
Condo Smarts

Headline: Balcony Damages

Topic: Balconies and Decks

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Written by: Tony Gioventu

Dear Tony: Can an owner be responsible for damages to the membrane and structure of a balcony if they have overloaded the space? Our strata is a 4 level low rise in False Creek with extensive outdoor balcony and decks. Some are suspended off the building and others are rooftop areas over living spaces. With the significant snow falls, preceded by rains and then freezing, leaks have shown up in two separate units resulting from planters that are saturated and overloaded. The weight has stressed the seams in the decks and the resulting tears have caused leaks into living spaces below. Our strata council has never issued any advisories, but we do have a bylaw that stipulates owners are responsible for the maintenance and repair of decks and balconies.

Nick W.

Dear Nick: Overloading and stressing roof decks and balconies is a chronic issue across the province. The responsibility is often confused based on the designation of the property. Some are common property, some are limited common property, and some are part of the strata lot. In your situation, the decks and balconies are common property.

A strata corporation is not permitted to make an owner responsible for the maintenance and repair of common property. If it was limited common property, your bylaw may apply to the designated areas; however, the nature or type of responsibility for limited common property must be clearly identified to ensure the duties of the owners and strata corporation are clear. Where does this go wrong? The owners assume council and the corporation is responsible, and the council assumes the owners are responsible. Ultimately nothing is done for inspections or maintenance until there is a failure.

Most of us tend not to connect the consequences of weight loads and materials with activities and weather conditions. A strata corporation may do whatever is reasonable to remedy a contravention of its bylaws and rules, including the work on the property and require the reasonable costs be paid by the strata lot owner. The complication your strata corporation will encounter is whether you have routinely inspected the areas, were you aware of the existing planters at the time, did you advise the owners of any of the risks, and were there any conditions within the bylaws or the notices from council advising of the need to remedy the potential hazards?

Repairs first are essential, then consult with a lawyer to determine if your bylaws are enforceable and if your strata corporation has the ability to recover the costs. CHOA has completed a new weight load bulletin in partnership with BC Housing to illustrate weight load limitations and effects in wood frame structures. You can download it at choa.bc.ca, under "What's Happening This Week".