

Strata Living

Headline: Who repairs common property?

Topic: Alterations; balconies

Publication date: June 27, 2013

Publication: 24 Hours

Written by: Tony Gioventu

Dear Tony: in 2005 our strata corporation permitted 3 owners to enclose their balconies, on the condition that they would be responsible for the maintenance and repair of the enclosures. In 2007 and 2009 two of the units sold. The strata council has sent notice to the new owners regarding their obligations to maintain and repair the enclosures, but the owners have responded that they were unaware of the obligation when they purchased, so why should they be responsible for the building exterior? They argue that the bylaws clearly oblige the strata corporation to maintain and repair the building exterior including the common property, decks and balconies. Is there some way we can resolve this so the rest of the owners are not stuck burdening the costs?

Karen K. Pt Moody

Dear Karen: The Strata Property Act and Regulations do not permit a strata corporation to make an owner responsible for the maintenance and repair of common property. When a strata corporation does permit an owner to alter common property, they may only enter into an agreement where the owner of that strata lot will be responsible for any costs associated with the maintenance, repair, renewal or related costs of the alteration, not the actual maintenance, repairs and renewals. The strata corporation continues to be

responsible for the actual maintenance and repairs, but the owner by alteration agreement has contracted to pay those costs. If the agreement exists, the strata corporation has a duty to disclose and attach it to a Form B Information Certificate, to both inform the buyer of the obligation and to protect the future interest of the strata corporation. The new buyers in Karen's strata co-operated and provided the Form B's they received to the council, and neither form included the disclosure or attachment of the prior alteration agreements. This in addition to the bylaws compelling the strata corporation to repair and maintain "all exterior components", makes it unrealistic for the strata corporation to argue for the owner's obligation. Before the strata corporation proceeds with spending money on maintenance and renewals, they should investigate whether the enclosures even comply with the building code, and whether they required a building permit at the time. Enclosures that hinder a safe escape route may be a significant life safety risk as well. It is always in the best interest of the strata corporation to retain control of the maintenance and repairs of common property so they can plan to protect the interests of all owners, and not fall prey to the neglect of individual owners, which often results in greater damages to building systems.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email info@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.