

Condo Smarts

Headline: Who pays for the health club?

Topic: Limited Common Property, Expenses; Operating

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Dear Tony: Our property is made up of a strata corporation with a high rise, townhouses and commercial property. We have a health club operated by the strata corporation, but only the residential owners have access to the club. As a commercial strata lot owner we feel the clubhouse expenses are unfair because the operation is paid as a common expense from our operating budget, but we don't have access. We either want to be exempt from the cost or share access to the facility. The residential owners argue it's the way the plan was set up by the developer and we don't have access because the facilities are limited common property allocated only to the residential units. How do we force this issue into a fair solution?

Douglas M.

Dear Douglas: There is a regulation of the *Strata Property Act* that requires a strata corporation to allocate operating expenses that benefit only limited common property (LCP) just to those strata lots who are identified. In the absence of either a bylaw that allocates operating expenses by type, or the creation of sections for exclusive operating expenses, the regulation sets the condition. This is not a discretionary option. If the area is designated as limited common property, and there is an operating expense that benefits only that limited common property, then a strata lot or multiple strata lots designated to that area would pay for those expenses.

A good example of this is swimming pools that are limited common property, designated for the use of only a specific group of strata lots. The annual operating expenses for the pool, such as maintenance, heating, licensing and service costs, will be paid for by that specific group of strata lots.

In your situation, the residential strata lots have been designated as the LCP owners for the health club. While you do not have any bylaws that relate to type or sections, the regulation requires the operating expenses of the club to be allocated to the identified strata lots, which are the residential units. This would be a separate column or line item on your annual budget, and only the identified residential units will pay the annual cost for the club.

A note of caution here: this only applies to annual operating costs, it does apply to contingency expense allocations or major repairs such as the replacement of boilers, the structure of the building, roofing, or other repairs that occur less than once a year. Everyone still pays for those costs. Don't try to download operating costs or general maintenance costs on to the LCP designated strata lots unless it is an expense that only benefits the LCP for those units. If your strata corporation is not prepared to comply with the Act, this is a type of dispute that may be adjudicated under the Civil Resolution Tribunal. Go to civilresolutionbc.ca to start your claim.