



I. INTRODUCTION

With regards to the proposal sent by STV about the gardening enhancements in Hacienda Riquelme with the aim to reduce the water consumption and the maintenance cost in different areas of the complex, it is requested by The Committee of the Urbanization to the Legal Department of the Community Administration, Resortalia, to produce a Legal Report related to the applicable law for the changes proposed.

At one level we must consider that the areas which are to be modified are encompassed mainly within the areas owned by the Town Hall, so any changes thereto shall be for the Urban Conservation & Collaboration Entity of Hacienda Riquelme Golf Resort, and will be governed by its applicable regulations such as the EUCC Statutes, and the extra administrative regulations.

Within these areas we find, on a second level, that the areas owned by the Town Hall are included within the Contentious Administrative Claim against the Murcia Town Hall. This claim includes different defects of the urbanization, so it has been requested to the Town Hall to proceed with the necessary repairs. Therefore, we advance that these areas should not be object of any modification until a Judgment in First Instance is received, hopefully during 2014. All this, notwithstanding that the enhancements can be approved and later they can be carried out when appropriate.

The third level corresponds to those affected areas which are part of the General Community, which shall apply the Community Statutes.

Then, there is a fourth level which corresponds to private areas in which apply the Civil Law. Coincidentally, the private area is located next to a General Community area, and in this case the three different legal rules need to be applied: Statutes of the Community, Horizontal Property Law & Civil Law.

Therefore, we find that there are four different legal casuistries applicable according to ownership of the land affected.














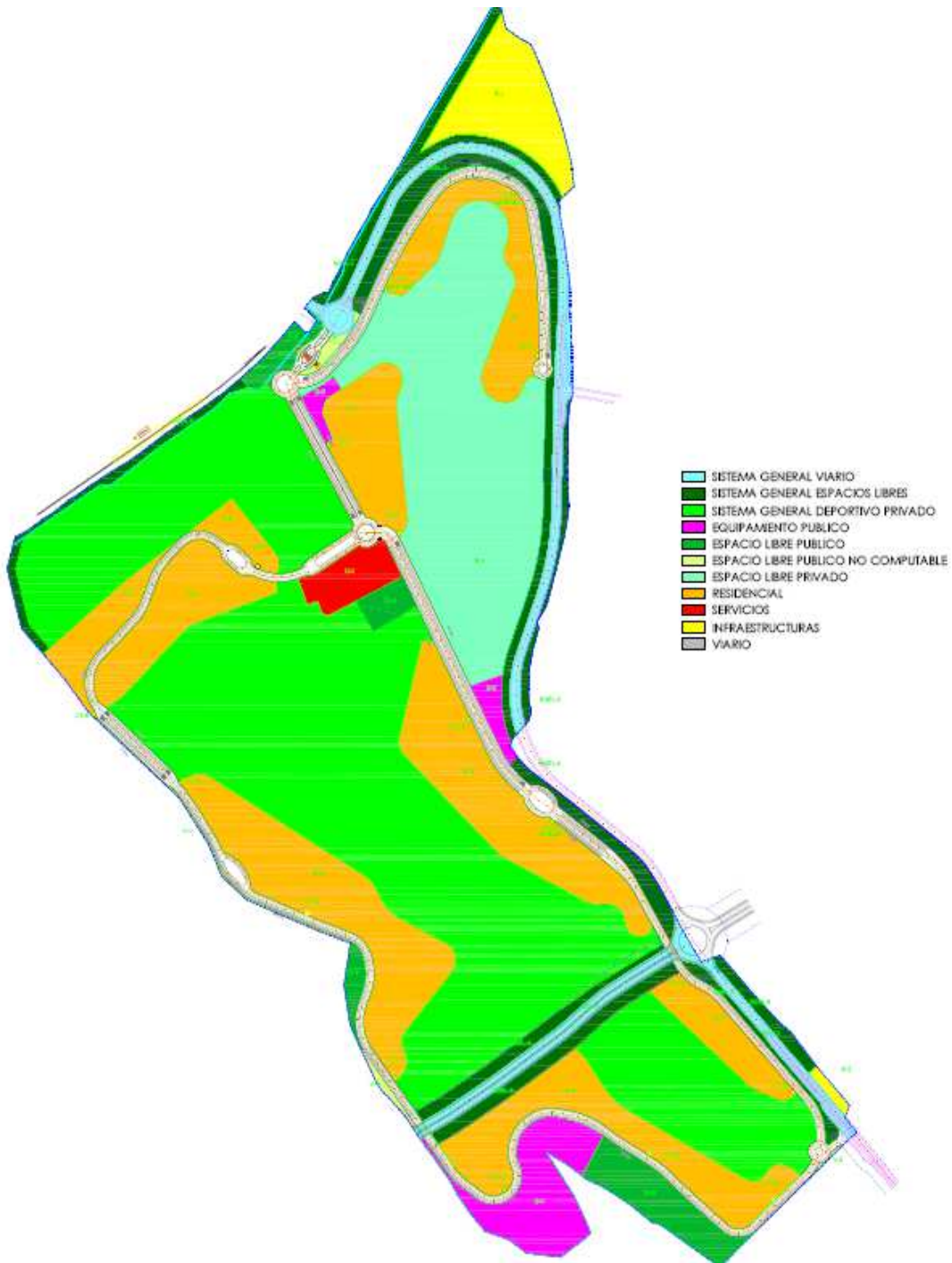
II. DEFINITION OF THE OWNERSHIP OF THE AFFECTED AREAS

The definition will be done taking into account the areas listed below:

- **Area 1:**
 - Town Hall areas.
- **Area 2:**
 - Town Hall areas affected by the Contentious Administrative Process.
- **Area 3:**
 - Communal areas. (Residential)
- **Area 4:**
 - Private areas.

Furthermore, we include a zoning map marked in colours pointing which area corresponds to each colour and the explanation.

	SISTEMA GENERAL VIARIO
	SISTEMA GENERAL ESPACIOS LIBRES
	SISTEMA GENERAL DEPORTIVO PRIVADO
	EQUIPAMIENTO PUBLICO
	ESPACIO LIBRE PUBLICO
	ESPACIO LIBRE PUBLICO NO COMPUTABLE
	ESPACIO LIBRE PRIVADO
	RESIDENCIAL
	SERVICIOS
	INFRAESTRUCTURAS
	VIARIO





A. Area 1: Town Hall areas.

For those zones belonging to Murcia Town Hall, the conservation and maintenance correspond to the Urban Entity of Conservation of the Partial Plan Hacienda Riquelme, Sector ZU-SU-Sn6. (From now on, the EUCC).

The applicable legislation to the EUCC is their own Bye- Laws and the “*Reglamento de Gestión Urbanística*”, articles from 24 to 30 and from 67 to 70.

In order to provide the modifications to carry out with the maximum legal guarantees, we consider that the approval needs a qualified majority of 2/3 of the cuota of participation.

Therefore, in compliance of the article 17.2 of the Bye-Laws of the EUCC, it would be necessary to call an Extraordinary General Assembly, with at least 15 days notice.

With regards to the attendees to that Assembly and, in compliance, of the Bye-Laws of the EUCC (Title II, Chapter 1, Members of the Entity, rights and obligations, Article 7.- Members of the Entity) , we consider that the Presidents of every Sub-community should attend, given that according to the Bye –Laws they represent the members of the Entity.

Please find below the areas included in the proposal of STV to be modified and which are Town Hall areas.

a. Boulevard close to El Casón in Hacienda Riquelme





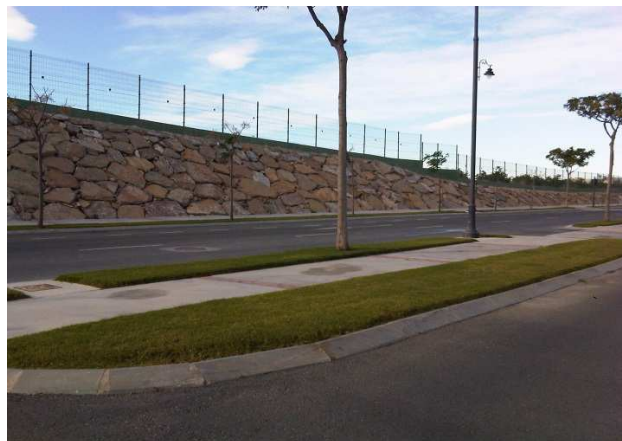
b. Roundabout and small grass areas in front of Atlántico 126 & 128.



c. Central reservation between phase 1 & phase 5



d. Small grass areas in phase 1





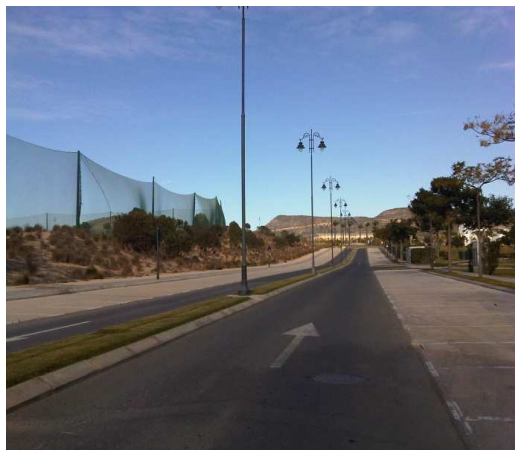
e. Central Reservation in Indico Street (Phase 2)



f. Roundabout in phase 2 and small grass areas along the Indico Street.



g. Central Reservation in Adriático Street.





- h. Boulevard in phase 5 where one of the small fountains is located.



- i. Small grass areas along the street in front of Atlántico 184, 186.



- j. Sign at the entrance of the complex located in a public space not computable.





- k. Polaris Strips: These areas are located along the roads and path ways (road system) inside of the complex. The intention is to replace the grass and put gravel instead.

B. Area 2: Town Hall Areas affected by the Contentious Administrative Process.

In relation to the zones of the AREA 2, although it applies what it is established in AREA, it is necessary a particular vision due to that they are part of the legal claim.

For that reason, Professor González Varas, Lawyer of the Complex in the legal claim against Murcia Town Hall, where the Community is challenging the reception of the Complex by the Town Hall due to the not repaired deficiencies and it is also requested that the Town Hall assumes the street lighting consumption, advises against this action until the Complex obtains a First Instance Court Rule

In our opinion, these changes should be postponed until that Court Rule.

Please find below the areas included in the proposal of STV to be modified and which are Town Hall areas affected by the Contentious Administrative Process.

- a. SGEL-2: Town Hall area from phase 4 to phase 2. The action would be in the slope in phase 4.





b. SGEL-7: Town Hall area in front of phase 6.



c. SGEL-4: Town Hall area in front of phase 2.

d. SGEL-5: Town Hall area parallel to the sport area between phase 1 & phase 7 and at the bottom between phase 2 & phase 6.





- e. ZV-2 & ZV-4: Green areas close to the playgrounds in phase 1 and El Casón. The actions would be to put plants around the areas.



C. Area 3: General Community Areas.

The applicable legislation is the Bye –Laws of the General Community of the Private Complex Hacienda Riquelme Golf Resort, as well as the Law of the Horizontal Property (from now on HPA).

Article 5 of the Bye-Laws establishes those zones as common elements of the General Community , so in compliance of article 24.3 HPA, it would be necessary to call a General Meeting (in this case, Extraordinary) as for the General Community as for the Sub-communities which form the Complex. The abovementioned article establishes that, for qualified majorities, such majority should be obtained as in the General Community as in the buildings.

As article 5 of the Bye-Laws establishes that the gardens are common elements of the General Community, any substantial modification brings an alteration of then, being necessary the unanimity of the owners, according to art. 17 HPA. By other hand, applying the abovementioned article 24.3 HPF this unanimity should be obtained as in the General Community as in the Subcommunities.

Furthermore, due to the changes in HPA which came into force past 28th June 2013, the unanimity requires the vote of all the owners, being necessary the attendance of all the owners to the Meeting in person or represented.



Therefore, in the lights of the previous survey done by e-mail, these changes should not be carried out without a unanimous agreement.

Please find below the areas included in the proposal of STV to be modified and which are General Community Areas.

- a. It is the boulevard located in phase 3 which is in the picture below. This area is located in residential area.



- b. Playgrounds in phase 3 and phase 5 both located in residential area. The action to be taken is to add more soil to the areas which would not be counterproductive as they are placed in residential area and the Community is responsible for them.

D. Area 4: Private areas.

In case that the zones of modification are private, the Community needs permission in writing signed by the legal representative of the company owner of the zone.

As it would be a budgetary decision about zones belonging to the Private Complex, the adoption of an agreement would need simple majority of the Committee of the General Community.



Otherwise, any action could be considered as illegal.

Please find below the areas included in the proposal of STV to be modified and which are Private Areas.

- a. Area where the supermarket used to be. Although part of the area is private and owned by IRM, based on the zoning map there is also part of this area which belongs to the Community (Area 3).





III. CONCLUSIONS

Area 1: Town Hall area & Area 2: Town Hall Areas affected by the Contentious Administrative Process.

For the modification of these zones, it is necessary to call an Extraordinary General Assembly of the EUCC. In order to carry out the modifications included in the report of the Contentious Administrative process (*recurso contencioso administrativo*) and, and after the advice of the Lawyer of the Community, Professor Santiago González Varas, it would be necessary to get a first instance Court Rule.

For the approval, the proposal should be ratified by a majority of 2/3.

Area 3: General Community areas.

For the modification of these zones, it is necessary to call a General Meeting of all the Sub-communities as well as for the General Community. In such meeting and affecting the Bye – Laws of the General Community, the approval needs to be ratified by unanimity.

Area 4: Private areas

In case that the zones of modification are private, the Community needs permission in writing signed by the legal representative of the company owner of the zone.

As it would be a budgetary decision about zones belonging to the Private Complex, the adoption of an agreement would need simple majority of the Committee of the General Community

This is our opinion based on Law, which we gladly leave to a higher opinion.

Should you require further information, please do not hesitate to contact us.

RESORTALIA SLP.