

Condo Smarts

Headline: Who is responsible to maintain and repair the balconies?

Topic: Repair and Maintenance; Balconies & Decks

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Dear Tony: Our strata has sent us a notice reminding us that we are responsible to maintain and repair our balconies, and that it includes the railings, siding and the decking. Several owners, with old balconies in a serious state of disrepair, are confused about the responsibility and to what extent they have to maintain the balconies. Does this mean they have to hire a contractor to come on to the strata property to set up scaffolding to take the structure apart and replace the balcony?
Mark Armstrong

Dear Mark: Under the *Strata Property Act*, to determine who is responsible for different parts of the property in a strata corporation we have to review the strata plan to first understand the designation of the property in question. If the balconies are common property, the strata corporation is responsible to maintain and repair the balconies, because the strata corporation is not permitted by the Act or Regulations to make an owner responsible for common property. If the area was designated on the strata plan as limited common property or the strata corporation filed an amendment with the sketch plan to designate the area as limited common property, the bylaws could possibly make the owner responsible. If the area is part of the strata lot, the owner is responsible, unless the bylaws make the strata corporation responsible.

Obviously the bylaws play an important role in this decision if the area is designated as limited common property or part of the strata lot. The Schedule of Standard Bylaws under the Act automatically determine that the strata corporation is responsible for the structure of the building, the exterior of the building, and chimneys, stairs, decks, balconies and other things attached to the exterior of the building. There are good reasons for this application. The strata corporation will have control over those items on the exterior that affect the building envelope and interconnected components. The strata corporation

will control the scope of work performed by a contractor including insurance and site preparations, they can negotiate better pricing if they are maintaining or repairing multiple balconies at the same time, and they can ensure the repairs and maintenance will be done effectively.

If an owner fails to maintain and repair their balcony, the strata corporation may likely spend more time and money on the costs of resultant damages and bylaw enforcement, than the original cost of the balcony repair. In Mark's strata, the balconies are part of the strata lot and owners have been neglecting their obligations with several balconies in serious condition. However, bylaws are very confusing and in one section require owners to maintain and repair balconies, but in another section also requires the strata to maintain everything on the exterior of the building. This is a common bylaw problem that we see in strata corporations that were created before 1990, when balconies were frequently part of strata lots. Bylaws need to be realistic and practical. Before amending or adopting bylaws the strata must understand how the bylaw will be applied and enforced? A little perspective might be useful. How is the owner in 301 who just celebrated their 90th birthday supposed to maintain and repair their balcony? That was the point of moving into a strata in the first place. No building maintenance obligations.

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