

## **Common Property: Belongs to Everyone but Owned by No One**

*Editorial By: Alliance Staff*

**January 14 2005, Nezaivismaya Moldova (Independent Moldova newspaper) published an article “Ivan nods to Peter, but Peter nods to Ivan” where authors (the residents of the multifamily building located at Decebal Street #59) complain about the heat supply company “Termocom” which charged them high bills for the consumed heat energy. The authors claim that the billing methods were wrong. The heat consumed was allocated irrespective of the area occupied by the tenants but rather on an equally shared basis. Taking into consideration the spaces rented by economic agents on the ground floor in this building it was obvious that the lessee’s share was significantly more. However, this share was accounted for neither by the Housing Management Service (JEK) nor by Termocom.**

**The issues raised in the article involve the majority’s interests not only in Chisinau, but throughout Moldova. Alliance to Save Energy, USAID Heat Development Project in Moldova, which dealt with heat issues for more than one year and specifically worked with the legal issues, has also tried to examine the given situation. We hope that the lawyer’s opinion will help to bring to light some of the issues addressed in the article.**

First of all, by reviewing the problems addressed in the article, we noticed that the owners could have hardly helped the situation in their own building - the internal problems of this multifamily building were handled by Housing Service Company, Termocom, or District Hall, but never by the tenants of the house. Quite a paradox, the property and the management issues of this multifamily building are controlled by outsiders rather than by the residents of this house who are actually its owners.

We think that there could be fewer problems if there was a real Master of the house in this building. According to the law, the basement, roof, technological equipment, engineering network and other property including the land upon which the buildings stands and which is associated with the building are the common property of the flat owners. Hence, they should be controlled by the owners represented by an Association of co-owners in condominium, and not by third parties.

If there were an association which represented the building, it would be possible to keep an accurate and fair track of all heat consumers, the common heated area, and the area heated per consumer, total quantity and quality of the heat consumed in the whole building. This data can be and should be maintained by a single manager. It is only through the collection of thorough and detailed data that it can be possible to define and allocate heat cost per each consumer with enough accuracy. It is hardly possible to do the right and fair heat cost allocation without the participation of the apartment owners in the process.

The authors of the article state that Termocom and Housing Service Company “persuaded” the tenants to buy and install a heat meter at their own expense. In this case, several questions are in order: Who was persuaded? Who was convinced? Who bought the meter? At whose expense? What was the cost? Who installed it? Whose balance does the meter show at present? In other words, it is the question of establishing ownership of the meter? It is not easy to answer all these questions.

It is indisputable that the purchase and installation of a heat meter should be the supplier’s responsibility. The supplier should also absorb the costs for the equipment. Therefore, Termocom, Housing Service Company-1 as well as the tenants of this multifamily building should create a mechanism of transferring the heat meter operational and capital expenditures to

Termcom's balance sheet. In the present situation, the ownership, and reimbursement are not clearly established. This should have been clarified before the heat meter was purchased. Had the meter been purchased by the Association of co-owners in a condominium, which according to the law is a legal person, has a stamp, a bank account and has a right to deal with third parties including Termocom on behalf and in the interests of all residents-members of the respective association, there would have been less problems.

In conclusion, the multifamily building has no competent, eligible Master so far. Therefore, it is no surprise that the question lingers: who should administer the multifamily buildings, their property, spaces, equipment etc.?