

Condo Smarts

Headline: Replacing the Piping
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Dear Condo Smarts: We are in a 86 unit townhouse development that was built around 1985. Our buildings and club house are almost 30 years old, and we are preparing to do a number of upgrades to our property. We have already finished a complete roofing project in 2008, and the decking membranes in 2010. Overall our property is in great shape, but we have one matter that is causing us great trouble. The copper piping has been showing signs of leaks in almost every unit since 2006, and owners were advised to upgrade their plumbing systems and so far about half of the owners have replaced their water lines. The problem is those owners who have not, or refuse to upgrade their water lines. As a result we have had 4 major leaks in these units causing serious damages and now our insurance deductible on renewals has climbed to \$50,000. The vigilant owners are now paying the price for the neglectful owners. How can we force these people to upgrade their water lines before we lose our insurance?

Cliff Rogers

Dear Cliff: There are substantial differences in the obligations of maintenance and repair of building components and strata lots between mid/highrise buildings, townhouses and bare land strata corporations. Before a strata corporation can identify who is responsible to maintain or repair a part of a strata lot or the common property, they need to first identify where the boundaries lie, and what parts of the strata lots are common property or a strata lot. The registered strata plan, the definitions of common property in the Strata Property Act (the Act) and the bylaws of the strata corporation are where we start. The strata plan shows where the boundaries are located and the difference between common

property, limited common property and the strata lot. The next step is to identify the component, such as the water lines. Once this information is established we look at the bylaws of the corporation and the Act to establish responsibility. Definitions vary greatly from strata to strata so don't rely on someone else's experience. Here is an example: Step 1: The strata plan is reviewed and we identify they are townhouses, and where the boundaries of the strata lots are located. Step 2: The water lines are identified. We identify they are exclusive to each townhouse, and not in connection with or capable of being used with another strata lot, so they are part of the strata lot and not the common property; therefore, the strata lot owner's obligation begins at the property boundary. This is likely where the pressure valve and shut off are located where the line comes into the strata lot. Step 3: We review the bylaws, which do not indicate any other obligations of the strata corporation for maintenance and repair to the strata lot. From this we can summarize that the townhouse owner is responsible for their own plumbing/water line upgrades within the strata lot. That is sequence of understanding the repair, but take a step back and we need to ask ourselves what is in the best interest of all the owners? Risk management (qualified contractors do the work and contracts and supervision to protect the strata), the best price for all the work, and all water lines renewed are the optimum solution. Some strata townhouses and bare land corporations, as permitted by Section 72 of the Act, have adopted a bylaw where the strata has taken responsibility for the maintenance of specified portions of a strata lot. Replacing the piping in 86 units at once under a single contract will

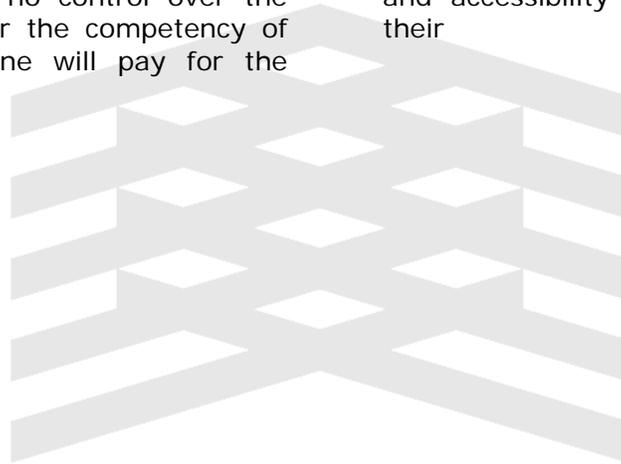
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be substantially cheaper than all 86 owners contracting separately and the strata corporation can plan a contingency expense or have a special levy, that ensures all the work is completed. Another option for townhouse owners is to enforce the bylaws with respects to an owner's duty to maintain and repair their strata lot. Time delays, costs and court orders will eventually succeed, but if the strata corporation does not control the piping replacement, they have no control over the quality of construction or the competency of the contractor. Everyone will pay for the

increased risks and costs, especially when an inexperienced owner replaces their own plumbing or refuses to complete the work. If your townhouse complex is in this situation, it would be valuable to get some legal advice on a bylaw that solves the problem and protects the investment of the owners. Even if your owners do not agree on a bylaw, agreeing on a single contractor for the community will result in better construction standards, costs, and accessibility for all owners to complete their repairs.



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