
Condo Smarts

Headline: Snow & Ice Removal

Topic: Snow Removal

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Dear Tony: Thank you for your column a few weeks ago regarding the obligation to maintain common property. We spoke to our property manager regarding the walkways and driveways in our townhouse complex and he advised because the areas are not defined on the strata plan each owner was responsible for their own driveways. We are seniors in our 80's in failing health and we are not capable of clearing our own driveways. Do strata corporations have an option to require owners to remove snow and apply salt or sand for driveways and sidewalks? If every owner contracted a different company to clear the snow it would be mass confusion in our complex.

Margaret F. Abbotsford

Dear Margaret: Common property does not have to be specifically shown or defined on the registered strata plan. Under the definition of common property in the *Strata Property Act*, common property is that part of the land and buildings shown on a strata plan that is not part of a strata lot. If any limited common property has been designated it must be shown on the strata plan filed in the Land Title Registry by the owner developer or filed as an amendment by the strata corporation by 3/4 vote that complies with the conditions set out in the Act.

The Act does not permit a bylaw that makes owners responsible for common property unless the Regulations of the Act are adopted that would make such a bylaw possible. No such regulations have ever been adopted to date. On your strata plan the driveways and sidewalks are common property and the snow removal and salting must be performed by the strata corporation.

A common problem for strata corporations such as townhouse developments with larger geographical areas to maintain is the expectation and practice that strata fees are lower. As a result, many townhouse complexes do not budget sufficient funds for snow removal, storm sewer maintenance, landscaping and tree maintenance and fencing.

Failing to budget for a maintenance item is no excuse to avoid the obligation. It is very common for townhouse complexes to ignore trees and fencing until the only option is replacement or removal, often resulting in damage to foundations and structures of the buildings.

I am frequently asked what the average strata fees should be for a townhouse complex. Every strata corporation is different and the needs of one community for exterior maintenance and services may be twice as much as a neighbouring property based solely on design, finishing and age. To set an effective budget, start with an inventory of all common property and common assets that require maintenance, repair and inspection. Almost every exterior element requires attention on an annual basis.

The price of ignoring the obligation of snow and ice removal from sidewalks has been a costly mistake for many strata corporations across the province this past winter. Municipal bylaws require the adjacent property owner to remove snow and ice within a defined period of time. Failing to do so could result in a fine or summons and many strata corporations received fines as a result that were as high as \$600 per incident. Check your local bylaws before winter sets in.