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# Homeowners' associations – a new framework for housing in Lithuania

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## Abstract

The vast privatisation of Lithuanian housing has not been paralleled by the necessary institutional changes. The establishment of Homeowners Associations (HOAs) is an important part of these changes but it is a slow process for various reasons that needs to be accelerated. Furthermore, there is a need to develop the maintenance sector. Currently most maintenance service is carried out by municipality owned care-taking companies in a non-market situation.

## Background

Lithuanian housing has gone through the most rapid and thorough privatisation process of the transition countries of central and eastern Europe and today around 95 per cent of the total housing stock is under private ownership: 92 per cent as individually owned apartments and 3 per cent as privately owned rental houses. The Government and the municipalities are facing structural changes to turn the housing sector into a well functioning market-controlled system. The urban housing stock was designed, administered and maintained according to Soviet norms and the standard of insulation and efficiency of energy installations were not designed according to market prices of energy. Because of these circumstances the new homeowners (HOs) are facing a diversity of problems without any administrative tool to overcome them. This tool is, by governmental laws, foreseen to be the Homeowners Association (HOA). However, the problem is that the two parties who have to implement this concept, the municipalities and the HOs, have not been especially devoted to the idea, and the formation of the associations is a slow process. While this process gradually proceeds the buildings are deteriorating and the costs for future refurbishments are increasing. Furthermore, there are the social and health-related costs of a housing situation where many people live in large-scale areas of concrete panel buildings with often substandard and inhuman out- and indoor environment. Many people feel uneasy and unsure of the future and therefore little or nothing is done to improve the buildings or the relationship among neighbours. This negative circle has to be broken in order to ensure positive development of the Lithuanian housing sector.

## Why associations are needed

There is, among the HOs, a lack of willingness to organise and pay for common activities and measures to improve the buildings. As a result of this many problems arise connected with the common-use premises and equipment (services) such as water supply, sewage stands, distribution boards, lifts, ventilation chambers, heat units, etc. The house structures that are in common use, i.e.

foundation, walls, common balconies and roofs are the main subjects of dispute among the tenants. The roofs of many buildings are in great need of renovation. Flat roofs were mainly used during the Soviet period. The design itself was fallacious and through the lack of advanced technologies only roofing felt and bitumen were used. These materials serve not more than five to six years because of atmospheric action and temperature fluctuations (Simonaitis *et al.*, 1996). Thus flat roofs should be thoroughly renovated or preferably replaced by sloped ones. However, this work is very costly and the preferences for a new roof vary greatly among the HOs depending on how high up in the building their apartment is situated. There is generally a lack of constructive co-operation.

To take a loan to rehabilitate a building requires a legal entity to be in charge of the building, and for multi-flat-buildings, the only legal entity is the HOA. According to the draft law on HOAs it will also be possible for HOs to sign an "agreement on joint activities". This is an alternative to creating a HOA, because according to the Constitution of Lithuania, it is not legal to force people into membership of associations. Loan-taking, however, seems for many people too frightening or risky to be considered. There is a mistrust mainly towards banks and the interest rate but consultants and contractors are also sometimes met with mistrust (Danish Ministry of Housing and Building, 1997). The mistrust is not without foundation. Many people have lost savings due to banks crashing and furthermore costs of housing were to a great extent hidden during the Soviet period. People are thus not used to calculating these costs and are overwhelmed by ever-increasing prices. They find it hard to believe consultants when informed about the renovation needed and what it will cost because it is often beyond their price level and because they generally compare these costs with the present level of no activity. There has been a gradual change of attitudes during the past two years and this change is set to continue (Mikkelsen, 1998).

### **The law on the associations of multi-family apartment building owners**

On the basis of the above mentioned problems there is a need for an institution in which HOs can organise themselves, settle disputes and plan for the maintenance of the housing

block. The legal framework for this institution is the "law on the associations of multi-family apartment building owners". The first version of this law was adopted in February 1995.

The main implications of the law are:

- The association is given the status of a legal person.
- The provision of a structure for the responsibilities and rights of the HOs.
- An outline of the democratic procedures of decision making in the HOA.
- Division of the common property into property shares related to size of premises owned by each member. These shares will thereafter be a permanent part of each apartment and cannot be apportioned from it.
- The obligation of the municipality to assign to the association a plot of land around the building and the responsibility of the association to take care of it.

This first version has now been revised and there is a new draft version (Lithuanian Government, 1998) which is foreseen to be adopted by the Seimas (Lithuanian parliament) this year. The primary new implication of the revised draft law on HOAs is a stronger emphasis on the municipal duties to initiate the formation of HOAs and to assist the HOs in the process that follows. The municipalities, according to the draft, also have to nominate a provisional administrator for each building where there has not been established a HOA or an agreement on joint activities. The administrator duties include: organising maintenance, planning for renovations, controlling how the HOs carry out their duties with respect to laws and regulations and also providing organisational support for the establishment of HOAs.

The problem with the former law on HOAs was that it did not give the municipalities or the HOs any direct obligations or time limits to create HOAs and it did not give any strong incentives to do so. With respect to this intention, no real changes occur in the draft law. The statements about what the HOs and municipalities should do are still too vague and do not significantly alter the obligations of the parties, and therefore, in my opinion, it will not be the final solution.

The law on HOAs offers a solution to the administrative problems in the housing sector, but the changes that go along with it are still problematic. The HOs are not used to acting

in accordance with this kind of responsibility. Some are very reluctant to establish a HOA, because it will drag them into expenses due to a perhaps higher level of maintenance, refurbishment projects, organisational problems and difficult procedures, e.g. tax accounting. Therefore, it somehow seems too attractive to continue the municipal maintenance service, however bad it is.

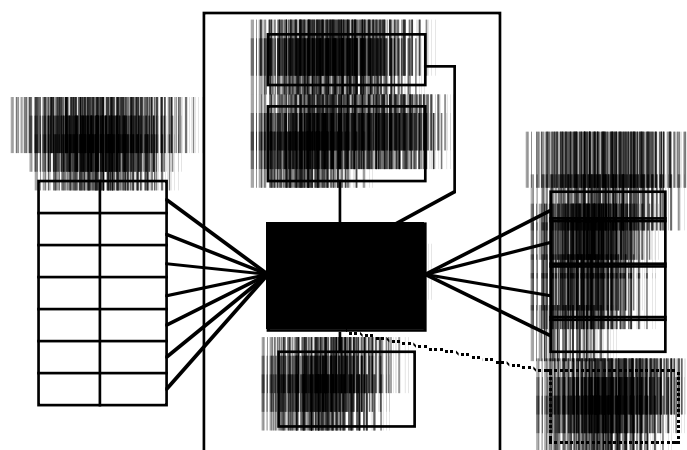
On average (in 1998) around 10 to 15 per cent of the multi-family houses in cities and towns of Lithuania have established a HOA (600 in Vilnius, 400 in Kaunas, 200 in Klaipeda). Most of these are former co-operatives, where there is a larger incentive for the creation of a HOA because these buildings were not in the municipal system of administration during the Soviet period. Some of these former co-operatives, now HOAs, consist of many buildings and up to 2,000 apartments. This is not a good solution because it makes a democratic decision process very hard and furthermore it blocks the possibility for single buildings to decide on, for example, a higher level of care or a refurbishment. Therefore, the recommendation from the Ministry of Construction and Urban Development to these big associations is to divide them into associations on a building level (Mikkelsen, 1998).

### Model of the present housing system

The rapid, massive privatisation of housing in Lithuania has not been paralleled by a similar privatisation of the support and service system needed for privately owned housing. In practice the old structure of district-based, city owned, maintenance companies are still operating as the only effective support system for the privatised housing. Today there is most often no direct contact between the utility suppliers and the consumers of the utilities. The municipal maintenance companies lie as buffers between the suppliers and the consumers and thus hinder direct legal and financial contact (see Figure 1).

If bills for utilities are not paid the municipality has to cover the deficit and the municipality has to take judicial action against non-payers, which is a procedure that is not working very well at the present time. As long as the municipal companies are in charge of the buildings the HOs can complain about the situation without having to accept any responsibility themselves. This is very much a

Figure 1 The present administration system of housing



picture of the present situation because only a small number of HOs are organised into HOAs and because there is not yet many private administration/maintenance companies.

The municipal maintenance companies are generally in a very bad state. This is despite the fact that some rationalisation has been tried (i.e. reorganisation into joint stock companies mainly owned by the municipalities). As in the Soviet period, they are in charge of billing common utilities on behalf of the utility companies, maintenance, cleaning, administration, etc. The job is the same, staff are the same or a little fewer, but the money is less, and no services are subsidised by the municipality. So the municipal companies must require payments in advance, to be sure to have the money needed for planned activities. On the other hand, people are reluctant to pay for commodities they have not used and often it ends up with no action at all. In a HOA a majority of the HOs can decide on changes no matter what objections a few people in the building might have.

### Model of a future housing system

A currently ongoing project, the Energy Efficiency Housing Project (EEHP) aims at the promotion of private initiative in the housing sector of Lithuania. The project was initiated by the Government of Lithuania and the World Bank and it involves among its participants: the Housing Credit Foundation, the Ministry of Finance, the HOs and HOAs and a group of foreign consulting firms which are assisting in the implementation process. The idea of the project is to attack the problems of the housing sector with a wide range of project components, such as development

of the banking sector, training of energy consultants, institutional changes in municipalities and the creation of advisory centres for HOAs. The objective is to help to implement structural changes at different levels of the housing sector and to distribute loans to HOAs to improve the energy efficiency of their buildings. In connection with the (EEHP) a new model for the administration of the housing sector has been suggested (see Figure 2). The model can be pictured as a system with the HOA in the centre and other relevant institutions arranged as support around it.

In the model there are three main points which are given special attention:

- Private owners/owners associations should have full, unlimited responsibility for their property.
- The private sector is responsible for all services on management, repair and renovation offered to privately owned housing.
- The city should only be responsible for management, repair and renovation of its own fully-owned housing stock. This means that for city-owned flats in multi-flat

buildings the city should only exercise its ordinary ownership rights and obligations.

The new model ensures that the private parties in the housing market have direct relationships with legally binding contracts for their co-operation and that contracts, prices for services etc. are settled between independent parties. Each party will be legally responsible, can sue and be sued in courts. The model will also ensure that the municipalities or the companies owned by them can no longer be blamed for mistakes and failures in the private housing sector.

## Conclusions

The establishment of HOAs is the current Lithuanian policy on the future administration system of the housing sector. The process is, however, too slow and cannot be foreseen to accelerate until two major changes have been made. The first is to give the HOAs more incentives to establish the HOAs and the second is to develop further the municipality owned maintenance companies into market-led entities. This will enable the establishment of a direct contact between the consumers of housing and the producers of services and utilities. The importance of these and other changes of the housing sector cannot be underestimated, for there are few things as significant to the welfare of people's daily life as their housing situation.

## References

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Figure 2 A future model of the housing system (OPUS Bergen AS, 1997)

