

SOCIAL, ECONOMIC AND LEGAL PROBLEMS OF HOUSING MANAGEMENT IN LATVIA

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Abstract. Residential house management sector affects society as a whole: starting with the state level and ending with the individual. Since Latvia gained its independence, the residential house management has evolved chaotically. Residential house management comprises not only an economic content, housing and its management has also a social character. Residential house management was and will always be actual as it affects basic needs of citizens. The services connected to residential house management, including public utilities, are of the basic necessity, which has to be accessible to all levels of society. The facility management price and residential house maintenance costs are the most significant factors in the choice of the form of facility management and manager's appointment. The subject of the research is residential house management, factors influencing it and the choice of economically useful management type, but the object of the research is social, economical and legal aspects of housing management in Latvia.

Keywords: residential house, residential house maintenance costs, management of a residential house, pricing, law and regulation.

Jel classification: M21, P22, P48, K11

1. Introduction

Residential house management sector influences all levels of the society, starting from the state and ending with the individuals, and it does not only have economic features, but the housing and its management has also a social character.

Since Latvia gained its independence, the residential house management has evolved chaotically. Taking into account the fact that during the Soviet times, there was no ownership of the apartment, and then quickly offering apartments to a planned privatization, in the society there did not develop an understanding and responsibility for the property, especially for the property in multi-storey apartment buildings. Similarly, the understanding of the property ownership did not facilitate the transfer of the ownership rights of residential property using privatization certificates, without explaining the potential owner the burden of responsibility of having the property in the ownership.

Since the beginning of the privatization and due to the current economic situation in Latvia, in society the discussion on housing management issues and problems has become a topical issue. The State wants to implement the residential building insulation program using the European Union funds, while the apartment owners in Latvia are still not sure about making such decisions having different reasons for such doubts.

Consequently, due to the apartment privatization, the responsibility for maintenance of residential buildings has shifted to apartment owners, but the apartment owner understanding regarding the property maintenance is still low. There is a lack of experience of the apartment owner in order to perform their duties and to carry out reasonable actions (Kučinskis 2006).

After 15 years, Latvia is now moving towards the professional facility management that is evidenced by a number of significant laws and regulations determining the provisions of administration and management of residential houses which have been adopted during the last two years. The Law “On Residential House Management” (hereinafter referred to as the Facility Management Law) has entered into force as of 1 January 2010, but in some cases the provisions of this law have not been observed in the practice and non-compliance with the laws and regulations create problems for the companies operating in the sector. Cabinet Regulations of 28 September 2010 are adopted as a supplement to the Facility Management Law. A new Law “On Residential Property”, which I think is more updated and which more clearly defines the rights of apartment owners, their duties and responsibilities, has entered into force as of 1 January 2011 and substitute the previous law with a similar title. Currently the biggest challenges referring to the facility manager activities are low solvency of the property owners and

the gaps still existing in current legislation (On Residential Properties: Law of the Republic of Latvia 2010).

The aim of the study is the assessment of legal and economic aspects in residential house management.

To achieve the set aim the following research objectives are addressed:

- The importance of facility management service is determined;
- Types of the residential house management are determined;
- The factors influencing development of facility management expenses and management price are indicated.

2. The importance of facility management service and different types of residential house management

2.1. The importance of facility management service

Historically, till the development of the Facility Management Law, its adoption and entry into force, in the legislation of the Republic of Latvia two terms “facility administration” and “facility management” existed alongside and none of the laws or regulations explained them in precise and accurate manner.

From grammatical translation of the above-mentioned provisions of the law it can be understood that it is possible to separate the administration from the management, and the facility administrator from the manager not determining responsibilities of any of them.

Since 1 January 2010 the Residential House Management Law in which the legislator has withdrawn the term “administration” and has retained the term “management” has entered into force. Defining the terms used in the Law, the definition for the term “administration” is not provided.

In the comments of Oša, I., Auders M., Krauze I. 2010. *Facility Management of Residential Houses* is given the following explanation: “... in reality the problems with the understanding and interpretation of the concept of “residential house administration” and “residential house management can arise due to the fact that in the law the definitions of those terms are not provided. It should be noted that in the initial version of the Residential House Management Law, which was handed in to Saeima by the Cabinet of Ministers, the afore-mentioned terms were explained (Oša *et al.* 2010).

Namely, the residential house administration was defined as the set of activities required for residential house maintenance and preservation for

the use in a condition necessary for the use of the house and the maintenance of the land that is functionally necessary for ensuring the use of this property in accordance with the determined goal. While, the definite of the residential house management was the following – package of technical measures by using which the decisions made during the residential house management process are implemented in order to ensure maintenance and preservation of the functionally necessary land and the residential building. However, in further examination of the draft of the Law, the legislature refused from the explanation of these terms. Therefore, now the term “residential house management”, within the scope of this Law, includes the meaning of the term “residential house administration” (Puķīte 2010).

Section 4 of the Residential House Management Law determines the following 5 principles for the administration of a residential house:

- 1) the continuity of the administrative process shall ensure the preservation of the properties of use (quality) of the residential house throughout the period of exploitation thereof;
- 2) the selection of as optimal administrative work methods as possible, including the formation of optimal administrative costs of the residential house, in relation to the solvency of the owner of the residential house;
- 3) the content and quality of the provided services shall ensure the preservation of the properties of use (quality) of the residential house throughout the period of exploitation thereof;
- 4) the preclusion of invasion of the safety or health of an individual during the administrative process;
- 5) provision of the preservation and improvement of the surrounding environment during the administrative process (Law on Residential House Management 2010).

In turn, Section 6 of the Residential House Management Law lists the activities, which include the concept of residential house administration. First of all dividing these activities as follows:

- mandatory administrative activities;
- other administrative activities.

The mandatory administrative activities shall be as follows: the maintenance (physical preservation) of the residential house in accordance with the requirements of regulatory enactments, the sanitary servicing of the residential house, the provision of heating, cold water and sewerage, as well as removal of household waste; the inspection, technical servicing and current repairs of the residential house, the facilities and communications located therein. The provision of the requirements

set out for the residential house as an environmental object and the provision of the fulfilment of the minimal energy efficiency requirements set out for the residential house as well as the planning, organisation and supervision of administrative work, including the preparation of an administrative work plan, including a plan of measures necessary for the maintenance, the preparation of the relevant annual draft budget, and the organisation of financial accounting are included in the mandatory administrative activities. Keeping of the file of the residential house (hereinafter referred to as the house file), entering into a contract with the owner of the land parcel regarding the use of the land attached to a residential house and the provision of information to the State and local government institutions are also considered to be mandatory administrative activities.

Other administrative activities, within the scope of the Residential House Management Law, shall be activities, which are related to the administration of the residential house and are performed in accordance with the will and solvency of the residential house owner and which shall include the activities related to the improvement and development of the residential house and the preparation of a long-term plan of measures required for this purpose.

Any real estate property is a unique property and there cannot be two identical houses found. Due to the uniqueness of the real estate property, it is difficult to apply universal service “basket” to any residential house.

In practice, it is very important to define and identify what are the service components, their regularity, job descriptions, etc. and, consequently, what expenses are included in the Administration Contract and residential house maintenance plan - the estimate, and what emergency measures for residential house maintenance and quality assurance will be provided for additional cost, especially if the apartment owners do not have savings fund or the residential house reserve fund.

2.2. Types of the Residential House Management

The job of the property manager is to maintain the owner’s investment to ensure it is making a profit.

Apartment owners have only two options either to manage the residential property themselves or assign the management of this property to another person – manager.

Residential property management companies oversee all types of real estate, including homes, apartments, and mobile homes. A property manager provides duties on behalf of the property

owner. The properties they manage are residential income producing investments.

The facility manager can be either the founded community of apartment owners - in any form permitted by the law of the Republic of Latvia - a Joint Stock Company or Limited Liability Company and apartment owners’ co-operative society or the apartment owners’ association or other legal or natural person.

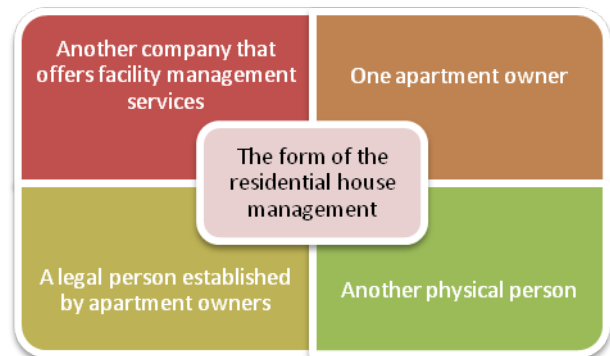


Fig.1. The form of the residential house management in Latvia (Source: Puķīte 2010)

The community of the apartment owners decides upon the form of the residential house management. It can choose either to perform facility management services by itself or assign this task to somebody else entering into a residential house administration contract with him or her in writing:

- with one apartment owner;
- with another physical person;
- with a legal person established by apartment owners;
- with another company that offers facility management services (Puķīte 2010).

3. Expenditure for the Administration of a Residential House and Factors Influencing the Price Formation

In Paragraphs 3 and 4 of Section 10 of the Residential House Management Law it is determined that when assigning administration of a residential house to an administrator the residential house owner has a duty to provide the financing necessary for the fulfilment of this task. Pursuant to Article 2307 of the Civil Law of the Republic of Latvia, an authorizing person (residential house apartment owner) is obliged to compensate the expenses to authorized person because “it cannot be required the authorized person to donate personal financial means to achieve objectives set by other persons” (Apartment Property Law 2010, Civil Law. Part 3. 2010; Rozenfelds 2004; Grūtups and Kalniņš 2002; Comments of Civil Law: Part 4. 1998).



Fig.2. Specific payments for the administration of a residential house (Source: Grūtups, Kalniņš 2002)

Expenditure for the administration of a residential house is determined in Section 7 of the Facility Management Law and they are defined as follows: Expenditure for the administration of a residential house (hereinafter – administrative expenditure) shall be, on the basis of the decision of the residential house owner, specific payments - the expenditure necessary for the mandatory administrative activities - mandatory expense; other expenditure intended for the administrative activities and remuneration for administration of a residential house, if such has been provided for in the residential house administration contract (Cabinet Regulations No. 906. 2010; Cabinet Regulations No. 907. 2010, Grūtups, Kalniņš 2002).

The Residential House Management Law determines that management expenses are expenses that the house owner has decided to shift for the residential house management and maintenance, and management costs are split into 3 parts. To specify, the facility manager's administrative expenses shall be added to the mandatory expenses and other expenses related to residential building management. While the remuneration for the facility management is counted as the administrator's profit (Law of Cooperative Societies 2010; Tunte 2010).

The obligation of the apartment owner to pay the management expenses is fixed in Paragraph 2 of Section 10 of the Law "On Residential Property". Expenditure for the administration of a residential house (hereinafter – administrative expenditure) shall be, on the basis of the decision of the residential house owner, specific payments (On Residential Properties: Law of the Republic of Latvia 2010).

While the remuneration for the facility management is counted as the administrator's profit.

Pursuant to Section 13 of the Law "On Residential Properties", the following issues for covering the facility management expenses are determined:

1. the expenses of the residential house management are covered in accordance with the deemed share of the existing joint property share;
2. on the basis of the decision made by the community of the apartment owners, the following positions are covered:

- 2.1. expenses regarding mandatory administrative activities;
- 2.2. remuneration to the residential house administrator if such has been provided for in the residential house administration contract;
- 2.3. expenses on other residential building management activities that ensure improvement and development of the residential house, promote the formation of optimal administration expenditure thereof and apply to:

- the changing of elements, installations or communications, which are in the joint property of the residential house, if due to this change the maintenance costs of the house are reduced;
- measures, which result in reduction of expenditure for services related to the use of the residential property (On Residential Properties: Law of the Republic of Latvia 2010, Cabinet Regulations No.1014. 2010).

The term *price* in the literature (Krugman, Wells 2009; Nešpors 2010; Vanags 2010; Disney, Gathergood 2011; Jaccard 2011) has different definitions.

Price is the monetary value of the product, the consumer cost of the consumer benefit gained as a result of the product use.

The price is the exchange value expressed in money, the outcome of the consensus reached by the goods (service) buyer and the seller.

Pricing (price formation) is the set of pricing factors, principles, methods and calculations (Dictionary 1978). The pricing factors are divided into internal and external ones. In general, the price should not be lower than the costs are, nor higher than the amount to which there is no request for the product or service. Any price in between is acceptable. Price setting principles depend on the objectives of the company. In terms of price, three key areas of the goals are distinguished:

- Maximum profitability – ratio of the profit versus turnover - income or invested capital;
- Maximum sales – revenue increase, sometimes gaining of the market share and maintaining it;
- Social, ethical, good impression or inflation concerns. It is not a typical goal for the entre-

preneurship, but looking at the apartment owners choice to manage the property by themselves or by the association of apartment owners this turns to be the main objective (Joma *et al.* 1999; Apartment Owner's Manual 2004; Nešpors 2010).

Cost is the product price floor, as the company has to bear all production costs, distribution and sales expenses and there is only one source to cover them - the product sales at fixed prices. Production and sales costs can be broken into fixed costs and variable costs.

There are the following internal factors of price formation to be taken into consideration. Price is an outcome of the agreement made between the product buyer and seller. The seller for his product wants to receive the highest possible price while the buyer wants to pay the lowest possible price for the same product. As a result of this deal, the mutually acceptable price is determined. Although the buyer's decision to buy a product is influenced by many external factors, the price is one of the most important elements that indicate the product market share and profitability. Therefore, during development of the pricing concept not only the company's internal factors but also external ones should taken into account. According to the competition criterion the price offered by the seller and the buyer depends largely on the type of market (Joma *et al.* 1999; Apartment Owner's Manual 2004; Praude 2004).

Currently, in the facility management sector of Latvia there is a monopolistic competition. However, there is also a complete monopoly in sector for providers of utility services that, at the inflation conditions, make increase in prices and decrease in the production volumes. As mainly utility services in Latvia are provided by monopolies or companies that are dominant in the region or city, the complete monopoly of the market directly refers to the residential house administration and management. Alike, the private companies operating in the facility management sector have to compete with large companies, which are municipal corporations that offer to apartment owners the stability, not taking into account the payments of the apartment owners, i.e., continuity of the utility services, that sometimes cannot be offered by apartment owners association or a private entity which operates as a house manager (Apartment Owner's Manual 2003; Apartment Owner's Manual 2004).

Price is calculated by using the following methods (Vanags, Geipele 2005; Ruskule *et al.* 2006; Vanags 2007):

1. Cost-based pricing:

Method "cost + profit" in which the price is set by calculating the cost of producing the product and

adding a profit to that price as mark-up. The profit is expressed either in the amount of money or a percentage of the costs. This method is used if the production requires a relatively long time and the product or service is substandard. This method is applied if the production requires a relatively long time and the product or service is non-standard.

Method "average cost plus a mark-up" is similar to the previous one, only the profit margin remains relatively stable for each product group or even individual product. This method is used in trade.

2. Market orientated pricing:

Price differentiation or discrimination means that a different price is set for the same product in different market segments depending on the type of the consumer, time and place of making a purchase, etc. This method can be applied only after thorough research of market segmentation (for instance, differentiated tariffs for electricity).

Penetration pricing is the pricing technique in which the price is set depending on the buyer's rating. This method is used in developing and introducing new products on the market.

3. Competitor- based pricing:

Proportional pricing means that the prices in a particular sector are set by a leading company. Other companies, in terms of price calculation, follow the strategy of the leading one, regardless of their expenses or demand. This method is used when there is difficulty in determining the exact cost (paper making, chemical industry, etc.).

Expected profit approach determines such price level at which the profit on the combination with the highest profitability of that profit would be high enough. This method is used when the company participates in a bid or struggles for an order (Nešpors 2010).

Looking at the pricing methodology as well as taking into consideration the specifics of the residential house management service and recalling the provisions of the afore discussed laws and regulations that specify how to calculate the expenditure of the provided facility management service, the method of "cost + profit", in which the price is influenced by the following factors:

- Manufacturer's cost - the desired profit;
- Demand;
- Competitors;
- National policy,

is considered to be the most appropriate of all of the above-discussed ones.

In general, the choice of facility management pricing method is determined by the following factors:

- the service price is calculated taking into account all costs (expenditure);
- to achieve results and improve the overall condition of the residential house, the service should be provided in a long-term;
- the service is non-standard, because, as it was previously described by the authors, each house is a unique object, so the service shall be adapted to this specific object.

The chosen method of calculating the price for the afore-mentioned service is also adopted by the Cabinet of Ministers Regulation No. 1014 “Regulations Regarding the Calculation of Payment for the Administration and Management of the Residential House”.

Cabinet Regulation No. 1014. is not binding for the management of the residential houses which have been taken over by the apartment owners for providing these services by themselves but for them it is very useful as a guideline.

In the current economic situation, apartment owners more than ever are interested in the services included in administration and management costs and how the price of administration and management expenditure is formed.

As the income of the apartment owners does not increase, the apartment owners are not ready now to invest in a long-term preservation of a residential building. The residential house administration and management expenditure is expected, as these costs are usually estimated for a period of 1 year. However, the competitors might offer a lower price. Moreover, only the apartment owners are the ones who choose the service provider.

Each activity regarding the maintenance of the residential building is related to the expenditures of the residential house owner, regardless of who is responsible for the provision of these activities. Even the activities performed by the owner are always associated with the expenditure.

The way of providing facility management services does not change if the facility management is fully taken over by the apartment owners themselves or it is outsourced from the professional companies operating in this sector. Due to the costs, the apartment owners have the opportunity to decide in favour of one or the other management model – either to provide managed services by themselves or to transfer this responsibility to the specialist (Kučinskis 2006; Rupkus *et al.* 2007; Puķīte 2010; European Parliament 2011).

Taking into account the method of price formation for the residential house management and the factors, which are present in the industry market in any situation – either, if the residential house is managed by professional administrator or,

if the management is ensured by the apartment owners themselves or officially founded association of apartment owners, the expenses will be similar. The difference between the price set for administration and management services by professional managers and the prices offered by the apartment owners union is in the profit (reward), which the company will count at the present cost. In turn, choosing to provide facility management services by themselves, founding the apartment owner association, the profit is not important. In addition, a professional manager will not be able to compete with the association of apartment owners, if the apartment owners express their will to be engaged in house management activities not asking any remuneration, which is provided by the Law “On Associations and Foundations” of the Republic of Latvia.

To make a decision on a choice either to perform facility management services by themselves or transfer this responsibility to the professional facility manager, it is necessary to consider other criteria that are important for the apartment owners, for example:

- facility administration and management quality;
- control over the revenue and expenditure, and the required repair and maintenance works;
- apartment owners’ will and ability to engage in the management activities of their own house;
- the proportion of active apartment owners living in a house;
- use of modern technologies;
- knowledge and experience of a facility manager;
- materials and technical support;
- attracting additional funding;
- ensurance of facility management in the long term, etc.

Assessing only the price and making the choice only based on the management fee offer, it is a short-sighted decision. When making a decision on the form of a residential house management in the long term, it would be useful for the apartment owners to define the criteria by which to make their choice and decide on the most appropriate form of the residential house management in the long term.

4. Conclusions

Taking into consideration previously analyzed issues and the summary of the afore-mentioned survey results the following conclusions can be drawn up:

Residential house management should be a long-term activity, in which the appointed house manager together with apartment owners can develop a repair or renovation plan for the long term run, providing adequate funding for this reason.

Taking into account the method of price formation for the residential house management and the factors, which are present in the industry market in any situation – either, if the residential house is managed by a professional administrator or, if the management is ensured by the apartment owners themselves or officially founded association of apartment owners, the expenses will be similar. The only difference between the price set for house administration and management services by professional managers and the prices offered by the apartment owners union is in the profit (reward), which the company will definitely count at the present cost.

Choosing to perform facility management services by themselves, founding the apartment owner association, the profit is not important. In addition, a professional manager will not be able to compete with the association of apartment owners, if the apartment owners are willing to be engaged in the house management activities not asking any remuneration, which is provided by the Law “On Associations and Foundations” of the Republic of Latvia (Associations and Foundations Law 2011).

When choosing either to perform the facility management services by themselves or transfer this responsibility to the professional facility manager, apartment owners should consider other criteria that are important for making such decision, for instance; quality of facility administration and management, control over the revenue and expenditure and the necessary repair and maintenance works; apartment owners’ will and ability to engage in the management activities of their own house; proportion of active apartment owners living in a house; application of modern technologies; knowledge and experience of a facility manager; materials and technical support; attracting additional funding and insurance of facility management in the long term, etc.

Assessing only the price and making the choice only based on the management fee offer, it is short-sighted decision. When deciding upon the form of a residential house management in the long term, it would be useful for the apartment owners to define the criteria by which to make their choice and decide on the most appropriate form of the residential house management in the long term.

When entering into a contract with the facility manager, it is very important to define and identify

what are the service components, their regularity, job descriptions, etc. and, consequently, what expenses are included in the Administration Contract and residential house maintenance plan - the estimate, and what emergency measures for residential house maintenance and quality assurance will be provided for additional cost, especially, if the apartment owners do not shift some money to the savings fund or residential house reserve fund.

Taking into account that the Law „On Residential Property” that has entered into force as of 1 January 2010 and in which the issue of making decisions without convening a general meeting is provided, then, for the customer convenience, a modern company can develop and offer to its clients a possibility of electronic voting, providing an opportunity to get acquainted with the draft texts of decisions through the website and then take a vote. Thus, the cost of preparing the draft decision in paper and sending or issuing it to the apartment owner is reduced.

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