

## Condo Smarts

Headline: New Construction

Topic: Warranties, Strata Council; Responsibilities

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**Dear Tony:** I am a council member of a new high-rise building in Metro Vancouver that was completed in 2017. In the fall, several owners in the penthouse units have complained about water stains on their ceilings that have developed since they have moved in. The developer was contacted and as far as we know someone was sent to look at the roofing system and reported back there was a drain overflowing. During the recent rainfall, a number of new leaks have popped up and there is more evidence of water. The council president and property manager were satisfied with contacting the developer, but the majority of council are concerned we are not approaching this correctly. Clearly it is a roofing and drainage problem and there may be greater problems than we realize. We still do not know if the original call out was a repair or what exactly happened. What is our duty as a strata council?

Gord A.

**Dear Gord:** The regulation of warranties in British Columbia falls under the *Homeowner Protection Act*, which is administered under the umbrella of BC Housing, Licensing and Consumer Services Branch. The owner developer, at the time the strata corporation is registered and occupied, must provide the owners with the warranty documents for the strata lots and the strata corporation along with a maintenance manual that includes the names of all contractors, products, and maintenance obligations. The warranty on the common property of the strata corporation begins on the earliest date of occupancy on a completed sale of a strata lot. It is important to document that date for future reference. Whenever the strata corporation has a defect that requires a claim, you must respond as soon as possible and mitigate damages. If a claim is filed, the warranty provider must respond to the claim. They may require the owner developer to execute the repairs or they may hire a separate contractor to perform the repairs. If you do not file a claim with the warranty provider, they have no record of the problem and a future problem on the same issue or relating to the

defect may be frustrated by unreported failures and claims. For every claim, review the warranty and identify the method of how a claim has to be filed. In most policies the claim has to be in writing and filed to a prescribed address or contact. You may still contact the developer; however, always copy the warranty provider. If the owner developer or the warranty provider have conducted any repairs, they must provide the strata corporation with a written report on the repairs that were conducted. This will form part of your warranty records.

It is critical for strata councils to closely monitor and document all warranty claims and repairs. The warranty for your building has a value of \$2.5 million dollars and if properly administered it will ensure your owners are not paying for needless repairs and you are properly managing your assets. Obtaining a detailed independent warranty review at least a year before the 5 year building envelope and 10 year structural coverage expires is well worth the investment.

Both the strata council and the property manager have a fiduciary responsibility to act in the best interest of the strata corporation. If you willfully fail to follow the requirements set out in the warranty documents and miss deadlines or fail to file claims, owners in your strata have reasonable grounds to sue council members in the event of a loss. As there are no limits to the amount of claims, this could be a claim filed in the Civil Resolution Tribunal. The obligations for council are simple. Gather all warranty documents. Maintain copies of all records and communications. File and copy all claims for building defects with the owner developer and warranty provider, and document all repairs following a warranty claim.