

Condo Smarts

Headline: Who is really supposed to maintain exterior doors and windows?

Topic: Repair & Maintenance

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Dear Condo Smarts: Our strata corporation adopted a bylaw five years ago that made doors and windows on the exterior of the building common property and made owners responsible for the maintenance and repairs of doors and windows. Considering the strata is a 12 floor, mid-rise building, everyone is now wondering why this was ever done. The result of the decision is that no one maintains the windows on the exterior, simply because they can't get to them, and we now have a number of windows that have failed and are allowing water into the building. So who's going to pay for the damages? Do we enforce the bylaw against the owners that didn't maintain their windows? What about the common hallway windows that no one had to maintain that are also causing problems? Why should the owners be treated any different for not maintaining a window they couldn't reach? Strata Council, Columbia Court

Dear Columbia Court Owners & Council: There is a great deal of confusion over exterior doors and windows in apartments and townhouse style strata corporations. Except for a bare land strata, the exterior of the building systems are almost always common property, and strata corporations are not permitted by the Act or Regulations to make owners responsible for the maintenance and repair of common property. Bylaws do not create different designations of property, they only determine the use, enjoyment, allocation and obligation of the different designations of property. So a bylaw that converts an exterior vertical area from common to limited common property (LCP), is not enforceable. To convert property designations from common to limited common property, the strata corporation has to pass a $\frac{3}{4}$ vote for specific exclusive use allocations that relate to the property boundaries set out in a sketch plan and comply with the Land Title Act and Regulations. All too often we see an unenforceable bylaw that attempts to create LCP within the bylaw. There are also a number of other practical issues at hand that have to be considered. Legislation, economics, control over

maintenance, safety, risk management, warranties, and resultant damages are all factors. Simple economics: it is going to be much less expensive for the strata corporation to negotiate a single maintenance contract for your 350 windows, compared with 72 strata lot owners each attempting to negotiate and schedule the services. The strata will be able to control who is actually working on the building, contract negotiations, conditions of construction and guarantee they are properly insured and covered through WorkSafe. The strata can also prevent negligence of critical building envelope components that eventually result in damages to other parts of the buildings, including the interior of the strata lots. The economies of scale will mean the strata owners will pay less for substantially more. If your strata is a new building, the five-year envelope warranty also requires that the strata corporation, inspect, maintain and report any defects or failures to the warranty provider. Transferring that warranty to the owners could potentially void that warranty. One consideration that is frequently over looked is that the Standard Bylaws of the Act were written to comply with the Act and consider the operations for strata corporations with respects to maintenance and repairs of buildings. Before you make changes, double check they are enforceable. Owner apathy needs to always be considered when delegating responsibility. When do most people replace their hot water tanks? When they fail. The result: significant secondary damages, insurance claims and major inconveniences for residents and unnecessary costs that should have been avoided. The same applies to making owners responsible for exterior systems, including decks, balconies and roofing. Why defer maintenance that can be negotiated and scheduled by the corporation, when eventually the results are almost always disastrous? Avoid the catastrophe of envelope failures and coordinate an active building envelope inspection, maintenance and renewal program.

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