

Headline: **Repairing Common Property**

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Can a Strata Corporation pass a bylaw making an owner responsible for the repair and maintenance of common property? This rather straightforward question is the cause of considerable confusion among a number of Strata Councils and owners.

When the *Strata Property Act* was originally drafted section 72(2) provided:

(2) The Strata Corporation may, by bylaw, make an owner responsible for the repair and maintenance of (a) limited common property that the owner has a right to use or, (b) subject to the regulations, common property other than limited common property

However, at about the time the Act came into force, the section was amended as follows:

The strata corporation may, by bylaw, make an owner responsible for the repair and maintenance of (a) limited common property that the owner has a right to use, or common property other than limited common property only if identified in the regulations and subject to prescribed restrictions.

Section 72(2)(b) was excluded from the sections that came into force on July 1, 2000. Later, in October 2001, when other regulations were drafted, section 72(2)(b) was proclaimed into force.

After the announcement that section 72(2)(b) was in force, some Strata Corporations believed that they could enact bylaws relating to the repair of common property. Others were uncertain about whether the original version or the new version of section 72(2) (b) was proclaimed. The result was considerable confusion among many Strata Corporations.

The version of section 72 that was enacted was the more recent version. That section provides that a Strata Corporation can only enact a bylaw to make an owner responsible for the repair of common property if the common property is identified in a regulation.

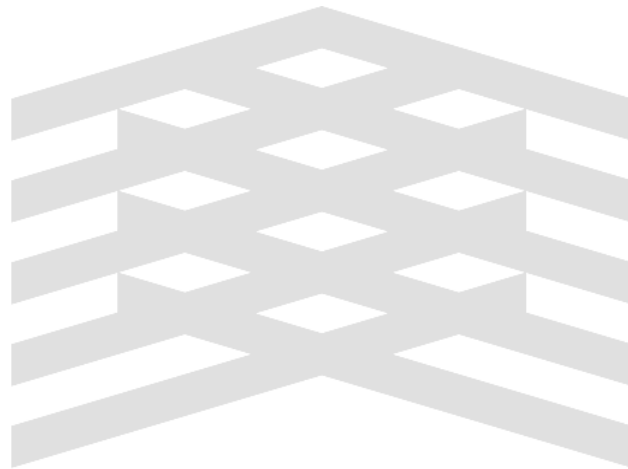
The next question that must be answered is “are there regulations that identify any common property that can be made the responsibility of an owner to repair and maintain?” The answer is “No”.

Although section 72 (2)(b) was proclaimed into force, it does not and will not have any effect until regulations are drafted which identify the type of common property that can be made the responsibility of an owner. At this time there is no common property identified in the regulations that can be made the responsibility of an owner to repair and maintain. As a result, section 72(2)(b) has no force or effect on Strata Corporations.

At this time, a Strata Corporation cannot enact a bylaw making an owner responsible for the repair and maintenance of common property.

Section 72(2) of the Act does however allow a Strata Corporation to pass a bylaw making an owner responsible for the repair and maintenance of limited common property if the owner has the use of it.

Additionally, it should also be noted that a Strata Corporation can, as part of its approval to permit an alteration to a strata lot or common property, make an owner responsible for the expenses relating to the alterations



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