

Condo Smarts October 11-17, 2020

Who Repairs Limited Common Property

Dear Tony: We live in an 80-unit Strata complex in the BC interior, most of the homes are Rancher style, 25 years old, and all have crawlspaces, and the spaces are designated as “limited common property” on the developers’ blueprints. There is nothing related to crawlspaces in our Strata Bylaws. We are looking for clarification on who is financially responsible – Homeowner or Strata Corp. for issues that occur in the crawlspaces? Two examples of these issues: During high water season in summer water enters the crawlspace through the concrete slab and has to be removed to prevent other water related problems and, original plumbing that is in the crawlspace area fails and repairs and cleanup are required. Gene

Dear Gene: This is one of the most misunderstood provisions of our legislation. With a few exceptions, every strata corporation across the province has some form of common property or limited common property. Common property must be maintained and repaired by the strata corporation, and a strata corporation is not permitted to make an owner responsible for copy common property in a bylaw. Limited common property is common property that it is designated for the exclusive use of one or more strata lots, and a strata corporation may adopt a bylaw that makes an owner responsible for broader maintenance of limited common property.

The Schedule of Standard Bylaws apply to all strata corporations, unless amended, and set out the following conditions: *Bylaw 2: An owner who has the use of limited common property must repair and maintain it, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws. Bylaw 8 The Strata Corporation must repair and maintain limited common property, but the duty to repair and maintain it is restricted to repair and maintenance that in the ordinary course of events occurs less often than once a year.*

Simply put, under the Standard Bylaws owners are responsible for annual custodial maintenance of limited common property such as sweeping, clearing drains, cobwebs, snow removal. Everything else is the responsibility of the strata corporation. If your strata corporation is subject to the standard bylaws only, the damages of strata corporation common and limited common property caused by ground flooding, or freezing temperatures in winter or simply scheduled renewals and upgrades are all the responsibility of the strata.

Strata Corporations are permitted to amend the Schedule of Standard Bylaws and increase the number of obligations for owners, but that may come with a price. It is important to put this into perspective to ensure you are asking owners to perform reasonable maintenance and repairs on limited common property that if neglected, will not result in costly building disaster for everyone else. Do not expect owners to be responsible for items that form part of your building envelope or structure such as deck membranes, attics, or crawl spaces. It is tempting to download the cost of decks and balconies to owners when they are designated as limited common property, but most homeowners do not have sufficient knowledge or experience to assess the condition of building systems. As everyone tries to avoid these costly repairs, this type of obligation will result in neglected building systems and costly damages for everyone.

One of the greatest benefits of living in a strata/condo situation is the collective power of purchasing. When a collective of purchasing for services and goods is negotiated by a strata corporation, the cost per unit will drop dramatically. If you are negotiating the routine replacement of 80 balcony membranes, or a plumbing contract to manage drainage for 80 units, or 80 hot water tanks, the savings will be substantial for everyone and the strata corporation can be confident the work is completed.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>