

**Condo Smarts**

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**Dear Tony:** Our strata corporation is a townhouse complex of 88 units mid Vancouver Island. We have a community mail box that serves our owners near the entry gate, and recently we have had several break in attempts of the owners mail boxes. One such attempt resulted in damage to a bank of 8 mail boxes, costing almost \$500 for the repairs. The council are divided over who is responsible for the cost of the repairs. The treasurer says each mail box belongs to each owner and they are responsible for their own maintenance and repairs, and the president says we own the mail boxes so it is our obligation. We would appreciate some help on this issue, as we doubt we are the only community facing the debate over the mail box obligation.

*Abby Carmichael*

**Dear Abby:** The best technique in determining the use of property or responsibility is to analyze the designation of the property, the bylaws and rules of your strata corporation and the intended use of the property. On the registered strata plan of Abby's townhouse complex the mail boxes are shown as part of the entry gate system and are designated as common property. The bylaws and rules of the strata corporation do not make any mention of the mail box area use or allocation, so from this we can determine that the mail boxes and mail box area are common property without any obligations imposed on the owners. This part is easy; however, the complication arises when we look at the use of the mail boxes. Each owner has sole access to their mail boxes, and according to the council is responsible for their own mail box keys. The personal contents, and keys to access the mail boxes are maintained by each owner, but what

happens if an owner loses their keys, their lock is damaged, or a copied key falls into the wrong hands? Without any bylaws that determine how keys to access to mail boxes and user fees associated with the costs, the strata corporation may be left with the responsibility to maintain and repair the common property and to cover the costs. A strata corporation is not permitted to make an owner responsible for the maintenance or repair of common property, but a strata corporation may adopt user fees in a bylaw or a rule ratified at a general meeting, to cover the costs of access controls and keys issued to owners. These can apply to common area keys, mail box keys and locks if keys are lost by the owner, and require replacement. The fees can also apply to a remote FOB or access card for common facilities and parking garages. The bylaw or rule gives the strata corporation the authority they require to collect the user fee. Damaged mail boxes are really no different than broken windows, as they are common property and often just a random act of vandalism, leaving the strata corporation with a wasteful cost that is rarely covered by an insurance claim. The adoption of a bylaw or rule that clearly identifies the responsibility of owners to maintain their keys and personal security and the allocation of costs for new keys or locks in the event of their loss will help eliminate confusion when the strata council is required to make decisions.

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