

Who Fixes What? Check Condo Documents

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Q What responsibility does a unit owner in a high-rise condominium have for external doors, windows, balcony railings or roof decks? Does a unit owner have any direct responsibility for more than the internal space and contents of his or her unit?

AThe answer to your question should be found in your legal documents. In a condominium, there are three basic legal instruments: the declaration, the bylaws and any rules and regulations.

The declaration is, in effect, a deed that establishes and defines the condominium and that recites the manner in which the developer (also called the declarant) desires to submit the property to a condominium regime. The declaration describes such matters as the boundaries of the units, the items and areas that will make up the common elements, including limited common elements, if any, and a determination of the unit owner's percentage interest in the common elements.

Your bylaws are the bible for the day-to-day operation of your condominium association. The bylaws provide for meetings and voting, the manner in which the condominium budget should be prepared, the determination and handling of assessments, the filing of assessment liens, the nature of insurance coverage, and restrictions on the use of the units and the common elements.

The bylaws also provide that the board of directors of the association has the power to establish rules and regulations governing the use of the condominium.

Boards of directors usually will adopt rules and regulations that cover matters that either are not contained in the bylaws (such as how and where to store bicycles), or that need further amplification. For example, the bylaws may allow pets. The board can enact a rule spelling out the rights and responsibilities of pet owners.

Condominiums have three components:

- *Units*. This is your space; this is where you live. You own it. To determine what is your space, you have to read your declaration. Additionally, the units will be shown on the condominium plat and plans.

- *Limited common elements*. These are common elements that are reserved for use by one or more, but fewer than all, of the unit owners in the condominium. Limited common elements may include balconies, roof decks, storage areas and parking spaces. The declaration will define limited common elements and the plats should show where they are located.

· *General common elements.* These are those portions of the property used by all the unit owners. Everything that is not a unit or a limited common element is a general common element. For example, in most condominiums the general common elements include, in addition to the land, such items as foundations, roofs, slabs, perimeter walls, boiler rooms, corridors, laundry rooms, common stairs, building lobby, trash areas, utility rooms and water mains.

Thus, you first need to determine whether the items you are questioning are part of the unit, limited common elements or general common elements. Your declaration and your plats and plans should provide the answer.

In general, the maintenance responsibility for common elements, including limited common elements, rests with the association through its board of directors. For example, while you have the right to use your patio, you may not have the right to make any structural changes to it. If that balcony needs repair, only the board of directors has the authority to hire contractors. However, in some associations, the board has the right to pass the cost of repairs on to the owners who have the right to use a limited common element.

Every unit owner should have a complete set of the legal documents for his association, and should periodically review those documents. If you do not have a complete set of these documents, ask your property manager for a copy.

I want to toss your question back to you: What do you mean by "responsibility?"

As an owner in your association, you -- along with all other owners -- have certain basic responsibilities. You have to abide by the association's governing documents, whether or not you like them. If your balcony or patio is a limited common element (which I suspect it is), or if the windows are common elements, you do not have the right to make any changes, modifications or improvements. You cannot damage, destroy or alter common property.

You do have the right to lobby your board of directors to make necessary or cosmetic changes, but that is a decision that rests solely with your board. If you do not like their decision, you have only three choices: try to get elected to the board, put up with the situation or move out.

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