

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Residential Section of the Owners, Strata Plan NW 3365 v. The Commercial Section of the Owners, Strata Plan NW 3365*,  
2026 BCSC 176

Date: 20260204  
Docket: S164830  
Registry: Vancouver

Between:

**The Residential Section of the Owners, Strata Plan NW 3365**

Plaintiff

And

**The Commercial Section of the Owners, Strata Plan NW 3365,  
The Owners, Strata Plan NW 3365, L-259 Holdings LTD and  
Woods Sports Pub Inc.**

Defendant

Corrected Judgment: The text of the Judgment was corrected at the front page and header on February 11, 2026.

Before: The Honourable J. Walker

## Reasons for Judgment

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Place and Date of Hearing:

Vancouver, B.C.  
January 12 and 13, 2026

Place and Date of Judgment:

Vancouver, B.C.  
February 4, 2026

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## **Introduction**

[1] This is a case about the sharing of expenses related to repairs and upkeep of a mixed-use strata building. The disagreement between the parties primarily relates to their differing interpretation of the bylaws of The Owners, Strata Plan NW3365 (the “Strata Corporation”).

[2] The plaintiff seeks, by way of summary trial, declarations related to the responsibility of the parties to repair and maintain the mixed used building.

## **The parties**

[3] The plaintiff is the Residential Section of the Strata Corporation, and the defendants are: the Commercial Section of the Strata Corporation, the Strata Corporation, the owner of commercial strata Lot 1 (L-259 Holdings Ltd), and the owner of commercial strata Lots 2 and 3 (Woods Sports Pub Inc.).

[4] There are 41 strata lots in the Strata Corporation. Strata lots 1 to 6 comprise the Commercial Section of The Owners, Strata Plan NW 3365 (the “Commercial Section”) and strata lots 7 to 41 comprise the Residential Section of The Owners, Strata Plan NW 3365 (the “Residential Section”).

[5] Strata lots 5 and 6 of the commercial strata lots and strata lots 7 to 41 of the residential strata lots are located in the building with civic address 918 Roderick Avenue, Coquitlam, BC (the “Mixed-Use Building”). Commercial strata lot 5 is located on level 1 and commercial strata lot 6 is located on level 2. Residential strata lots 7 to 41 are located on levels 3 to 5 of the Mixed-Use Building.

[6] Commercial strata lots 1 to 4 are not located in the Mixed-Use Building and are instead “stand alone” strata lots with different civic addresses. Based on unit entitlement, the defendants L-259 Holdings Ltd. (“L-259”) and Woods Sports Pub Inc. (“Woods”) are able to defeat any resolution that requires approval by 75% of the owners. These defendants, based on their interpretation of the strata bylaws, have historically objected to paying for repairs to the Mixed-Use building. Although, L-259

and Woods have contributed to expenses related to repairs of some common property located in the Mixed-Use Building.

[7] This layout of the strata lots has in part contributed to the disagreements between the parties, as there is no common property on strata lots 1-4. The defendants L-259 and Woods object to paying for repairs and maintenance to common property in the Mixed-Use Building, or at least contributing to repair and maintenance costs based on unit entitlement.

**The declarations sought**

[8] The plaintiff seeks three declarations:

- a) A declaration that the defendant, The Owners, Strata Plan NW3365 (the “Strata Corporation”) is responsible to repair and maintain the building envelope and other related common property components of the building with civic address 918 Roderick Avenue, Coquitlam, British Columbia (the “Mixed-Use Building”).
- b) A declaration that the owners of the Strata Corporation must contribute to the cost relating to the repair and maintenance of common property and common assets of the Strata Corporation based on unit entitlement of the following components of the Mixed-Use Building:
  - i. Lighting;
  - ii. Janitorial costs;
  - iii. Rodent control;
  - iv. Insurance;
  - v. Fire alarm and life safety systems;
  - vi. BC Hydro;
  - vii. Snow removal and related services;
  - viii. Parking maintenance of parkade;

- ix. Railings;
  - x. Balconies;
  - xi. Stairs;
  - xii. Hallways;
  - xiii. Courtyard;
  - xiv. HVAC system;
  - xv. Plumbing and mechanical system;
  - xvi. Property management fees.
- c) A declaration that the Plaintiff is not responsible for the repair and maintenance and related costs of the building envelope and other related common property components of the Mixed-Use Building.

[9] All defendants do not oppose and consent to the first declaration sought. The defendants the Commercial Section and the Strata Corporation do not oppose the granting of the second and third declarations. The defendants L-259 and Woods oppose the second and third declarations sought.

### **Background facts**

[10] The Strata Corporation was established in 1990 and in 1995 amended its bylaws to create two sections: the Residential Section and the Commercial Section (“Bylaw 2000”). Bylaw 2000 purports to separate expenses attributable to each section and the Strata Corporation.

[11] In the period between approximately 2009 to 2018, there was no strata council and no functioning Strata Corporation. Governance of the Strata Corporation assets was undertaken individually by the Residential Section and Commercial Section. From time to time, the Residential Section sought reimbursement of common expenses from the Commercial Section. However, the plaintiff says that

Commercial Section did not always pay its share of common expenses because of the way the Commercial Section interpreted Bylaw 2000.

[12] The Residential Section requested that a functioning Strata Corporation strata council be put in place; however, the members of the Commercial Section denied these requests.

[13] On July 19, 2018, the Strata Corporation held an annual general meeting. A strata council was elected and there has been a strata council serving the Strata Corporation ever since.

[14] The Commercial Section owners hold 44 of 79 votes within the Strata Corporation, equating to 56% of the vote. As a result, the owners of commercial strata lots can defeat any resolution and can pass any majority vote resolution with respect to the Strata Corporation. As noted, the defendants L-259 and Woods hold a 26% vote and can defeat any resolution requiring 75% approval.

[15] All strata lots within the Strata Corporation benefit, to a different extent, from the use of various components of the Mixed-Use Building. For example, on level 1 of the Mixed-Use Building, the elevators, hallways and stairs are limited common property for the benefit of both commercial and residential strata lots, namely strata lots 5 to 41. In addition, the mechanical room next to the stairs is common property for the benefit of all strata lots within the Strata Corporation.

[16] On level 2 of the Mixed-Use Building, there are 18 parking spots designated as limited common property on the strata plan, for the benefit of all of the Commercial Section strata lots. There are four parking spots which are common property of the Strata Corporation, with the remainder of the parking spots listed as limited common property for the Residential Section strata lots. All the driving lanes and the entrance ramp are common property. The storage room, electrical rooms, two hallways and three vents are all designated as common property. Two sets of stairs, the elevator and the elevator hallway are limited common property for the

benefit of strata lots 5-41, which comprise all of the strata lots in the Mixed-Use Building.

[17] The parties have worked together to pay for certain repairs agreed to be the common responsibility of all members of the Strata Corporation, such as repairs to the roof, parkade and courtyard of the Mixed-Use Building, but only those repairs that are necessary for health and safety reasons. Payment for these repairs have been made “without prejudice” to the legal positions adopted by the various parties to this lawsuit.

[18] In 2018, the Commercial Section contributed to the repair of the roof of the electrical rooms on level two of the Mixed-Use Building. The electrical rooms are common property. One room contains the transformer, which serves the entire Strata Corporation, and the other room contains electrical meters which serve the residential and commercial strata lots in the Mixed-Use Building. The Commercial Section also contributed to the repair of the transformer in 2018, and to replacement of faulty components in the transformer in 2019.

[19] In late 2017, the Residential Section obtained a building envelope condition assessment report from BC Building Science (the “Engineering Report”). This report outlined significant problems that affected the Mixed-Use Building’s envelope. The report estimated that repairs would cost approximately \$535,000 to \$2.9 million, depending on whether urgent repairs were made, targeted repairs were made or whether a full renovation was undertaken.

[20] The Engineering Report noted that the flat roof membrane was past its normal serviceable lifespan and sporadic leaks were to be expected. The perimeter flashings and related interfacing were also in poor condition.

[21] According to the president of the Residential Section no significant repairs have been made owing to the cost, and the building has continued to deteriorate. The Residential Section views this as a Strata Corporation cost that should be assumed by all parties because all strata lots have rights to and do use the

Mixed- Use Building. The owners within the Commercial Section have refused to contribute to these costs and these repairs remain outstanding.

[22] In order to fund the repairs, a resolution requiring 75% approval of the members of the Strata Corporation is required. The defendants L-259 and Woods oppose contributing, based on unit entitlement, to the repairs to the common property of the Mixed-Use Building.

[23] There is no evidence before me that such a resolution has been attempted, it appears that the plaintiff's position is that it would be futile to do so, considering that the defendants L-259 and Woods maintain that they are unlikely to approve such a resolution. The director of the defendant, Woods has deposed that requiring Strata Lots 1-4 to contribute the repairs to the Mixed-Use Building is unfair since they have no rights, title or interest to the Mixed-Use Building.

[24] L-259 and Woods have filed a counterclaim in this action and allege that requiring them to contribute to repairs to the Mixed-Use Building is significantly unfair and seek relief under s. 164 of the *Strata Property Act*, S.B.C. 1998, c. 43. The counterclaim is not before me on this summary trial application.

**The Issues and the positions of the parties**

[25] A preliminary issue is whether this matter is suitable for disposition by way of summary trial. The parties are in agreement that the court can and should determine the issues raised by way of summary trial.

[26] I agree with the parties, the issue before me primarily relates to the interpretation of Bylaw 2000, the facts are uncontroversial and there are no issues of credibility. The dispute between the parties is long running and a resolution by way of summary trial is expedient. There is no reason why this action should not proceed by way of summary trial.

[27] As already noted, all parties consent to the first declaration sought by the plaintiff.

[28] With the exception the defendant's L-259 and Woods, the defendants do not oppose the second and third declarations sought. L-259 and Woods' opposition relates to their view that Bylaw 2000 does not require them to contribute to costs (or at least on the basis of unit entitlement), associated with the Mixed-Use Building. L- 259 and Woods argue that Bylaw 2000 contemplates that costs of repairs to common property, including the building envelope, be allocated between the sections.

## **The legal principles**

### **Introduction**

[29] As a preliminary matter, although Bylaw 2000 was passed by the Strata Corporation under the *Condominium Act*, R.S.B.C. 1996, c. 64, the parties agree that pursuant to s. 293(1) of the *Strata Property Act*, Bylaw 2000 remains in force: *Coupal v. Strata Plan LMS 2503*, 2004 BCCA 552.

[30] However, s. 121 of the *Strata Property Act*, provides that a bylaw is not enforceable if it contravenes the *Act* or the regulations. It is the plaintiff's position that certain of the bylaws in issue contravene the *Act*, particularly if they are given the meaning urged by L-259 and Wood's.

[31] The ordinary rules of statutory interpretation apply to the interpretation of strata corporation bylaws:

Bylaws are the internal vehicles for the governance of strata developments, and in that spirit it is accepted that the basic rules of statutory interpretation apply to the interpretation of bylaws: *Semmler v. The Owners, Strata Plan NE3039*, 2018 BCSC 2064 at para. 18. Principal among these rules is the proposition that bylaws are to be given their plain and ordinary meaning: *The Owners Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32 at para. 179; *Harvey and Genge v. The Owners, Strata Plan N.W. 2489*, 2003 BCSC 1316 at para. 18. Another is that words should be interpreted considering their purpose: Ruth Sullivan, *The Construction of Statutes*, 7th ed. (Toronto: LexisNexis Canada, 2022), *Wang v. British Columbia (Securities Commission)*, 2023 BCCA 101 at paras. 40–41. In *Strata Plan VIS4663 v. Little*, 2001 BCCA 337 at para. 21, this court observed that “[r]espect for collected governance of a community requires that bylaws be interpreted purposively so that they accomplish the community's goals”. The context of the words in issue must be considered.

*The Owners, Strata Plan BCS 3407 v. Emmerton*, 2024 BCCA 354.

**The relevant *Strata Property Act* provisions**

[32] Common expenses and common property are defined in the *Strata Property Act*:

**“common expenses”** means expenses

- (a) relating to the common property and common assets of the strata corporation, or
- (b) required to meet any other purpose or obligation of the strata corporation;

**"common property"** means

- (a) that part of the land and buildings shown on a strata plan that is not part of a strata lot, and
- (b) pipes, wires, cables, chutes, ducts and other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they are located
  - (i) within a floor, wall or ceiling that forms a boundary
    - (A) between a strata lot and another strata lot,
    - (B) between a strata lot and the common property, or
    - (C) between a strata lot or common property and another parcel of land, or
  - (ii) wholly or partially within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property;

[33] Common property expenses that benefit more than one section of a strata corporation are generally shared by the entire strata corporation and are not split based on use or benefit.

[34] Part 11 of the *Strata Property Act*, addresses sections of a strata corporation. Section 195 provides for the payment of expenses relating solely to the strata lots in a section.

**Expenses of section**

**195** Subject to section 100 and the regulations, expenses of the strata corporation that relate solely to the strata lots in a section are shared by the owners of strata lots in the section and each strata lot's share of a contribution to the operating fund and contingency reserve fund is calculated as follows:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots in section}} \times \text{total contribution}$$

[35] “Solely” in section 195 has been held to mean “to the exclusion of all else”: *Section 2 of the Owners, Strata Plan LMS 257 v. The Owners, Strata Plan LMS 257*, 2025 BCSC 1985 (“*Strata Plan LMS 257*”) at para. 82. Therefore, if an expense does not relate solely to a section, it is the responsibility of the strata corporation.

[36] The *Act* does not allow for bylaws that purport to make a section responsible for the repair and maintenance of common property, therefore, neither a section nor a strata corporation can pass a bylaw allocating responsibility relating to common property expenses to a section unless they relate solely to that section: *Yang v. Re/Max Commercial Realty Associates (482258 BC Ltd.)*, 2016 BCSC 2147 at para. 96.

### **Interpretation of Bylaw 2000**

[37] As indicated, the parties differing opinions as to how the responsibility for the payment of expenses relating to repairs and maintenance of common property, stems from their respective interpretations of Bylaw 2000.

[38] L-259 and Woods argue that the declarations sought by the plaintiff are premature and submit that the Strata Corporation should raise the money required for the repairs of the building envelope and then allocate the costs. However, L-259 and Woods have indicated that they oppose cost allocation by unit entitlement and will defeat any resolution that requires them to pay on that basis. They submit that Bylaw 2000 supports their position.

[39] The plaintiff argues that Bylaw 2000 does not support L-259 and Woods’ position and an interpretation that does would run contrary to the *Strata Property Act*. Without the court making the sought declarations the parties will remain deadlocked and required repairs to the building envelope of the Mixed-Use Building will not be made.

[40] There are several relevant provisions of Bylaw 2000 at issue.

**Section 1(3)**

[41] Section 1(1) creates the Commercial Section and section 1(2) creates the Residential Section. Section 1(3) states:

Any entrance ways which are for the exclusive use of either separate section will be designated as limited common property for strata lots in the applicable section and therefore access to each section will be limited to their respective strata lot owners so that the common areas in each (such as any recreation and storage areas in the Residential Section and entrances, lobbies, corridors, utility rooms and other common areas in each section) will be for the exclusive use of all of the owners of the strata lots within the Residential Section or the Commercial Section as applicable.

[42] The plaintiff argues that this section is unclear but if it purports to designate certain common property as limited common property, it cannot do that if it contradicts the filed strata plans. Furthermore, as it does not refer to the separate buildings of the strata, or to obvious common property – such as the roofs or building envelope – this section of the bylaw does not support L-259 and Woods' position that expenses related to common property should be allocated by section or to only subsections of the Commercial Section.

**Section 2(b) and (c)**

[43] Section 2 addresses the duties of the separate sections. Subsections (b) and (c) state:

Each separate section of the strata corporation shall:

(b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings, including the elevators, and other apparatus and equipment used in connection with the limited common property appurtenant to the separate section and common property to be controlled, managed and administered by either separate section, as described below, facilities common to the separate section, or other assets of the separate section;

(c) maintain all areas common to the separate section, both internal and external, including storage areas, public halls, underground parking areas and appurtenant common areas and lobby areas;

[44] The plaintiff argues that under 2(b) it is not clear which section would be responsible to maintain common property and limited common property in the Mixed-Use Building, since the common and limited common property does not

pertain solely to either section. The plaintiff argues that under the *Strata Property Act*, neither section is responsible to maintain the common and limited common property, instead it is the Strata Corporation's responsibility.

[45] With respect to 2(c), the plaintiff argues that the only reasonable interpretation is that each separate section is responsible to maintain the limited common property pertaining to their respective section. It cannot be understood to refer to common property – such as the building envelope – which is common to both sections and thus the responsibility of the entire Strata Corporation.

### **Section 5**

[46] Section 5 of Bylaw 2000 relates to “Common Expenses” which are defined as:

(1) "Common expenses" means the total of all expenses incurred or to be incurred by the strata corporation in controlling, managing and administering, operating, repairing, maintaining and replacing the common property, common facilities and other assets of the strata corporation and in discharging all obligations of the strata corporation under the Condominium Act and the by-laws of the strata corporation including, without limiting the generality of the foregoing, the costs of repairs, maintenance and replacement, premiums on insurance policies, landscaping and gardening costs, snow removal, lighting costs, parking lot cleaning, wages, legal and accounting fees, management fees, rental costs, maintenance service and contingency reserve for unusual or extraordinary future expenses whether of a capital nature or not.

[47] The plaintiff argues that this definition of common expenses supports their contention that the building envelope is a common expense and thus the responsibility of the Strata Corporation.

[48] Section 5(4) relates to the apportionment of Common Expenses:

Common expenses shall be apportioned between the Residential Section and the Commercial Section and to individual strata lots in the following manner:

(a) common expenses attributable to either separate section shall be allocated to that separate section and shall be borne by the owners of the strata lots within that separate section in the proportion that the unit entitlement of such strata lot bears to the aggregate unit entitlement of all strata lots within that separate section;

(b) common expenses not attributable to either separate section, shall be allocated to all strata lots and shall be borne by the owners in proportion to the unit entitlement of their strata lot or as otherwise set out in the current budget of the strata corporation; and

(c) common expenses attributable to any one strata lot shall be allocated to such strata lot.

[49] Subsection 5(4)(a) appears to assume that the commercial and residential sections are completely separate but they are not, particularly in the Mixed-Use Building.

[50] The plaintiff argues that “attributable to either separate section” is unclear. The only reasonable interpretation, when read in conjunction with the *Strata Property Act*, is that it must refer to an expense related solely to one of the two sections. If the intent of the bylaw is to divide all common expenses between sections, it runs afoul of s. 72 of the *Strata Property Act*, which provides:

72 (1) Subject to subsection (2), the strata corporation must repair and maintain common property and common assets.

(2) The strata corporation may, by bylaw, make an owner responsible for the repair and maintenance of

(a) limited common property that the owner has a right to use, or common property other than limited common property only if identified in the regulations and subject to prescribed restrictions.

(b) The strata corporation may, by bylaw, take responsibility for the repair and maintenance of specified portions of a strata lot.

[51] No regulations, contemplated by s. 72(2) have been passed, thus the Strata Corporation is responsible for the repair and maintenance of common property.

[52] Section 72 only limits the obligations that can be imposed on “an owner” not on a section. Allocation to a section of responsibility for the repair and maintenance of common property that relates solely to that section is not prohibited by s. 72: *Norenger Development (Canada) Inc. v. Strata Plan NW 3271*, 2018 BCSC 1690 at paras. 60 and 63.

[53] The plaintiff points out that 5(4) resembles section 128 of the *Condominium Act*, which provided:

**128** (1) The strata lot owner's contribution to the common expenses of the strata corporation must be levied in accordance with this bylaw.

(2) If a strata plan consists of more than one type of strata lot, the common expenses must be apportioned in the following manner:

(a) common expenses attributable to one or more type of strata lot must be allocated to that type of strata lot and must be borne by the owners of that type of strata lot in the proportion that the unit entitlement of that strata lot bears to the aggregate unit entitlement of all types of strata lots concerned;

(b) common expenses not attributable to a particular type or types of strata lot must be allocated to all strata lots and must be borne by the owners in proportion to the unit entitlement of their strata lots.

[54] The interpretation of s. 128 was addressed in *Owners Strata Plan LMS 1537 v. Alvarez*, 2003 BCSC 1085. Justice Bauman, then of this Court, held that the provision required discrimination in the allocation of repair costs to building envelopes between different types of strata lots. Common expenses attributable to or related to a particular type of strata lot should be allocated to that type of strata lot and should be borne by the owners of that type of strata lot. Common expenses not attributable to a particular type of strata lot - expenses which relate to all types of strata lots - should be borne by the owners of all strata lots in proportion to the unit entitlement of their strata lots.

[55] Therefore, "attributable to one or more type of strata lot" in s. 128 of the *Condominium Act* has been interpreted to mean solely attributable to a type of strata lot. This provision is similar to the provisions of the *Strata Property Act*, which provide that maintenance and repair of common property not solely relating to a section must be paid for by the owners of all strata lots in proportion to the unit entitlement of their strata lots.

[56] I agree with the plaintiff that s. 5(4)(b) should be interpreted to mean that common expenses not *solely* attributable to either section, are required to be allocated to all strata lots and are to be borne by the owners in proportion to the unit entitlement of their strata lot. Expenses for repair and maintenance of common

property that does not relate solely to one of the sections is required to be borne by the Strata Corporation and not by either of the individual sections.

[57] I do not accept L-259 and Woods' position that s. 5(4) of Bylaw 2000 requires that common expenses be allocated in proportion to the unit entitlement within each section. As L-259 and Woods acknowledge, it is difficult to attribute how much of the building envelope repair to the Mixed-Use Building is the sole responsibility of the residential section and how much would be attributed to the Commercial Section in the Mixed-Use building. I agree with the plaintiff, that the defendants' position is at odds with the *Strata Property Act*, and in effect suggests that there can be subsections within a section. The *Act* does not permit subsections, and no authority has been provided to me to support L-259 and Woods' position.

[58] The defendants' position has evolved over time, in the past the Commercial Section has objected to contributing to common expenses; however, before me the Commercial Section submitted that repair and maintenance costs of the Strata Corporation must be shared in accordance with the unit entitlement of the Strata Plan. The Commercial Section acknowledges that the repair and maintenance costs of the Strata Corporation related to common property and assets that are shared by the Strata Corporation ought to be allocated to all owners in accordance with the unit entitlement of the Strata Plan and should not only be limited to the costs related to the Mixed-Use Building. The Commercial Section does not support L-259 and Wood's position.

[59] At its core, L-259 and Woods' position is that given their unit entitlement their required contribution to the common expenses incurred to repair common property in the Mixed-Use Building is disproportionate to their limited use and benefit of the Mixed-Use Building. There may be merit to that position, but an interpretation of Bylaw 2000, the *Strata Property Act* and the authorities does not support their position.

[60] L-259 and Woods arguments are similar to those that were rejected in *Strata Plan VR1767 (Owners) v. Seven Estate Ltd.*, 2002 BCSC 381. Seven Estate owned

strata lot 3, which was a parking lot located underneath a building which housed 25 residential strata lots and two commercial strata lots. A special levy was assessed to cover the cost of repairs to the building envelope. Seven Estate objected to contributing to the special levy arguing that it received no benefit from the building envelope and could operate as a parking lot without it.

[61] The Court held that the building envelope repairs benefit Seven Estate as a failure to maintain and repair the building envelope would result in a complete failure of the building, which would directly affect the parking lot. The envelope protects the roof and sides of the complex and prevents the penetration of water. If the repair was not made, the building would become dilapidated and unusable as a parking lot.

[62] As a result, the court concluded that repairs to the building envelope relate to and benefit Seven Estate and Seven Estate was required to contribute to the envelope replacement based on unit entitlement.

[63] In this case, the Commercial Section including Lots 1-4, benefit from the building envelope of the Mixed-Use Building. It provides protection from water ingress which benefits all of the strata lots of the Strata Corporation by providing shelter to strata lots of both sections plus various common property and limited common property elements which benefit the Commercial Section. In relation to L- 259 and Woods specifically, the building envelope protects and shelters the electrical room, the parkade and the access to the parkade. Therefore, based on my interpretation of the Bylaws in conjunction with the *Strata Property Act*, all owners of the Strata Corporation are obliged to contribute to remediation of the building envelope of the Mixed-Use Building.

#### **Determining common property and common expenses**

[64] In addition to a declaration that the building envelope is common property, the plaintiff asks this Court to declare that other expenses are common expenses to be borne by the Strata Corporation.

[65] There is no dispute that pursuant s. 5(1) of Bylaw 2000, the following are common expenses that are borne by the Strata Corporation: premiums on insurance policies, landscaping and gardening costs, snow removal, lighting costs, parking lot cleaning, wages, legal and accounting fees, management fees, rental costs, maintenance service and contingency reserve. However, the plaintiff seeks that the court also find the following to be common property: elevator, janitorial costs, rodent control, fire alarm and safety systems, BC hydro, parking lot maintenance, railings, balconies, stairs, hallways, courtyard, HVAC system, plumbing and mechanical systems.

[66] L-259 and Woods argue that the court should not find that the additional items sought are common property. The defendants submit that some of the listed items are expressly related to a particular section, and the court is not in a position to conclude that the listed items are common property. Nor can the court review each item and decide whether particular items should be the sole responsibility of one section.

[67] By way of illustration, L-259 and Woods point to the inclusion of “balconies” on the plaintiff’s list. There are only residential balconies and none of the commercial owners have access to them. The balconies (called “patios” on the strata plan) are designated as limited common property. To declare that repair of the balconies are a common expense would override the bylaws. Section 5(6) of Bylaw 2000 states:

Where the strata plan includes limited common property, expenses attributable to the limited common property shall be borne by the owners of the strata lots entitled to use the limited common property.

[68] Section 194(2) of the *Strata Property Act*, supports L-259 and Woods’ position:

- (2) With respect to a matter that relates solely to the section, the section is a corporation and has the same powers and duties as the strata corporation
  - (a) to establish its own operating fund and contingency reserve fund for common expenses of the section, including expenses relating to limited common property designated for the exclusive use of all the strata lots in the section,

[69] The bylaws of a section and the strata corporation may clarify which expenses relate solely to a section; however, the underlying principle is that for a section to be responsible for an expense, that expense must relate solely to that section.

[70] It may not always be necessary for a strata corporation to pass a bylaw before expenses can be allocated to a section under s. 195 of the *Act*; however, the common property must relate to the strata lots in that section: *Strata Plan LMS 257* at paras. 64 and 75.

[71] In the end, I accept L-259 and Woods' position that it would be imprudent for this Court to review the enumerated list of items sought by the plaintiff to be characterized as common expenses and determine which portions of the buildings are common property. In my view, the parties should be guided by the listed items in Bylaw 2000 and the filed strata plan.

[72] However, it is clear to me that a declaration that the owners of the Strata Corporation are required to contribute to the repair and maintenance of common property and common assets of the Strata Corporation based on unit entitlement is appropriate.

### **Conclusion**

[73] I issue the following declarations:

- a) The Strata Corporation (The Owners, Strata Plan NW 3365) is responsible to repair and maintain the building envelope and other related common property components of the building with civic address 918 Roderick Avenue, Coquitlam, British Columbia.
- b) The owners of the Strata Corporation must contribute to the cost relating to the repair and maintenance of common property and common assets of the Strata Corporation based on unit entitlement.

[74] The plaintiff also sought a declaration that the plaintiff is not responsible for the repair, maintenance and related costs of the building envelope and other related common property of the building. I find that this declaration is unnecessary as it is already encompassed in the declarations I have made.

[75] None of the parties sought their costs of this application and as a result, none will be ordered.

“J. Walker, J.”