

**FREE ENTRY**  
 Seminars | Expert Advice | Portuguese Café  
 Late Opening | 1000's of properties for sale



PORTUGAL  
**PROPERTY SHOW**  
 14-16<sup>TH</sup> JUNE 2013  
 ROYAL HORTICULTURAL HALLS LONDON SW1  
 www.pccproperty.org.uk

home login register user area clippings subscribe archive links terms contact about

# ALGARVE resident

the Algarve's community newspaper in English

news business features leisure property classifieds

news ▶ top stories algarve portugal community international briefly news sport round-up  
 briefly sport letters poll results

latest update: 20-May-2013 12:00:29

Search ×

## top stories

### Waterfront robbery!

Updated: 03-May-2013

By INÊS LOPES  
 ines.lopes@algarveresident.com

Owners of property in waterfront locations considered as "hydic land" in the public domain have until January 1, 2014 to prove in court that their land has been in private hands for at least 150 years or face seeing it integrate state property.



Government plans to reinstate 19th century law to repossess waterfront land. PHOTO: Algarve Resident

The controversial ruling, under Law n<sup>o</sup>54/2005 of November 15, which is being widely contested by several political groups for being "unconstitutional" and "inaccessible" to the vast majority of people, obliges owners of property within "Domínio Público Hídrico" areas, including all properties on land located within 50 metres from the sea or cliff-top edge and within 30 metres in the case of a riverbank, to seek recognition in court of its private ownership for at least a century-and-a-half or the land will be subject to public domain treatment, including use and occupation licences and taxes.

The vast majority of people have no knowledge of the ancient law that dates back to 1864 and several political groups have contested the complexity of the process for property owners to legalise their situation within the short timeframe, the bureaucratic and legal costs involved and the mandatory hiring of a lawyer to present a court case.

Despite rumours that the government is considering an extension of the deadline for property owners to present their case in court, the date so far remains unaltered and property owners affected by the law must move swiftly to ensure they meet the January 1 2014 deadline.

#### Legal battle

Algarve Socialist MP Miguel Freitas, the first to sign a law proposal prepared by the PS parliamentary group to alter Law n<sup>o</sup>54/2005, has already said that there are "no conditions in place" for affected property owners to legalise their situation by the end of the year and that it is "urgent to create simpler administrative procedures in order to avoid a legal battle between the State and property owners".

The PS parliamentary group is proposing an extension of the deadline, until January 1 2016, for owners to obtain recognition of their property as "private land" and avoid being subjected to public domain legal requisites, such as "costly" public use licences and rates.



The parliamentary group is also requesting the clear marking of public domain hydric land boundaries as well as easy access to information about this law, what it means in layman's terms and its impact on affected

#### More in this section

- Airport tug-of-war
- New suspects in Madeleine McCann Case
- Next tranche gets green light
- Radar network monitors speed
- Fire-fighting reinforcements
- PSD and PS battle for Faro
- Conrad Algarve grand opening

#### You might like:

- Man sets fire to English neighbour's house
- Albufeira suffers 80% closure of bars and restaurants
- Gang of women rob Algarve clothes shops
- Senseless new drinks law

Recommended by

**Fires of Portugal**

**Interhome**

**Optimum**  
INTERNET & TELECOMUNICAÇÕES

**CURTAIN CENTRE**

**euroFINESCO** s.a.

**MÓVEIS MALHEIRO**  
 You have to see it to believe it!

**DRAIN KING**  
 ESGOTO-REI

**Visão Plus**



property owners.

Miguel Freitas says the process affects thousands of people who own property in coastal towns in the Algarve, "such as Albufeira, Portimão, Carvoeiro and Lagos",

as well as isolated properties along the coastline, riverbanks and other water resources such as estuaries or lagoons.

Speaking to the Algarve Resident this week, lawyers Margarida Osório de Amorim and Andreia Candeias Mousinho from the law firm PLMJ, admitted that the legal process involved is complex, time-consuming and costly, but urge property owners to act quickly in order to meet the January 1 2014 deadline.

"Despite the seemingly unworkable stipulations of this law, there are no plans to abolish or revoke it, and even if an extension of the deadline is rumoured to be under discussion, we urge property owners to take action before it is too late and their property falls into State hands," they said.

Although the media has taken particular interest in this law recently, Margarida Osório de Amorim and Andreia Candeias Mousinho are keen to point out that "this is not a new issue".

"This law dates back to 1864, when a royal decree was published regarding public domain areas considered indispensable for the State, namely the coastline and river banks, and four years later, in 1868, when the Code of Seabra came into force making reference to cliff-top areas as also being of public domain," the lawyers said, adding that the aim of the legislation at the time was to ensure the unobstructed use of, and access to, these areas by the State for strategic and national security reasons.

"As can be noted from these decrees, the need to prove private ownership of property in these public domain areas dates back many years, but has since been clarified, first in 1971 with the Decree-Law nº468/71 of November 5, and more recently with the Decree-Law 54/2005, establishing the 2014 deadline," said Margarida Osório de Amorim and Andreia Candeias Mousinho.

Citing Vila Nova de Gaia, in the north of Portugal, as an example of a heavily populated urban area where the news of this law will certainly cause outrage among property owners of houses located near the Douro river, the lawyers are critical of the way it is being implemented with little regard for the consequences it will have on the thousands of people who unknowingly and "in good faith" purchased property in public domain areas and have always believed to be the legitimate owners of the land.

"We simply cannot tell what will happen. Property owners have two options: they either do nothing, wait for the State to assume land ownership rights and then contest the likely charge by the government of municipal property rates on top of public use rates, or proceed with a case in court to ensure recognition of their property as private, which, in our opinion, is the best option," said Margarida Osório de Amorim and Andreia Candeias Mousinho, urging owners not to miss the deadline if they don't want to risk seeing their property fall, "automatically and definitively", into the public domain.

#### State licences

The lawyers further explained that once designated as public domain land, its occupation by private individuals will be subject to a State-granted authorisation/licence, which has to be paid for and has a validity period, the use of the land will be limited and rates for occupying state property will be charged. "Rates are charged according to the size and use of the land, for example a residential house or a golf course, but can potentially be high," said the lawyers.

However, first and foremost, if affected property owners want to prevent this scenario they will have to gather the documentation that proves the property has been in private hands since before December 31, 1864 or in the case of cliff-top properties before March 22, 1868.

Margarida Osório de Amorim and Andreia Candeias Mousinho say property owners may be lucky and find that the local Land Registry Office (Conservatória) or the local tax services (Serviço de Finanças) will be in possession of an ancient document that serves as evidence or, failing this, a full historical research may have to be carried out, not excluding the possibility of having to hire a historian, or resort to various public entities (including the National Archive of Torre do Tombo) to source the necessary paperwork to serve as evidence in court.

"This is costly, complex and many property owners will not be able to afford such a task," they said, adding that the administrative and legal procedures involved should be simplified.

"The whole process of forcing people to go to court to see their properties recognised as



The Algarve Freight Centre  
Weekly transport & removal service UK - Algarve - UK



toldos chique lda



Hospital Particular do Algarve 24H



HOME



New Concept International



ALGARVE REMOVALS



Auto Latínhas



WORLD NET tv Portugal

