



# Abusos Urbanísticos Almanzora No

## Campaigning to safeguard our homes

### Summary of Public Information Meeting, 3<sup>rd</sup> March 2011, Arboleas

This is a best efforts summary of the public meeting to discuss the status of the Arboleas town plan.

**At the table:** Angel Garcia: Mayor of Arboleas, Maura Hillen: President AUAN, Gerardo Vasquez: AUAN Legal advisor, Sally Worthington, Stuart Gorman and Translator.

**The Mayor:** Thank you for coming, I am more than happy to have as many meetings as necessary to sort out the issues. Over the last few months I have had many meetings with AUAN, solicitors and other parties interested in solving the problem. At the last meeting we decided to hold this open, public meeting so you could all participate and ask questions. We want to make you aware of what stages the planning process is at. To begin with I will pass to each person in turn to introduce themselves.

**President of AUAN.** We are a pressure group made up of homeowners with concerns about the status of our homes. We believe in openness and transparency. We believe that you need to make informed decisions about your home. We deal in facts, not rumours. We are grateful to the Mayor for the opportunity for open discussion to find out where we are with the plan.

**Legal advisor to AUAN:** The format of the meeting will be chunks of information from Angel, then questions from us, then general questions. Most people are only concerned with what steps are involved to legalize their home, how long will it take and who will pay. This meeting is an opportunity for the Mayor to give us information. We just want to see advances made to solve the urban problem.

**Sally Worthington:** In professional capacity I have tried to assist people with problems. I also live in Arboleas and am interested to know of any advances in Arboleas.

**Stuart Gorman:** I work for the new helpdesk. The mayor called this meeting to clarify as many situations as possible and outline plans for Arboleas.

### **Presentation from Angel Garcia, the mayor.**

I am going to dispel lies and rumours and provided documentation to support it.

Firstly, let us discuss the status of the town plan: The plans created in 2005 were abandoned and not progressed. The legalization process began in 2009. We are talking about the 2009 plan. The planning system is set out by the Junta and it is the only way to go forward. Arboleas is quite advanced. There are different issues in different districts, but they must all follow the same process. The plan was approved at the council pleno in July and October 2009. The approval of all plans by the town council was completed in October 2009. There was then a period for public consultation and comment. Once that was done, all documents were sent to the Junta, to different departments, to obtain reports confirming that our proposition was correct and could go ahead. Each agency of the Junta de Andalucia (eg. Public Works, Environment or Hydrology) prepares a report on our submission. The various reports, once completed are sent to Seville to the Interdepartmental Commission where all the documentation is consolidated into one single report green-lighting the plan. This report is then returned to Arboleas council who can then grant **Provisional** Approval to the plan via a council plenum. The plan is then sent to Almeria for **Final** approval. At that point of final approval there is a legal change in the status of the land. The final decision is the Junta's, not the Town Halls. If anyone tells you that the Town Hall can sort stuff out more quickly, then they are wrong.

What stage are we at? Los Menchones 1, El Rincon and the lower part of Los Torres 1 are awaiting **final** approval in Almeria. Limaria, Los Torres 2 and La Perla are waiting the **interdepartmental report** from Seville. The remaining areas have thus far received favorable reports from the various departments. Once we are in receipt of the hydrological report, all documents will be sent to Seville.

This is a slow road but it is the only road. A lot of progress has been made in the last few months. With these plans we have set out only to legalise houses that are built and occupied. We have not allowed one more square metre of new building land. That's where we are. More than 95% of the houses with problems are being dealt with. If you do not understand the situation of your house, please come and talk to us.

(The mayor then presented copies of the reports from the Environment Department to AUAN. The reports from Public Works & Planning are already in AUANs possession)

**AUAN President:** I can confirm that the procedure described by the mayor is the one required by law. This process is lengthy and technically complex and usually takes place **before** houses are constructed. The difficult for the homeowners is because the houses were already constructed and they must wait for this lengthy process to be executed. There have been problems with houses constructed without plans, or with unapproved plans. The Junta has dictated the method required to solve it. This procedure has to be followed. We represent homeowners and want to make sure that you understand what is going on. We had initial problems of transparency with Arboleas town hall during the period of public consultation so we exercised our right to see the plans. This situation has

improved considerably. As a result: we now have access to all the plans. I would like to emphasize this is the legal process and must be followed by whichever party rules the town hall. We will now go on to discuss what happens next.

**AUAN Legal Advisor:** Where are the remaining 5% of the houses outside the innovations?

**Mayor of Arboleas:** The 5% correspond to dispersed houses which cannot be included. Also, in La Viña the promoter did not provide cessions for green space etc, therefore this area has not been able to be included in the current plan.

I'm not saying that these houses are not solvable, but not now. They can be included in the General Plan next year, which is a document which sets out planning for the next 20 years.

Once the current plans have been approved we need to draw up an urbanization and parcellisation plan for each area. Then the remaining urbanization works need to be completed. After that the land will be segregated and paperwork will be issued via a legalization project (proyecto de legalizacion). The house and land will then be registered. I have asked an Architect to prepare a document describing this process.

(The mayor then presented a copy of this document to AUAN)

**AUAN President:** We will publish this document on our website. We will provide anything that has been given here. Some files are very large but if anyone needs information you can contact us via our website and we can make arrangements to provide.

The planning documents estimate that it will take a year to produce the urbanization and parcellisation plans and estimate that the execution of the urbanization work (roads, streetlights, pipe work etc) could take 2-3 years. There is lots of work to be done.

In the totality of the plan for Arboleas, much of the housing is on suelo urbano no-consolidado, which means it needs infrastructure in order to be defined as completely urban. The need to provide missing infrastructure obviously implies a cost

The big question is who pays? Bearing in mind that this work is usually carried out before building takes place, the law assigns this responsibility to the landowner.

(A show of hands indicated that over 50% of the audience owned their land)

Our understanding is that the power of the Town Hall is in relation to landowners with respect to enforcing the payment of costs. If the constructor is not the landowner, the town halls power to extract payment from them is limited. Does the Mayor agree with this statement? I would like a definition of the Town Hall's powers in relation to obtaining urbanization costs.

**AUAN Legal Advisor:** Some people think, I'm not the landowner so I won't have to pay the costs of infrastructure. However, this is not a good situation to be in. It is high risk. The land could be embargoed without your knowledge.

The Town Hall will ask the landowner for money. If there is a convenio (legal agreement) with your developer, you can force them to pay.

Our figures estimate the urbanization costs could be between €7-34 per square metre of land held. Our planner indicates that these numbers are inexact and possibly underestimated.

**Mayor:** These estimates aren't exact. In many places infrastructure is more advanced. I respect these calculations, but I don't agree with them. The infrastructure is largely in place. Sewerage pipes, water pipes etc are in place. The Junta pays for sewerage treatment facilities, not the owners. There is a series of towers nearly complete to give access to internet to all. Another cost that can be discounted.

Where Promoters are owners of land, they have to deal with the issues and the costs. I advise you not to hand over any outstanding balances you may be withholding. Some people have convenios with their builders that they will complete the works.

**AUAN President:** I agree that the costs quoted are estimates. But the estimates quoted only refer to the area to be urbanized. Therefore, the costs of items external to the area to be urbanized, such as sewerage treatment is not included in the estimates.

Coming back to who is responsible for these costs.... Based on the previous show of hands it looks like at least half of you own your land. You will therefore be the first port of call for costs.

With reference to agreements with promoters to provide costs.... We can find no evidence of the existence of convenios between the town hall and the promoters. If such agreements existed they would be published on the official Boletins.

**Mayor:** I mean agreements between purchasers and builders. Some people, not all, have them.

**Stuart Gorman:** Many constructors are cash-strapped, are not completing the works, and have no intention of doing so. While building continued, constructors could be encouraged to comply with the "carrot" of further licenses. As all construction is paralysed, what way is there for the Town Hall to oblige them?

**Mayor:** I took office in 2004. We insisted on infrastructure. 1998-2003 is the source of most of these problems. However, I have to find a solution now. Where the developer has, or says he has, no money there is an alternative. They may have property. If they don't provide cash they could provide a guarantee. A bank guarantee.

**AUAN President:** Does the Town Hall have the power in law to enforce this on constructors if they're not landowners?

**Mayor:** If your constructor is out of the picture or doesn't have money, the landowner will be held responsible. It is difficult to go against original promoter in the courts.

**AUAN President:** This is not good news for homeowners. I am trying to make it clear that irrespective of who is in power the Town Hall has limited rights in law to pursue anyone but the landowner.

**AUAN Legal Advisor:** The road is long and many steps remain to be taken. Some areas more advanced than others. It would be wrong for you to go away with the impression that you won't have to pay anything. Who pays for licenses, escrituras, segregation, taxes etc?

**Mayor:** Like any other licence, the person who applies for it pays. Some houses have already paid this. Those that haven't will be required to.

**Sally Worthington:** Previously the Mayor spoke of a proyecto de legalizacion, just the one licence. One of most important documents you need is 1st occupation. If you go via proyecto de legalizacion it will replace all other licenses. It should be paid for by the developers, but you may find yourselves having to contribute. Where there aren't any agreements, people will have to pay. This licence will be cheaper than all the other licenses put together.

**AUAN Legal Advisor:** Let's not be too negative. We are grateful for all this transparency. The Town Hall has been working hard.

**Mayor:** I just want to lay out the truth as it is. There will be a cost in time and money, but there is no other way to go forward. People who may say there is are pulling the wool over your eyes. I'm here with Maura and Gerard so they will corroborate what I am saying; correct me if I'm wrong. This is the only way.

**AUAN Legal Advisor:** My job is to protect the interests of my clients. I have not studied the plans in detail, but the planning expert AUAN uses has raised some issues with the plans.

**AUAN President:** Our involvement is to give homeowners facts. We concur with what has been said today regarding the planning process that must be followed and the risk of homeowners having to fund, or part-fund, costs. This is not a reason to panic. It is reason to get involved and work together. Whoever runs the town hall will face the same problems and have to work with the same system to solve them.

**Mayor:** The problems obviously aren't going to go away. There is no magic solution. Each area has to be looked at individually. This meeting today is for a general discussion of the problem.

(The discussion moved on to the Catastro at this point)

Regarding registration on the Catastro, enough information has been put out regarding what it is and what you have to do. We began work on this in the summer, trying to bring all the properties in Arboleas up to date. We asked for your collaboration in providing documents. Lots of people have come in, we need the rest. I want to rebut a rumour: this process applies to **all** houses, Spanish and English, even old cortijos. No end date is set for this work. There are no fines for not having done it previously. The service is free. Nobody has been charged the famous €30. There is a lot of work left to do but it is progressing in an orderly fashion.

I also want to talk about rumours regarding Commercial Centre. People don't understand the project, the importance of it. The idea that Arboleas is all about construction is a mistake. Our growth will not just be residential. Thus the opportunity to construct a commercial centre is very important to Arboleas. It is an economic diversity, away from construction. It will provide employment for our youngsters. A great investment for Arboleas and wider area - taxes and licenses will also benefit Arboleas. Constructors will give a large piece of land to Town Hall for green spaces, public buildings and municipal projects. There won't be a single home built. No houses will be constructed. This is the future growth of Arboleas, you have access to view these plans. You'll be surprised, but they are registered and legal. My view of the future is sustainable growth. A town can't be relying only on growth in construction. This is why I foresee commercial and industrial growth to create employment. Previously our youngsters have only been able to work on construction sites.

In terms of the future growth of Arboleas my idea is to focus on consolidating what we already have. Where you live, in small developments, they shouldn't grow more; only put the necessary services in. This will be done via the urban plan with collaboration of you and interested groups.

The vision in 2005 was for further expansion. These plans have been dropped because we don't agree with that kind of growth. Let me show you the 2005 plans we didn't agree with. I'll show Los Llanos. Do you recognise that signature on the plans? Look at Los Carrascos, 40,000m<sup>2</sup> more houses. In Los Colorados 236.000m<sup>2</sup>. ...

(The mayor displayed some of the plans on the projector at this time but the audience could not read the signature and became a bit restless).

The meeting then opened up to take questions from the floor.

**Q: I took an amendment to the Town Hall plan to the Town Hall in Feb/March. I repeated it in June. I haven't had an answer. You also said that the 5% of houses that had been excluded are in dispersed locations. Mine in on the edge of town.**

**A (Mayor):** The mayor said that he couldn't answer questions on specific cases but after some discussion, the mayor recognized the houses to which the questioner referred (back of Bar Campillo) on the edge of the village and stated that these houses will be included in the General Plan next year.

**Q: Will the next administration be legally bound to continue with work initiated by this one?**

**A (Mayor):** I can only speak for the current administration. Our General Plan will include most houses. I can't say whether subsequent administration would carry on or not.

**Q: Regarding La Viña. GC says that he went to the town hall, together with Antonio the local police man and has submitted a document offering cessions to the Town Hall.**

**A (Mayor):** There is no document in the town hall referring to this. Nothing registered by GC.

**Q:** We have heard that the Mayor has authority to move against contractors if they don't pay. In final analysis, will he use this power?

**A (AUAN Legal Advisor):** Bottom line is Town Hall can only go for landowners in absence of any other agreement.

**Q:** Ok, so La Vina is not in this plan, but will be in the revision next year. We are on rustic land, can't be segregated. How long will we have to wait?

**A (Mayor):** I propose that we meet separately to discuss this because a number of people are involved. If Constructor won't pay, the Town Hall will have to take action.

**Q:** Can you get GC to attend that meeting?

**A (Mayor):** We'll invite him.

**Q:** I have a problem - not with the Mayor but with the Town Hall. Its inability to control builders results in costs to me. I am looking at €5000 on the figures bandied about here. Well this cash cow is dry. You have had the money. You sort it out!

**A (Mayor):** This problem goes back many years. Growth began back in 96/97/98 in a disordered way. Measures were later put in place to prevent recurrence. But problems remain. I need to sort them out. I have only been mayor for two years. In that time not a single illegal house has been constructed. We have obliged constructors to comply.

**AUAN Legal Advisor:** You are victims of a Spanish planning mess. There are 300,000 illegal houses in Andalucía alone. You need to press for a change in the law and support organizations such as AUAN who are pressing for this change. The problem is so massive, it involves up to a million people in Andalucía. You need to protect yourselves.

**Q: Regarding the legalization project. Will every house need this document, or will some who have some documentation not need it?**

**A (Mayor):** If you have escritura, everything but first occupation and you have services you will not need this document.

**Q: What about when you want to sell the house?**

**A (Mayor):** A house with escritura and services does not need a license of first occupation. If there have been modifications to the original project, the license is out of date anyway. You need a document stating there are no legal proceedings against the property.

**Sally Worthington:** Estate agents are asking for bits of paper nobody wants to look at.

**Q: I live in Avenida La Perla. My house is below the sewerage pipe work that was installed last year. How will this work and where will the sewerage works be?**

**A (Mayor):** The waste will be taken to a third generation processing system which is some distance from La Perla near the river. The plant will not be smelly.

**Q: Is there a date for completion?**

**A:** The project plans have been submitted to the regional government and work is due to start later this year. There is no completion date at this time.

**Q: If we do not want to pay can we continue using a pozo?**

**A (Mayor):** You will have nothing to pay. The Junta is paying.

**Q. A question was raised regarding a new Financial Regulation passed in August of Last Year which the questioner understood to mean had resulted in the homeowners being responsible for urbanization costs.**

**A (AUAN Legal advisor):** The laws have not changed regarding responsibility for urbanization costs. The landowner has been responsible since 1956, since Franco's time.

There were many more questions in the offing but three hours had now passed and everyone was growing weary.

**AUAN Legal Advisor:** Thanks everyone and Mayor for coming. Hope meeting has been useful. Meetings will continue.

**Mayor:** I will continue to have these meetings. I invited the panel to make it difficult for me rather than to applaud me. To confirm independently that what I have said is the truth I want the public to be aware of the truth. This working party is not political, it is independent. I want and need help and advice from interested parties. We need to work with the Junta and with the neighbours. There is no magic wand to wave. We have no choice but to work within the framework of the law.

AUAN