

Condo Smarts

Headline: Insurance Complications

Topic: Insurance

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Dear Tony: At the recommendation of our manager, our strata council made a recent decision that the owners are now challenging. We had a pipe break caused by an owner changing his kitchen faucets. By the time the water was shut off, there was damage to two other strata lots below. The total cost for repairs ended up being just over \$17,000. The strata council decided not to file an insurance claim as they were advised it would result in the deductible being increased and increasing our insurance costs. It has taken over 4 months to complete the repairs and coordinate the contractors. The strata council have sent notice of the damage costs to the owner demanding payment because he caused the loss. He is now demanding that we should have filed a claim, and if we had his liability would have only been at most the \$5,000 deductible, which is all his insurance covers. So why should he be forced to pay the total claim amount, just because the strata council refused to file the insurance claim?

Harry M. Victoria

Dear Harry: An owner of a strata lot is a named insured of the strata corporation's policy as deemed by the *Strata Property Act*. The owner himself could have easily contacted the insurance broker and filed the claim. After all, the owners are paying for their policy through the monthly strata fees. There are many complications and limitations for a strata corporation when they choose not to file a claim and proceed with repairs. Incidents, such as one-off accidents themselves rarely cause an increase in risk for the insurer and rising cost for the strata corporation. It is the long term neglect issues, such as failing water lines, or chronic claims resulting from neglect or security incidents that will impact your

policies. Your strata corporation has placed itself into a very complicated scenario that may result in a financial loss. The strata corporation insurance covers the common property, common assets and the original fixtures as installed by the owner developer. Homeowner policies cover personal property, personal liability, and may cover the amount of a deductible if the owner is responsible, or damages to the owner's strata lot that are below the deductible, but they will not cover damages to other strata lots or common property. As there was no damage to the owner's strata lot, and the owner is not responsible for the common property or any other strata lot, where does the strata corporation obtain its authority to recover these costs from the owner who caused the leak, especially as this was a valid insurable claim? The Act gives a strata corporation the authority to seek to recover the amount of a deductible if the owner is responsible; however, there are also many strata corporations that have adopted bylaws regarding insurance deductibles and claims which may restrict or limit the strata's ability to recover costs in the event of a claim. In addition to the complication of whether the strata will be able to collect the damages, the strata council have to also assess whether they had the authority to spend the funds. Other than the initial clean up of water, this was obviously not an emergency, and the strata council spent the funds from the contingency, which they did not have the authority to spend, and now they are faced with legal costs to defend their decisions and a complicated attempt to recover the claimed damages. No one wants their rates to rise, but what is the point of paying for insurance you don't use?

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