



Owner Balcony Upgrades – Three Things That Should Be Keeping You Awake At Night

By Frederick Hann, CSLA

It starts innocently enough: An owner in your building breezes in with the news that she's planning to put some decking and lighting on the balcony. "No problem, right?" she says.



"Sure, but we'll have to take a look at your plan," you reply, knowing your condominium board is responsible for all balconies. And you start thinking: Does your board have rules in place to guide balcony upgrades? How do you make sure people in the building and on the street will be safe? You've heard stories about damage to concrete decking, holes drilled into curtain walls, furniture sailing over railings ...

But at 3 a.m. you're awake in a sweat, nightmare visions swirling. You tell yourself "It won't happen in building."

Or will it? How long until something happen to expose your condo board to significant liability?

The Three "Scary Scenarios" That Keep You Awake

There are three scary scenarios that, if they're not covered off, be keeping you awake at night, because they leave your board exposed to potential liability:

1. Owners in your building are adding finishes and accessories to their balconies without telling you.
2. You are uncertain about what balcony upgrades are safe and if you are exposed to risk.
3. You don't have a record of existing balcony upgrades.

Your Fallback Option

Let's start with a quick look at a fall-

back option some property managers adopt when they feel they can't deal with an owner request: "Just Say No".

"Just Say No" is sure to get some owners in your building upset. The fact is exterior condominium upgrades are a growing trend. As baby-boomers downsize their homes, many are choosing the freedom and lifestyle of condominium living. They want to enhance the quality of their experience and enjoyment of their homes. On the other end of the demographic range, young families increasingly are making a condominium their first home.

Even a tiny balcony can provide much appreciated extra square feet in a small condo. The space for a couple of chairs can help people escape their glass box, even if they use it infrequently. Small or large, a balcony upgrade can visually



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Even a tiny balcony can provide much appreciated space in a small condo.

make a condo feel bigger inside. And creating a balcony garden provides an exposure to nature that everyone craves.

So, you can “just say no” to owner requests to upgrade their balconies or terraces. And then please review scary scenario #1, because liability is still lurking in the shadows of what you don’t know.

What Rules Apply?

As far as safety goes, it’s likely that the majority of condo owners have no idea how to safely upgrade the exclusive-use common area elements adjacent to their condo home. They don’t even realize that it’s not “their” space, at all.

Creating a patio garden on a balcony or terrace is a completely different bit of business than setting up a deck or patio on the ground. Balconies and terraces have unique conditions of wind and sun, and specific Building Code and Municipal laws apply. Under Section 98 of the , exclusive-

use common areas are the responsibility of the condominium board. However, it’s up to each board to regulate what and how balcony and terrace upgrades are done in their building.

In the absence of comprehensive guidelines and rules, typical upgrades – adding decking, planters, lighting, furniture or accessories – can present risks of damage to the building envelope and exposure to liabilities that could ultimately fall onto the condominium board.

You could have an engineer and a lawyer review each application for a balcony upgrade. How much would that cost? How much would it slow down the approval process? Would owners be willing to wait, or would even the most compliant among them start thinking about asking your forgiveness instead of permission? (Re-read Scary Scenario #1).

Another option is to develop and adopt comprehensive guidelines for

your condominium building. Such guidelines would establish rules for every upgrade to follow. Once communicated to all residents and owners, the relatively simple act of adopting guidelines can provide due diligence and help the board avoid liability from the actions of residents who don’t follow them.

You’re One in a Million

I want to acknowledge here that there are experienced property managers who have educated themselves in the intricacies of Building and Municipal Codes and can confidently review owner applications for balcony upgrades and steer their board clear of risks. They make sure that significant changes are registered on the deed, and since they’re proactive they can track what’s been done in each condominium. If you are a member of this select group, your board is fortunate to have you on their team!

But if you’re like most of us, you have a hard time keeping track of who has done what in the building, especially what was done before your tenure. Not knowing what’s been done, or the condition it’s in, opens the door to liability.

Your Wake-up Call

I hope I’ve convinced you that avoiding the issue by saying “No” is the worst possible response. It means you have angry owners to deal with, your board is still exposed to potential liability and owners are frustrated in their desire to have beautiful balconies. Everybody loses.

Every condominium board and its manager should be confident that they have protected themselves from potential damages and liabilities, while effectively and efficiently responding to the needs of the owners in their building. Rules, guidelines and tracking makes it easier to for you to say yes, and that can be a win for everyone. ■

Frederick Hann is president, Garden Connections Inc. and an award winning landscape architect. His goal is to improve the quality of condo owners’ lives by creating beautiful balcony gardens, but the path is often difficult. He helps property managers and boards who are struggling with these three scary scenarios.
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