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ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

To: Park Place Townhomes Association Board
From: Lesley Lueke, Condominium Law Group
RE: Responsibility for Windows, Garage Doors, and Skylights
Date: January 25, 2016

You asked: Who is responsible for maintenance of windows, garage doors, and skylights?

Short answer: Owners are responsible for maintaining the windows, garage doors, and skylights, but the Declaration could support allocating the maintenance responsibility of these components to either the Owners or the Association.

Analysis:

Park Place Townhomes is an Old Act Condo, so RCW 64.32 applies.

Declaration Section 1.01.02 defines "apartment". The boundaries "are the interior surfaces of its perimeter walls, floors, ceilings, windows, and doors; and the apartment also includes...the garage..."

Declaration Section 1.01.19 defines "limited common areas and facilities" to include "those common areas and facilities described in Section 6 or otherwise provided..., as reserved for use of unit or units to the exclusion of other units."

The roofs, windows, doors, and limited common areas and facilities are included in the definition of the common areas and facilities under Sections 5.01.02 and 5.01.07.

Parking spaces described in Section 10 are limited common areas under Section 6.01.04. Section 10 lists both parking spaces and garages.

Declaration Section 5.01.06 allows the Board to assign maintenance obligations for some common areas to Unit owners.

Declaration Section 11.03 provides "Owners are responsible for all care and maintenance of windows and doors." Section 11.03 also states "Each apartment owner will be responsible for care, maintenance, cleanliness, or orderliness of the limited common areas that are appurtenant to his apartment, except that sweeping and maintenance of the uncovered parking areas shall be the responsibility of the

Association.” Owners are required to “replace any glass in the windows or doors of his apartment that becomes cracked or broken” under Section 11.03.

Declaration Section 1.01.08(b) defines “common expense” to include reasonable expenses of administration, maintenance, repair or replacement of the common areas and facilities provided in Section 20.” Section 20.01 provides one of many reasons for assessments is to “operate and maintain the property”.

When interpreting governing documents, we try to determine the intent of the Declarant or drafter. Specific provisions control over general provisions. The Declaration could support allocating maintenance responsibility to either the Association or the Owner. The Association’s past practice might influence the decision. If the Board wants individuals to maintain a common area, it should clarify obligations in the Rules and Regulations as provided in Section 5.01.06. Section 11.03 already provides that Owners are required to maintain the windows and doors, but it does not specifically require Owners to replace windows and doors.

Windows

Windows are mentioned twice in the declaration. They are listed as a common area, but Declaration Section 11.03 clearly states the owner is responsible for window maintenance. Limited common areas are a subset of common areas, so a window can be described as both and still be a limited common area. Thus, Owners should maintain the windows appurtenant to their units.

Garage Doors

Garages are included in the definition of “apartment” under section 1.01.02, and doors are included in the definition of common areas under 5.01.02. A garage door is also a “door” in Section 11.03. Section 11.03 allocates maintenance responsibility to the owners for doors, so the Owners are responsible for maintaining garage doors attached to their Units.

Skylights

Skylights are not included in any definition in the Declaration. But the plain meaning of the term is that of a window. Merriam Webster’s Dictionary defines it as “a window in the roof of a house or on a ship’s deck.”

The Association should treat the skylight the same as windows and require Owners to maintain the skylight appurtenant to their units under Section 11.03.

An amendment to the Declaration could clarify and prevent change by future Boards alone. An amendment to allocate all costs benefitting only one unit as assessments against that unit would make clear the Owners’ obligation to pay, but leave the association in control over standards and performance of the work.

Please let us know if you have an questions or would like more on this.

