

**February 1, 2017**

## **Creation of HOA**

This communication is written in an informal manner with the idea of shedding some light and explanations concerning the most important issues relative to the subject matter, in preparation to the Owner Meetings programmed to be held this year of 2017.

We will be answering questions relative to the HOA Association, we will explain how the real estate property in condominium regimes and sub-regimes were created, and we will explain how the association has operated since its creation and how it will operate in the immediate future.

It is important to bear in mind that it is almost impossible to believe that an association will be 100% functional from day one.

Tao is a project composed of 400 units, divided into:

- 1 master condominium,
- 3 phases
- 16 sub-condominiums

Such condominiums and sub-condominiums joined the project at different times, and it is expected that the project will be totally completed in approximately two years. The point I wish to stress is that to this date:

### **The HOA Condominium Owners Association remains a project still under construction**

The largest part of the Tao development was marketed during a pre-sale period, that is, before any units or buildings had come into existence, everything was done based on the master regime and afterwards it was divided into the three phases which compose Tao today. It is that derived from these phases the sub-condominiums came into existence.

Due to technical and regulatory reasons, it is much better to create a sub-condominium once construction works have been completed. That is the ideal stage for complying with all requisites of law and to have the real estate property in condominium regime authorized. Usually, it takes between six months and two years to obtain the legal incorporation of the regime. Time depends greatly on the work load of that the government office that will grant the authorization may have.

Once the condominium regime of each sub-condominium has been created, each sub-condominium will be integrated to the Condominium Association (HOA), in accordance with the condominium law in force in the state.

What happens in between the delivery of the units and the authorization of the sub-regimes, is a period during which we come up with totally built and delivered units, and other units still under construction and condominium sub-regimes not yet completed. This is the stage at which the Developer takes over the administration under the umbrella of the Master Regime, waiting for the

right moment to make delivery to the owners as soon as the condominium sub-regimes of the total Project have been created.

Maintenance services - security, watering, gardening, maintenance of equipment and swimming pools, and cleaning - are provided as of the very first moment the first owner takes possession of his or her unit, along with the necessary personnel, equipment and maintenance required to provide complete and efficient services to the occupants and common areas.

The initial purchase and sale agreement which all owners execute, contains a clause that tells us that starting on the date the unit is delivered, the owner or property holder is responsible for payment of maintenance costs of the common areas associated to his or her unit in accordance with the Annual Budget submitted by the Developer, and of the amount of the same is fixed. Fees are not determined precisely on the *Indiviso*, because as you may well remember, the sub-regime is still under construction, and *Indivisos* keep changing in line with the integration of new areas and units.

At this point the first Expense Budget is prepared based on the needs existing at that time, and an initial FEE is determined but it is not necessarily the final FEE, because the *Indivisos* of the total number of units is not yet available for purposes of calculating the condominal fee. This is the reason why we call it Maintenance QUOTA, and it may vary every year, based on existing needs, given that the condominium owner is constantly growing in terms of private and common areas and this implies different costs.

#### **What structure does the Tao Condominium have?**

Tao is a mixed condominium, that is, it is composed of both vertical and horizontal units. Tao was planned according to phases and such phases have independent condominiums or sub-condominiums. Simultaneously, Tao belongs to the Master Regime of Bahía Príncipe, which is also a Master Condominium.

The first requisite required for the organization of a HOA is, first, to organize the Master Regime. And organization starts when the marketing process begins. After that, in 2015, we began receiving the authorizations for the creation of the Regime, that is, for Phases 1 and 2 and the sub-condominiums that compose them. At this point we come into possession of all the documents which are necessary to summon a meeting for the mentioned phases to be held in February 2017.

Phase 3 is in process. We expect it to be ready by the first half of 2017.

To December 2016, we have more than 55 deed units, and others of Phase 1 and 2 are still in the recording process.

At this stage we are in a position to integrate the owners of Phase 1, Phase 2 and sub-condominiums, and consequently to form the Board of Directors of the Association of Condominiums (HOA).

Up until now, the Tao Developer has provided administrative services as well as all necessary infrastructures for the integration-creation of the Association (accountants, designers, counselors, systems, etc.)

Similarly, we have been building up the administrative foundation of HOA, given that it is a complex accounting, administrative, fiscal, legal and operational process, and starting this year (2017), HOA will create its own infrastructure in line with the growing and changing needs of condominium owners, notwithstanding that it will benefit from the external support of the Developer on several of the mentioned fields.

### **What is the purpose of holding meetings in year 2017?**

Meetings are key elements, because as soon as the regimes relative to Phase 1 and Phase 2 are ready, the owners will be automatically entitled to vote with respect to all the issues pertaining to their sub-condominium, and to appoint a Surveillance Committee as well as a representative for the phase to which they belong and thus they may be represented in the Master Condominium.

For purposes of the statements made in the preceding paragraph, it is not necessary to have the deeds, given that the owners who are in legal possession of their unit and who are up-to-date in financing payments and maintenance FEES will be entitled to vote and therefore decide regarding different issues of their sub-condominium.

### **Example:**

#### **Zen Building**

- Zen will summon meetings with respect to its 24 units once a year,
- Zen will analyze the Annual Budget of the Master Condominium;
- Zen will appoint its Surveillance Committee and its Chairman;
- Zen will request its Chairman to represent its building at the Phase 2 Meeting. At this meeting they will appoint a Chairman for the whole phase and such Chairman will represent them at Master Condominium Meetings.

### **Example through a specific situation:**

An owner of Sub-Condominium QI Would not be entitled to vote with respect to any matters involving Condominium Zen. Both are identical buildings and they belong to the Tao Master Condominium; however, they are independent in accordance with the regime and the law. That is, should the Zen elevator require major repairs, the occupants of Zen would be solely and directly responsible for the cost of such repair, but not so the owners of the Tao Master Condominium.

## **What is the Tao Master Condominium?**

It is the initial condominium regime which represented the totality, 100% of the Tao Project. The Tao Master Condominium made it possible to commercialize the other units of the Project. This gave rise to the appearance and creation of the phases and sub-condominiums. Each one of these phases is independent and has its own condominium regime. In the end, the Master Condominium keeps for itself only the general common areas, approach roads, roads, median strips, swimming pools, drinking water system, garbage collection shafts, office, etc.

Tao Master Condominium is in fact the general administrator, it supervises that rules are observed and it also summons meetings. In turn it must incorporate itself as a moral person which requires the creation of a civil association that will become the administrator of the regime.

The Civil Association must register itself with the Office of the Treasury, and thus it becomes entitled to open a checking account on behalf of the Civil Association. This last step means improving control, management and allocation of maintenance FEES.

The Civil Association will be in charge of collecting Maintenance FEES, to keep and carry the maintenance and administration funds, to execute the decisions of the meetings, and to carry out any action relative to the administration and conservation the condominium may require.

## **Asociación de Condóminos Tao A.C.**

It would be extremely difficult or virtually impossible to organize a community like Tao if each sub-condominium or building would have its own independent administrator. It is for this reason that all the sub-condominiums merge with the Master Condominium and organize themselves by means of a Board of Directors which elects one of its members as the representative who will represent each Phase at Master Condominium Meetings, and at which he/she will have authority to speak and to vote.

The Budget of the Master Condominium is calculated based on the expenses of the common areas. The services provided to the entire community are budgeted – like security, swimming pools, machine rooms, water systems, electricity, roads, administration, maintenance, repairs, etc.

The sub-condominium Budget includes exclusively the expenses of that specific property, that is, elevator maintenance, cleaning of its common areas, electricity for common areas, supplies, materials, repairs, painting, waterproofing, etc., solely as pertains to that building or sub-condominium.

The Budget for the Bahía Master Condominium is calculated based on the general budget of the Bahía Príncipe Complex. Through our contributions or *Indiviso* we share in the expenses of the entire complex – security, main highways, approach roads, lighting, gardening, signposting, administration, garbage collection, etc.

## **Common Areas and Private Areas**

In accordance with the condominium regime, there are common and private areas. In the case of sub-condominiums, given that they are mixed condominiums – because they have horizontal and vertical properties – it is necessary to define very clearly the concept of common and private areas.

## **Town Homes and Residences**

All of them are considered private areas – facades, roofs, and yards, parking – and for this reason maintenance of such areas will be the sole responsibility of the owners. The foregoing includes waterproofing, painting and other expenses.

## **Buildings**

The roofs, facades, stairs, elevators, electricity charge spaces, parking, corridors, internal roads, gas tanks, etc., are defined as common areas and therefore maintenance costs will be divided among the owners.

The unit's balconies are considered private areas and as such maintenance will be for the sole account of the corresponding owner.

**Note:** Drinking water piping and gas lines are considered common areas up to the point they reach the meters, from the meters to the units they become private areas.

## **Master Condominium**

The entire facilities of the Master Condominium are considered common areas. This implies that costs will be divided in accordance with the size of each unit. Such common areas would be roads, lightning, garden watering, machine rooms, water softeners, water tanks, electricity transformers, pumping systems, swimming pools, barbecue areas, administrative offices, security shafts, video security systems, furnishings and equipment, tools, etc.

## **What are our plans for this first Sub-Condominium Meeting, Phase and Master?**

The idea is to convey an administrative and legal structure to the Condominium Owners Association, in accordance with the provisions of the Condominium Law for the State of Quintana Roo.

- Summon the meeting in accordance with the terms of law,
- Ratify the appointment of the Master Condominium Administrator,
- Approve the condominium's general Expense Budget
- Establish a reserve fund,
- Approve QUOTAS
- Appoint a Surveillance Committee for each sub-condominium, phase and Master,
- Appoint a representative for each phase for his/her participation in the Board of Directors of the Master Condominium.

General and individual maintenance issues of the common areas will not be contemplated at this meeting given the relevance of electing the Surveillance Committees. Once the same are elected we will listen to requests and initiatives of such nature. Then they will be duly analyzed, settled, followed-up, etc., but not until the committees have been installed.

### **Tao Maintenance**

It is well known by all those who have been living in this area long enough, that climate conditions call for a more exhaustive and constant maintenance, both of equipment as of the residential units directly.

For this reason it is essential that the maintenance operations contemplate the lifespan of equipment and the conditions of the environment. That will permit elaborating a preventive and remedial maintenance budget.

### **Challenges we face in terms of maintenance:**

As a result of climate conditions, we must work hard to fight the proliferation of fungi and moss on walls, bearing in mind the high costs of painting, that there will be a lot of rusting, humidity on the rooftops and walls, and that equipment will need frequent maintenance.

- Weather: hot and humid
- Relative annual humidity: 84%
- Rainfall: 1,300 mm per year.
- Average annual temperature: 26° C

Due to the characteristics of the region's soils (the layer of soil is practically inexistent, everything rests on permeable (porous) sedimentary, limestone bedrocks) there is a constant need for soil and fertilizers to keep the plants alive, because the soil is lost on top of permeable limestone bedrocks.

The region's wildlife (mosquitos, insects, bats, mammals), droppings require constant cleaning and paint work. Fumigation costs are permanent.

The water hardness in the region (total hardness 932 mg/L (+432 mg/L), total dissolved solids, 476.50 mg/L (+76 mg/L) and sulphates 1,274 mg/L (274 mg), calls for a high contingent in preventive maintenance to piping, water systems, network pressure, and deserves a follow up program with respect to the filtering and pumping equipment.

Due to all the above-listed heavy-weight reasons, it is of utmost importance to give high consideration to this situation, because in order to maintain the condominium and your property in prime condition, preventive and corrective maintenance to all the machinery is a must throughout the year.

## **Association, Developer and Guarantees**

Maintenance FEES are at the heart of our operation. Making punctual payments is the only manner to keep up continuity and make an adequate planning of the services of the Association. We have faced cases where the owners, due to several circumstances foreign to the Association, withhold payment of their monthly obligations, thus generating a problem for the entire community.

Therefore, it is very important that we separate the Association of Condominium Owners from situations foreign to the maintenance of common areas, security and fee administration.

Concerning guarantee situations, these must be directly addressed to the Developer's guarantee office.

The Association does not provide any sort of maintenance or guarantee to private areas, and the Maintenance FEE is separate and independent from any other process of pending guarantee.

## **FEES and commissions**

The use of bank systems for the receipt of Maintenance FEES through credit cards generates a commission, which as you know, is 100% for the bank. HOA is involved in international transactions. Several institutions participate in the process – issuing bank, credit institutions, funds receiving banks, etc. This process implies costs which must be borne by the user, since obviously they are not contemplated in the Budget.

There is only one manner to avoid the aforementioned costs: making payment through a Mexican bank to our account with a Mexican bank, by means of an electronic transfer.

Most of the collection problems we have had to deal with arise when in the credit card payment process a fraud notice is issued thus preventing approval of the transaction. This is normal for the vast majority when payments are sent to a foreign country. To play on the safe side, it will be necessary to call your bank requesting it to approve the transaction that you intend to carry out, so it won't be rejected by the safety filters that all credit cards have to go through.

## **Casandra System**

We are working on the implementation of a system known as Casandra. We have had some delays but we are almost ready. We request your support once again. All you have to do is take a few minutes to register and become familiar with the system.

If your first payment is not authorized, it will be necessary that you notify your bank explaining that you will be making a payment through the Casandra System on a monthly basis to cover Maintenance FEES with respect to a property. Or else you can notify your bank in advance.

It is very important that you do this and seek our support whenever necessary, to avoid delaying monthly payments. In addition, as you know, delays are subject to payment of Delinquent Interests.

Needless to say, we are constantly watchful of all your needs and ready to help you in any possible way.

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I sincerely hope this communication has succeeded in giving you a better and clearer understanding of the situation.

With best regards,

**Ricardo Maya**

**HOA Manager**

This is not a legal document. It contains the views and analysis of Tao Condominium prepared by the undersigned.