority- the mayor- contrary to given promises- have not considered nor represented entitled interest of the owners with property situated at the canals!!!

It is no comfort for the affected that it is said that the claimed 6m zone is not expropriated, that the demarcation is only temporary and the service way does not have to be executed where the local situation is unsuitable (in a case like that, later on, an alternative has to be found for the intended purpose).

All that should be decided later. For the affected it is a continuation of unsureness what will happen to their property and that makes it almost impossible to sell the property for an acceptable price. Maybe the responsables can come to an understanding what it means for the health, the nerves and the general wellbeing of the affected.

The serious fact of an de facto expropriation of private berths registered and documented in the land register are seen by the council in such a way that legal regulations exist that have to be complied with. In all other aspects it is said that concrete rules are only applied if the legalization of the canals is done.

No word is said about the fact that the canals are already legalized and other possibilities exist to administrate and to protect the rights of the owners.

Who cannot understand that the affected suspect that all is directed to archieve control over the precious parts of the owners of property along the canals.

All this with an retroactive application of leys contrary to an up to now recognized law practice- an uniqueness in Europa- does not make an expropriation understandable and more legally.

It is not acceptable that Spain, his national and local authorities persistantly ignore European legal rules and disregard corresponding reminders (AUKEN REPORT).

We hope in this matter that the last word has not been spoken but we are sure that the affected will exhaust all legal possibilities to protect their rights.

The board of the APUCSM will consider the next steps to be done and inform members and affected.

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