

The ownership structures in Roses Santa Margarita Since beginning of the Middle Ages in private hands.

The entire surface of the area, which covers today „the Urbanisation of canals Santa Margarita, was already in the 10 th century property of the count Gaufred of Castello de Ampurias.

He gave the area 945 to the monastery San Pere de Rodes.

Despite the repetitive, but illegitimate occupations and acquisitions in the different epochs by local feudal lords, the monastery retained the property until the desamortization by the minister Mendizabal in the 19 th century.

The acquisitions had to be given up one after the other by judicial rulings (1)

With the desamortization by Medizabal the possession went to Don Fernando Arola y Recasens.

After his death at the age of 80 years on the date 27 th March in the year of 1869 his only daughter Dona Luisa Arola y Vilar inherited the possession and registered it, with authenticating documents, in the the property register (Registro de Propiedad) of Rosas. (2)

According to the register, the entire possession went, on the 21th October 1964, to Don Miguel Mateo Pla. (3) This entry (Escritura) is the principal property (Finca Matriz) from which all our properties originate by division. This was done legally and is recorded in the register of Roses.

In the same manner the landing places that the state had prepossessed, for ships at the plots along the canals, were dug out from the plots and taxed as private finca (property/ possession).

- 1) Viaje Literario a las Iglesias de Espana 1851 entre otros
- 2) Literal copy of the Escritura of Luisa Arola in the Registro de la Propiedad of Rosas
- 3) Literal copy of the Escritura of Miguel Mateu Pla in the Registro de la Propiedad with the department of all plots of Santa Margarita.

The building and area development plan of Rosas- plan de Ordenacion Urbanistica MUNICIPAL- a plan of the urban abuses.

This plan with recent permission (2010), normative for the city, transfers appr. 1 million square meter surfaces area into an cultivated area (building sites). Most of that area is not suitable for building, for the simple reason that the law forbids this, for instance:

One approves the establishment of an industrial quarter in the vertex of the discharge area of the brook Queralbs. The queralb is a torrent which comes from the foothills of the Pyrenees. In the inundation of the year 1421 it destroyed the medieval monastery Santa Margarita- after which our urbanisation is named- two of the watch towers and part of the Garrigas castle wall were destroyed.

After that nobody has considered to build in this zone.

But now, it is considered to repeat the experience, although this zone was official declared as a „critical biological passage“ that connects the nature park Aiguamolls (marshy areas) of the Emporda with nature park of the Cap de Creus.

One approves the erection of an apartment building in the bed of the brooks Queralb and Molto, by changing its run and annexed the the common property, the former river bed, (Domino Public). Thus one accepts the risk of the life thread for future inhabitants, just as redirecting the river courses into the center of our urbanisation, a serious risk for our life and the condition of our houses.

One approves the construction of apartments in a extensive swampy zone, which was historical inundated and is now part of the natural park Aiguamolls.

This was officially declared as flood area!

One applies retroactive the law of internal seawaters (Marinas Interiores) Catalonia from the year 2005 to the Urbanisation, in order to get ahold of the most valuable parts of the plots.

One approves the development of an area that has more than an upward gradient of 20%. although the law forbids it.

On the central green park of Rosas, which was part of the development of 1961, was first erected the building Casa de Pescador, later the theater and the rest was finally converted into a parking lot.

Now it was decided to erect, on this parking lot a large building, although the law forbids to build on green zones, that are located less then 500 m away from the limits of the maritime zone (deslinde maritimo terrestre). This is here the case.

One approves the development of the largest part of the green belt, that has remained, for instance the green belt where today the building complex „Seiscientos“ rises, despite that the building development is forbidden by a ruling of the highest Court of Justice (Tribunal Supremo). Beyond that the green zone is located, as far as it still exist, less than 500 m away from the limits of the maritime area and the nature park of the Aiguamolls and is thereby „protected geological inheritance“

One increases the total population enormously without providing social and infrastructural public installations.

We had already to endure strong restrictions of water consumptions. The sewage systems are insufficient and during the summer or during strong rainfalls the administration diverts the water residues into the sensitive waters of the channels and the nature park Aiguamolls.

It would be lengthy to enumerate all the different abuses of this plan, that contradicting the laws and legalize the abuses over the past years.

All this occurs, despite the fact, that within the municipality ranges exist where a safe development, without the threat of damage, is possible.

But these areas of land are not at the disposal of those owners and entrepreneurs which are favored by the current plan.



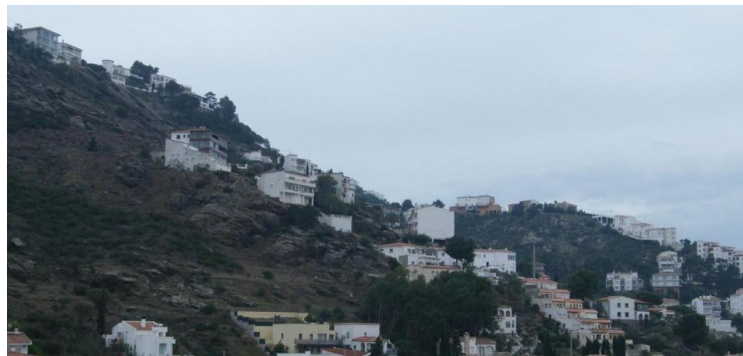
**Here are some heroes acts of the towns council
A-B demarcation line of the sea influence zone (Marino terrestre) of 1964.**

Although the maximum height of buildings is limited to 6 stories, the building authorities approved a number of buildings which exceed that height. Many of them on state owned areas (Dominio Publico).

Under these Buildings stand out;

- 1 Building Nirwana 8 levels
- 2 Building La Fregata 10 levels
- 3 Hotel San Marcos 9 and 1 level
- 4 Buildings with 8 levels
- 5 Building Grand Pavois 12 levels
- 6 Building Mare Nostrum 10 levels
- 7 Hotel Victoria, 8+ 1 level

- 8 Building Roses Holiday Center, 8+1 level
- 9 Building with 8 levels, Gola Stany 32
- 10 Ditto Gola Stany 39
- 11 Building Roses 2, 8 levels
- 12 Building Soly y Mar, 8 levels
- 13 Building Europa, 11 levels
- 14 Building Residence De La Baie, 8 levels
- 15 Building Miramar, 9 levels
- 16 Building Ahinoa, 8 levels
- 17 Hotel Goya Park, 9+1 level
- 18 Building Seicentos (600 apartments) 14 levels

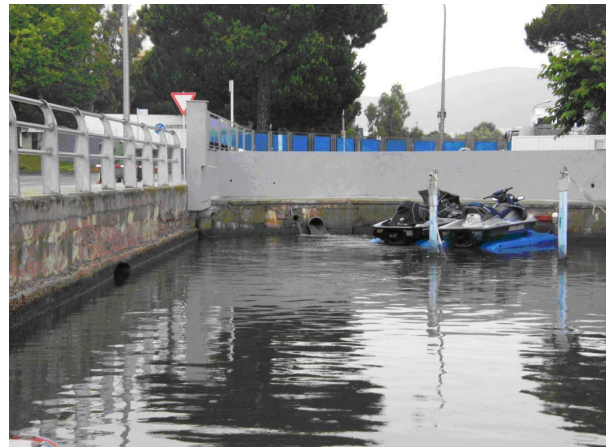


Example of houses at steep slopes, which are forbidden by law





The bed of the brock Molto with its estuary into the sea, covered by an erected camping site, whose wall you see in the second photo-



Discharge of waste water into the canals of Santa Margarita.



The demarcation of the common property after the coastal Law. Santa Margarita is an example of the abuse and arbitrary application of the law.

We acquired our property with the documentarily assured certainty that it is not affected by the coastal law, since the urbanisation was already defined in 1964 in a special way.

This happened upon the request of the promoter and the representatives of the urbanisation, in order to have sufficient warranties for potential buyers.

This is an uncontested fact, which can be verified in the Registro de la Propiedad. This gave us absolute security that our property could never be affected by a service strip (servidumbre de tránsito/ protección) under national degree- derived from the coastal law- particularly since we live in a constitutional state.

Beyond that we are located in the protected zone of the nature park of the Aiguamolls, and we can expect that one – at least to a minimum - will respect the environment.

To our understanding the demarcation of the sea zone of influence (marítimo terrestre) of 1964 and its limit marks are protected by the Spanish penal law (Codigo penal, art 246 among other things) and the coastal law 22/1988.

However the state did not fulfill his own laws and 46 years later changes the demarcation and expropriates our properties which are more than 500 m distance away from the sea

The demarcation of 1964 decreed a wide coastal strip as common property (dominio público) The functionaries however did not do their duties, did nothing to protect the area sufficiently and did not write the legal obligations into the property register. The areas in the first line to the sea were of course much in demand and- at the height of the tourist boom- by all classes of speculators. The consequence of that was that the speculators, with the help of some civil servants of the coastal authorities, build on the 1964 demarcated national zone. The beach zone was filled with large hotels and blocks of apartments, the latter were sold- according to the register, free of encumbrances- to Spanish and European citizens, in good faith that the information of the property register were correct.

Today these innocent and intimidated citizens are faced with large economic losses and a great uncertainty for which the Spanish state is responsible!

The speculators with their buildings destroyed the protecting dune belt, a part of the earlier lake of Castello, without erecting appropriate protections. This part of the urbanisation called the „Salata“ is only of slightly higher elevation, no more than 1m above the average sea level and is now greatly exposed to the unacceptable risks of inundation. There exists a historically well known and scientifically documented phenomenon, in Emporda, called „Llevantada“.

Here downpours in the eastern Pyrenees, which leads to large quantities of water that create torrential floods in the natural creeks and strong sea storms created by strong easterly winds come together and produce large floodwaves!

Caused by the high seawater level the drainage of the water from the Pyrenees is impaired in such a way that the area of the former lake from Castello is filled, which is part of Salata.

The zone of the canals is protected by the moles in the estuary of the river Grao which follows the old riverbed of the river Muga.

At present, where there is no more public domain land, available for building, the civil servants have changed the legal demarcation to get illegal hold of a number of private plots in Santa Margarita to be incorporated into public property.

Probably to satisfy the needs for speculators or entrepreneurs.

It cannot be said that the reason for this is to protect the coast and the environment, or to fulfill the - well meant- goals of the coastal law, quite the reverse.

Already in the years 1993-95 some office holders of Roses and the coastal authority tried to change the 1964 demarcation to seize private plots on the left bank, of the river Grao, as public property.

This attempt apparently was rejected.

This insatiable greed and the abuse by a few are causing us, the affected, not only serious economic damage, but impair also our physical and psychological health.

Parallel to this the government of Catalonia wants to transform the Urbanisation Margarita and the river into a large dockland. The basis for this is that they take the most valuable parts of our property without obeying the legal requirements and of course without compensation.

In many cases not only vacation homes are affected but permanent residences too.

This of course means large economic and other damage for the victims and brings families and elderly people into difficult circumstances.

Beside all this happens without respecting the fact that the river Grao is protected geological inheritance, half of the riverbed belongs to the nature park Aiguamolls and the total urbanisation is part of the protected water range of the nature park.

Against any environmental legislation- in regard to water conditions- the building of an industrial plant, a dry dock and a repairshop for large ships (approved up to 20m) in the heart of the Aiguamolls has been approved, a known source for large contaminations!

In this Zone (Port Bahia) protected by the Plan Director territorial del Emporda and declared as protected geological inheritance, thousands of tons of contaminated building rubble, are at present, used for reclaiming land. The rubble originates from the former Club Mediterraneo demolished at Cape Creus where the original landscape of the natural park is restored.

These masses of rubble are contaminated with large quantities of permanent harmful organic components, which are clearly specified in the Reglamento (CE) No. 850/ 2004, Anex5 parte 2, Punto 17.

The River Grao and the natural park are already contaminated by toxic products that originate from the existing drydock at the Nautic Center.

This company works, with an exemption of punishment and has already laid down a layer of toxic mud on the bed of the river.

With a very realistic change these toxic substances will be distributed over the total area of the natural park, should the river Grao overflow, causing there and in the estuary of the river unrepairable damage to Fauna and Flora.

We have brought these facts repeatedly to the attention of the authorities, but it appears that some Spanish authorities tolerate the transgression against the law and the environment.

The speculation in Santa Margarity in the last years.



View from the river grao towards Margarita. In the background you can see the beach area inclusiv the part, that was demarced as area public property (Domino publico) in 1964. It is closely packed with hotel- and apartment buildings. All cleary identifiable objects were build after 1964.

- 1-3 The large drymarina Nautic Center and equipment.
- 3 This area was filled up with the contaminated rubble from the demolition of the Club Mediterraneo at Cap Creó.
- 4 Future localisation for ship repairs and tieup area for large ships.
- 5 Building Complex Port Gran (Apartments), to a large extend build in a zone where only two story townhouses can be erected. Possible not in agreement with the Decreto 328/19192 and Capitulo 4 of the Ley 12/1985, whereby the building permission is void. Consideration should be given to the environmental impact on the adjacent natural park.
- 6 Large apartment complexes, distance less then 1000 m distance from the natural park. Who are perciveable contain some irregularities, like building volume and the afore mentioned regulations.
- 7 Old drydock of Nautic Center, where a large building was erected possible also in violation of some of the afore, under 6 and 7, mentioned regulations.
- 8 Large building complex called „Seiscientos“ erected in 1976 illegal (14 stories high instead of the allowed 6 stories), It was legalized throught the revision of the Poum in 1993, it appears this will happen also with the lastest building violations under the new POUM of 2010 too.
- 9 Excavations for the never realized „Port for Sportboats Santa Margarity“ who was supposed to be build by the Generalitat de Catalunya. Presently the construction is forbidden by law in this protected zone.



Estuary of the river Grao and Margarita. To the right in the picture you see the beach area which is the demarcated stripe of public land (Domono Publico) of the urbanization (first line on the beach) closely occupied by large buildings. In the background the Urbanization Canales de Santa Margarita in part hidden by the building „Seiscientos“

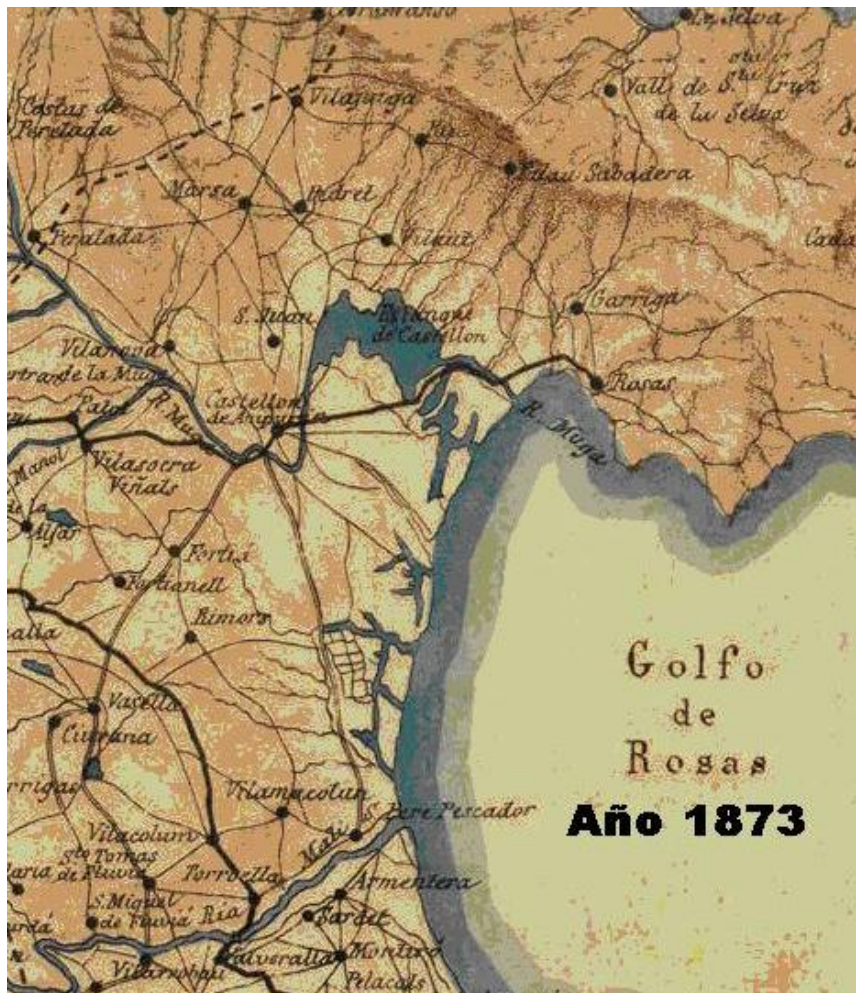


Planned port „Candell“, 260 berthes in a zone that touches the natural park, and is a protected water –, landscape and historical geological inheritance.

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Rubble from the demolished Club Mediterano at Cap Creus is used to landfill/ construct a drydock on top of protected geological inheritance and water zone, adjacent to the nature park Aguiamolls.



Plan, showing the original conditions at Santa Margaritas, the lake of Castello and the natural estuary of the river Muga, which is now the river Grao, which to day is called, by the Authorities, „Maincanal“. At times of high inundations (last in 1941) the river Muga still drains via the Grao into the sea.

The authorities have declared the old lake and river landscape of Santa Margarita as sea area to be able to apply the coastal law, the Ley de Costas.

**The Urbanisation Santa Margarita- history of its planning
A chain of permissions- and at the end expropriations stand.**



Original condition of the area 1959 with its ditches and ponds after the „Plan Partial“



**The current Urbanisation with the river Grao and canals.
In the foreground the sea and beach area. On the left the nature park Aiguamolls.**

During the decade of the 1950s, the partial plan Salata and Santa Margarita (plan Partial Salata y Margarita) was developed.

On June the 8th 1959 the partial development plan of the area named Salata (plan de Ordenacion Parcial), which covers today's Salata and Margarita, was submitted for approval.

It was created by the architect Alejandro Bonaterra.

This partial plan was approved on June 14th 1960 by the Comision Provincial de Urbanismo in Gerona.

The Urbanisation of Santa Margarita was one of the first Urbanisations of Spain, which possessed an urban plan, which was approved and was in agreement with with the law of 1956 by the Ministerio de la Vivienda. The land usage – and development plan of Rosas were approved 1961. Capital cities such as Salamanca had, at that time, no urban plan, only in 1966 was one approved. In Barcelona a plan was approved in 1963 ect.

In the Urbanisation the demarcation (Deslinde) of the common property (Domino Publico) was done in 1964 by the Spanish costal office. The affected area was the beachzone only.

This was done to give potential buyers, to a large extend from the remainig Europe ,sufficient collateral. This stands in contrast to the beach area in Barcelona were even to day the demarcation has not been done.

The Comision Provincial de Urbanismo de Gerona (province authority of the Ministro la Vivienda) approved in 1965 and 1974 extensions to the plan Urbanisation Santa Margarita which were recorded in the revision of the plan general Urbanistico of Roses.

In the partial plan of 1965 it is shown the projected development of the channels towards the current form. These were developed from a system of drainage channels wich drained into the river Grao to drain the swampy area.

In the plan the „ construction of different canals is intended“

On those canals, which are navigable and border on the plots of the urbanisation the owner can, within their plots, create ports, landing places or ramps for their ships and can use the canals within the regulations set by the junta (governing body) of the users (Usarios)-- Approval document dated 09.11.65.

The revision of the area usage plan (Plan general Urbanistico) of Rosas 1993 included a change of the demarcation from 1964, This however was rejected.

After several attemps, the Spanish coastal authorities succeeded in 2010 to make an one sided change to the official demarcation of the common property. The goal was to annex the property of the people of Santa Margarita without compensation.

Parallel to it- with the same goal- the city of Rosas replaced the building and development plan for the Urbanisation of 1993 by a new building and development plan (POUM).

This was approved by the superior authority in 2010.