



What is a Standard Unit By-Law?

As you may know, the *Condominium Act* requires a condominium to insure units. This responsibility, however, does not extend to improvements to the units. Historically, after an insurable loss occurs, confusion and debate were the only certainties, as condominiums were left with no guidance on how to make the distinction between a standard component or an improvement. Thankfully, the *Condominium Act* now allows condominiums to pass a Standard Unit By-law. With a Standard Unit By-law, the distinction between a unit and an improvement is legally defined. Without a Standard Unit By-law, there is no definition, and should an insurable loss occur, adjusters, insurers, unit owners and the condominium may be locked in a lengthy debate, which serves no one.

A Standard Unit By-law does not alter maintenance and repair obligations which arise outside of an insurance claim. To determine who maintains or repairs a unit, one must review the *Condominium Act*, and the condominium's operative declaration. If an insurable loss occurs to a unit, then the Standard Unit By-law is utilized. If a non-insurable loss occurs to a unit, like mould or water seepage, then the maintenance and repair obligations, as contained in the condominium's declaration, become operative. It is almost universal that the maintenance and repair of a unit falls to the unit owner. Therefore, outside of an insurance claim, the Standard Unit By-law is not applicable.

What are the options?

Determining what should be included in the Standard Unit By-law is a challenge. There are no limits on what components of the unit can be included. That said, there are two general choices, one being a restrictive Standard Unit By-law, or "bare bones", or an expansive Standard Unit By-law, or "developer's grade".

(i) Bare Bones:

This option limits the definition of a standard unit to the essential, structural components of the unit. Typical inclusions are walls and ceilings to the drywall (excluding primer, paint and wall coverings), the sub-floor (excluding finished flooring like carpet and hardwood), and basic electrical, plumbing and HVAC components (excluding furnaces and air conditioning units). As a result of this limited definition, almost all finished items, fixtures and other components are defined as "improvements", and are the responsibility of the unit owner to insure.

A "bare bones" Standard Unit By-law provides clarity and simplicity in the event that insurable damage occurs to a unit. The Board, adjusters, insurers and unit owners are able to determine the condominium's level of responsibility much faster than with an expansive standard unit. The "bare bones" standard unit also reduces the risk of claims made and premium increases.

(ii) Developer's Grade:

This option is an expansive definition of a standard unit and is usually intended to provide a "turn-key" living space after an insurable loss. Typical inclusions would be all structural components, but also wall coverings, finished floors, fixtures, cabinets, countertops, electrical, plumbing, and HVAC systems. As a result, the definition of "improvements" is limited, as more components are considered standard.

The "developer's grade" Standard Unit By-law may be costlier to the condominium through higher premiums. However, the condominium may be able to secure a better insurance rate than each individual unit owner. Unfortunately, there may be more claims made by unit owners under a "developer's grade" Standard Unit By-law. For instance, more unit owners may have "accidents" requiring the replacement of carpet or countertops. In a "bare bones" standard unit, the unit owner would be responsible for insuring their carpet or countertops. That said, should an insurable loss occur, unit owners will often face less disruption or upset with a "developer's grade" Standard Unit By-law.



What is the process?

Once the Board has decided to create Standard Unit By-Law, our firm will draft a sample depending on the type selected by the Board (i.e. bare bones or developer's grade). The draft is then sent to the Board for review. The Board can make changes to the sample, often with input from the condominium's property manager, engineer or insurer.

Once the Board has approved the Standard Unit By-law, the Board calls a meeting of unit owners. A copy of the proposed Standard Unit By-law is included with the notice of meeting. If the unit owners wish, they can make changes to the Standard Unit By-law at the meeting. To be passed, the Standard Unit By-law must be approved by a majority of all unit owners.

After the Standard Unit By-law is approved by the unit owners, the final step is to have our office register the Standard Unit By-law on title to all of the units in the local Land Registry Office, completing the matter.

Fees?

A Standard Unit By-law costs \$1,500.00, plus applicable taxes and disbursements. Typical disbursements include, but are not limited to: Land Registry Office filing fee (\$70.50); photocopies; and postage to unit owners. The rate is subject to increase where the preparation and/or registration of the Standard Unit By-law is unique or highly specific.

For more information, please contact our condominium practice group chair:

Robert M. Mullin, B.A.(Hons.), LL.B., A.C.C.I. (Law)
SmithValeriotte Law Firm LLP
105 Silvercreek Parkway, Suite 100,
Guelph, ON. N1H 6S4
Tel: (519) 837 – 2100, ext. 255.
1-800-746-0685, ext. 255
Fax: (519) 837 – 1617
Email: rmullin@smithvaleriotte.com
www.smithvaleriotte.com

