

Responsibilities of Owners Corporation (OC) and of Unit Owners for Building Maintenance

Introduction

The intention of this statement is to set out a policy for the guidance of owners and future OC committees, on the areas of responsibility for common areas and private property. The policy has been drafted with a background of uncertainty since the establishment of the BYFAS Owners Corporation, on the responsibilities of individual unit owners for building maintenance, particularly for surfaces and services. To avoid confusion a number of specific scenarios are detailed following the definitions.

Common Property

The Owners Corporations Act 2006 requires an owners' corporation to repair and maintain the 'common property'. 'Common property' and 'private property' are defined by the Plan of Subdivision. 'Common property' includes not just shared use areas such as corridors, but the structural fabric of the building from the external surface up to the internal surface of each apartment. It also includes service ducts, service supply lines, and the like. The structural integrity and weatherproofing of the building is an OC responsibility.

The OC maintains building insurance for the building against normal risks such as fire and storm damage.

Private Property

Is defined by the Plan of Subdivision to include the enclosed space of each apartment, up to the inside surfaces of the property (e.g. wall, ceiling, floor, window) including all internal partition walls. It also extends to all services which supply the property uniquely, i.e. all plumbing, electrical and communication/data wiring, from the point it becomes a separate supply to the property.

Outdoor areas, storage cages, car parks or external equipment with exclusive rights of use also form part of the private property. This includes the usable areas of balconies and terraces and the glass doors providing access to those. Anything placed on or in this space is the responsibility of the owner, as is any damage caused by private property located in these areas. It is important to note that while the unit owner has exclusive use of these areas, they require OC approval before making any changes to the composition or appearance of the property.

Responsibilities of OC and of Unit holders

Unit holders are responsible for the maintenance of private property, including the full cost of maintenance. This includes the internal surfaces of private property such as paintwork and extends to the surface treatment of timber balcony railings.

In some cases, costs of repairs could be recoverable from the OC's building insurance policy, for instance where a water leak caused internal paint damage. However, the principal of exclusive use also applies to payment of any excess deducted from an insurance payment. That is, the unit holder is responsible for the excess where the claim relates to a part of the building that is for the exclusive use of that unit holder.

The OC has responsibility to repair and maintain the ‘common property’, including, the cost of that maintenance. In general those costs are shared through the levies that all unit holders pay to the OC. However, where one or more units has exclusive use of some part of the property the OC may require those units to pay the cost of repairs or maintenance for that property.

Specific Scenarios included for clarity

NB In many cases costs of repair will be covered by the OC’s building insurance. These scenarios address costs not covered by insurance.

Burst water pipe: If a supply water pipe bursts then it will need to be ascertained if the break has occurred before or after the pipe exclusively supplies that property. By definition, the pipe after separating from the main “common” supply becomes the responsibility of the unit owner to repair, even if it is located in common property. It is worth noting however that any damage caused by the leak may be covered by the OC insurances as resultant damage. This becomes a matter for an insurance assessor.

External balconies (includes terraces recessed into the face of the building):

Advice received by the OC is that responsibility for maintenance of a balcony by the owner of that space extends to the surface covering – tiling and associated membranes. Although the structural elements of the balcony are the responsibility of the OC, the individual owner is responsible for any escape of water through the surface covering. Owners are also responsible for any damage that is caused to the surface of the balcony, where not covered by the OC’s building insurance.

Air Conditioning: Whilst air conditioning units, ducts and pipes are placed in common areas, the units and associated equipment are for the exclusive use of individual unit owners. The costs of maintenance and repairs of these are the responsibility of individual unit owners. Fusion of electric motors in air-conditioning units might be covered by the OC’s building insurance where the motors are less than 20 years old and have an output not greater than 2Kw.

Dispute Resolution

The OC manager will make an initial determination on responsibility for particular costs where advice is sought by an individual owner. An owner may seek a review of that determination by the OC Committee. If the owner is dissatisfied with the decision of the OC Committee they may pursue the issue in accordance with the Dispute Resolution Procedure outlined in the Owners Corporations Act.