

Introduction to Board Motion Limited Common Expense Designation Regarding Balconies and Decks

What is a Limited Common Expense?

Why does this need clarification?

What is the urgency?

As we face the need to address the maintenance and repair of aging balconies and decks, which are Limited Common Elements, it has become important to clarify

- what constitutes a Limited Common Expense,
- who is responsible for providing that maintenance/repair, and
- who is responsible for paying those costs.

Why now? Weather and age have taken a toll on the community balconies and decks. We have had almost 30 reports from Queen's Landing condominium unit owners that their decks' or balconies' surfaces seem soft or that railings are loose. As you know, we have recently had to gut and rebuild two porticos, which gave us an opportunity to see the impact of water intrusion. In order to preserve our assets and prevent safety issues we feel an urgency to inspect all these second story platforms to determine if there are unreported or emerging issues, and to embark on repairs as needed.

Who pays for what? After extensive review of our governing documents, we conclude:

Limited Common Expense relates to the maintenance/repair of Limited Common Elements. The Association is responsible for that maintenance/repair. However, these expenses are separately assessed against one or more but less than all of the Condominium units generally in accordance with the use of the services

So as not to surprise the community with these definitions, our counsel advises us to prepare a Board resolution identifying the scope and responsibility for Limited Common Expense and allow homeowners time to consider and comment. After the Board has passed a resolution, we can proceed with the inspection and necessary repairs to the balconies and decks.

What do the QLCUO governing documents say about Limited Common Expense?

I engaged our counsel to review the QLCUO governing documents and the Maryland Condominium Act to ensure our approach is correct. He has highlighted the following:

Article 5, Section 5.5(c) of the Bylaws states, in relevant part:

The Council shall be responsible for the maintenance, repair and replacement . . . of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the units, the cost of which shall be charged to all Unit Owners as a Common Expense except for such costs as are specifically designated as Limited Common Expenses

Article 5, Section 5.1(a)(2) of the Bylaws does not specifically identify “limited common expenses” and defines them only as “*expenses separately assessed against one or more but less than all of the Condominium units generally in accordance with the use of the services.*”

What are our next steps?

Larsen has drafted the attached clarifying resolution for adoption by our Board. The steps would be for us to

- a. discuss at the January 22, 2024 Board meeting,
- b. make any changes we deem appropriate,
- c. circulate to the community and schedule a Town Hall meeting to solicit comments, after which
- d. the Board passes a resolution defining Limited Common Expense.

At that time ...

We would communicate with impacted homeowners to schedule inspection and any necessary repairs of their balconies and decks.

THE QUEEN'S LANDING COUNCIL OF UNIT OWNERS, INC.

**LIMITED COMMON EXPENSE DESIGNATION
REGARDING BALCONIES AND DECKS**

WHEREAS, pursuant to the plats and Section 3.1 of the Declaration, balconies and decks are limited common elements;

WHEREAS, Article 5, Section 5.1 of the Bylaws empowers the Board of Directors to designate expenses which are limited common expenses and to assess the same to the relevant unit owners;

WHEREAS, Article 5, Section 5.1(a)(2) of the Bylaws states, in relevant part:

[T]he term "limited common expenses" means expenses separately assessed against one or more but less than all of the Condominium units generally in accordance with the use of the services[;]

WHEREAS, Article 5, Section 5.5(c) of the Bylaws states:

The Council shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of the majority of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of a Unit Owner or his occupant, tenant, guest, contractor or invitee) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the units, the cost of which shall be charged to all Unit Owners as a Common Expense except for such costs as are specifically designated as Limited Common Expenses; provided, however, that each Unit Owner shall perform normal maintenance on the Limited Common Elements appurtenant to such Unit Owner's unit and any portion of the remaining Common Elements which the Board of Directors, pursuant to the Rules and Regulations, permits such Unit Owner to utilize.

WHEREAS, Note 5 to Exhibit "B" of the Bylaws states:

Responsibility for determining the [m]aintenance, repair and replacement requirements of the limited common elements shall be a shared responsibility between the Board of Directors and the unit owner of a unit to which a specific limited common element is exclusively appurtenant; provided, however, that the Board shall have the final responsibility for determining the need for accomplishing such maintenance, repair and replacement activities[;]

WHEREAS, for purposes of clarity and the avoidance of doubt by the council of unit owners and individual unit owners, the Board of Directors desires to adopt a policy regarding the specific designation of the costs to maintain, repair, and replace the balconies and decks and their

associated components, including, by way of example and not limitation, railings, as limited common expenses.

NOW, THEREFORE, BE IT RESOLVED, this _____ day of _____, 2024, by the Board of Directors of the Queen’s Landing Council of Unit Owners, Inc., the costs to maintain, repair, and replace the balconies and decks and their associated components, including, by way of example and not limitation, railings, are specifically designated as limited common expenses to be assessed against the units, and the owners thereof, to which exclusive use of the same belongs. The specific designation of such costs as limited common expenses herein does not moot, nullify, or void any prior designations of the same or other limited common expenses regardless of whether the same were done so on a case-by-case basis or a similar resolution.

WITNESS, THE AFOREMENTIONED LIMITED COMMON EXPENSES DESIGNATION REGARDING BALCONIES AND DECKS BEING THE ACT OF THE BOARD OF DIRECTORS OF THE QUEEN’S LANDING COUNCIL OF UNIT OWNERS, INC.

_____ Date

_____ Laurelle Sheedy McCready
President

CERTIFICATE OF SECRETARY

I, Peggy Young, and the Secretary of the Board of Directors of the Queen’s Landing Council of Unit Owners, Inc., and I hereby certify that at a meeting of the Board of Directors at which there was an established quorum the Board of Directors did vote on the aforementioned Limited Common Expenses Designation Regarding Balconies and Decks and a majority of the Board of Directors voted to approve and adopt the same.

_____ Date

_____ Peggy Young
Secretary