

Condo Smarts September 20th-24th, 2017

Who is responsible for repairs when the strata had to damage my unit to fix common property?

Dear Tony: Our strata discovered a pipe in a wall between my unit and a neighbor's unit had developed a leak. They hired a plumber who came out and had to cut a 3x3 foot hole in both of our walls to replace the pipe. The cause was obvious, the pipe had been angled around a cable and stressed to the point of failure. When the plumber was gone he gave us a card to call to have our walls repaired. We both arranged for a drywall company to come in and fix our walls. At no time did the strata or anyone else indicate we would have to pay for the repairs. Each of us had to pay \$1,500 which is horrendous. The strata argued it was a repair to our strata lot and the strata was not responsible, but it was not a claim under the insurance deductible and it was damage caused by the strata corporation's contractor to actually repair common property. Is this common? Agnes

Dear Agnes: Under the Strata Property Act in BC, strata corporations must maintain and repair common property. Under the definitions of the Act, pipes, wires, ducts and cables that are in walls, ceilings and floors that are between 2 strata lots, or between a strata lot and common property, are deemed to be common property. The strata corporation was correct that it had to repair the pipe as it was common property; however, in order to repair the common property, the strata corporation was required to enter your strata lot and remove a section of wall to repair the common property. While we have no definitive court decisions on this process, it is logical to assume that a party who causes the damages will be responsible for the repairs in the same manner as an owner who hammers a nail into a wall to hang a picture and causes a leak would be responsible for the cost of the repairs. Allyson Baker, a lawyer at Clark Wilson LLP in Vancouver advises strata corporations to also consider bylaws that address these types of issues. According to Allyson, "strata corporations are frequently required to access strata lots and conduct repairs. It may be a simple repair, or a complete re-piping of the building due to age, but the strata corporation would generally maintain the responsibility to replace the existing standard finishing with the same repairs. Where it gets complicated is when the strata corporation finds they have a repair behind a wall of custom marble or granite that was not original, and there is now a major cost associated with reinstating the alteration. A bylaw that clearly defines the limits of the repairs undertaken by the strata corporation to original finishes and construction only informs owners they are obliged to insure their improvements for any losses and provides a great deal of clarity for the strata corporation. It is always easier to find solutions before they become a crisis."

Bylaws are not only about solving problems, they can provide great clarity on liability and operations before an incident occurs. Well written bylaws that comply with the Act will often resolve many problems before your strata corporation is embroiled in a conflict, and are well worth the investment.

Sincerely,

Tony Gioventu, Executive Director
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website: www.choa.bc.ca