
Condo Smarts

Headline: Types Costing Allocations

Topic: Types

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Dear Tony: We have an ongoing dispute in our strata corporation about the fairness of cost allocations for utilities. In our building, only the penthouse units have gas fireplaces and gas cooking ranges and barbeque connections. The remainder of the owners believe this is unfair as we do not have any benefit of the utility in the same way and we are subsidizing their benefits without any additional cost. Is there any method we can consider of calculating this differently?

Christina W. Vancouver

Dear Christina: The *Strata Property Act* makes allowances for these types of exclusive provisions. They are referred to as “types of strata lots” and they apply to only operating expenses that are either exclusive to specific strata lots and identified in a bylaw, or they are an operating expense that is exclusively limited common property to specified units. The deciding element is whether the gas use is exclusive or not.

In your situation, the utility is not limited common property, therefore it will require the strata corporation pass a bylaw to allocate the cost of the gas to the penthouse units; however, this can only apply if the use of gas is exclusive to the penthouse strata lots that are identified in the bylaw. For example, if your strata corporation has gas fuelling hot water boilers, make up air units, or backup generators, then the use is not exclusive and may not be allocated in a bylaw. Another example is the sharing of limited common property (LCP) exclusively for identified strata lots such as recreational facilities. A penthouse pool that is LCP and only accessible by the penthouse strata lot(s), would apply in this situation. The annual cost of operations of maintenance of the pool can be allocated solely to the LCP identified strata lots. There are also separate elevators allocated to penthouse units that are LCP and those can have separate maintenance contracts.

While the allocation of exclusive expenses appears obvious, it is often not enforceable when strata corporations attempt to segregate cost allocations. Unit entitlement or allocation of common expenses cannot be changed by method of a bylaw. For your building, the gas must be exclusive to the penthouse units. The gas contract includes other common appliances such as hot water for the building and the gas heating for the make up air system. Operating expenses are those within the annual budget that occur once a year or more frequently.