

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Condo Smarts

Headline: Leak reveals major flaw in strata's bylaws

Topic: Bylaw review

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Written by: Tony Gioventu

The onset of heavy rains also creates a deluge of calls to our office. When it rains, buildings leak and strata owners fight.

In many cases, there is a common decking membrane on the tops of buildings that frequently forms part of the roofing systems. That was the case with a Langley strata that has rooftop decks. Confusingly, this strata had created a bylaw that requires owners with rooftop decks to maintain the deck -- but also a bylaw that requires that the strata must repair and maintain the roofing. Recently, a major roof leak -- plus damage to two suites -- resulted because the strata thought the owner of the unit where the leak originated had been repairing and maintaining the deck. The owner thought the strata was responsible. The strata wanted the owner to pay for the damage and the owner refused, citing the bylaw that the strata must maintain and repair the roofing. Amid the fighting, the owners and council forgot not only to distinguish between roof and deck, but also to ask what type of property this was. As it turned out, the area -- including the decking -- is common property.

Strata law: The act and regulations do not permit a bylaw that makes individual owners responsible

for the maintenance and repair of common property. In this case, because the roof decks were common property, the owner was not responsible. The strata was left to pay the damages. The definition of common property is set out in the act and regulations, and what is and what is not common property is shown on each strata plan.

Tips: Trying to make an individual responsible for maintenance and repair of an area of common or limited common property is not always a good idea. Realistically, think of who is going to perform the repairs or maintenance, how the work will be conducted, whether it will be done by a qualified person who has the correct materials, and how it will interface with the other areas. A strata that performs the common-area maintenance and repairs, including exterior of the building, has better control over the product, quality, installation, warranties and, ultimately, a better cost

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