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Maria Durdan is the head of the Condominium Practice Group at SimpsonWigle LAW LLP, practicing primarily in condominium law, development and administration. Maria supports over 650 of the firm's residential and commercial condominium clients throughout Ontario. Maria has also obtained her Associate of Canadian Condominium Institute (ACCI) designation in law, which recognizes that Maria has achieved a level of knowledge and skill of condominium law that qualifies her as a specialist in the condominium field. Maria's practice includes advising boards of directors, property managers and developers on all areas of condominium law.

Q

I sit on the Board of Directors of my condominium and was recently approached by an owner who told me that their walkway wasn't being salted, the snow wasn't being cleared off their driveway and one of their pipes just burst from the cold – what should I do?

A

Advise the owner that you will review the matter with the Board and Property Manager and get back to them. Directors should never answer these types of questions without first obtaining the facts.

A condominium is made up of two components, units and common elements. The unit is the residential suite whereas the walkway and driveway may be part of the unit or part of the common elements.

You must first confirm whether the walkway and driveway form part of the unit or common elements. This is determined by reviewing your condominium's Declaration, and in particular, Schedule "F". Next, read the "Maintenance and Repair" section of the Declaration to determine who, the Corporation or owner, is responsible for maintaining and repairing the walkway and driveway, which includes items such as salting and snow removal.

Similarly, review Schedule "C" to the Declaration to confirm whether the pipe that burst forms part of the unit or the common elements; look for wording such as "Notwithstanding the foregoing, a unit shall not include such pipes used for servicing other units but shall include such pipes that are within the boundaries of the unit and which service the unit only". Next, read the "Maintenance and Repair" section of your Declaration to determine who is responsible for maintaining and repairing the pipe. Report any damage to the condominium's insurance company and consult with the condominium's lawyer to determine whether the pipe may have burst because of the condominium's failure to maintain and repair the common elements, such as insulation, if the pipe is the owner's responsibility to maintain and repair.



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