

# Who's Problem is it...

Deciding who has to pay for common  
association problems

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# **Biggest Legal Traps**

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- Common vs. Limited Common Elements?
- Unit Boundaries
- Assessing insurance deductibles for Leaks and similar issues





# Common vs Limited Common vs Part of the Apartment

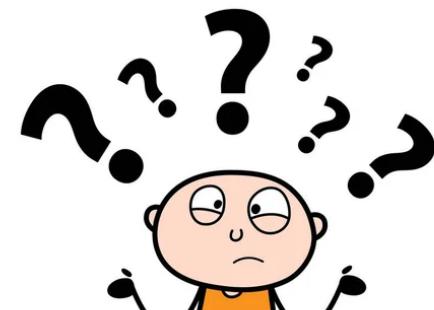
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- Unit–Typically anything inside of the “non-decorated load bearing perimeter interior walls”, including non load bearing dividing walls
- Limited Common Element– Varies Greatly from Association to Association.
- Common element – owned by all owners, Association responsibility to Maintain. Anything not carved out by the two above categories.

# Limited Common

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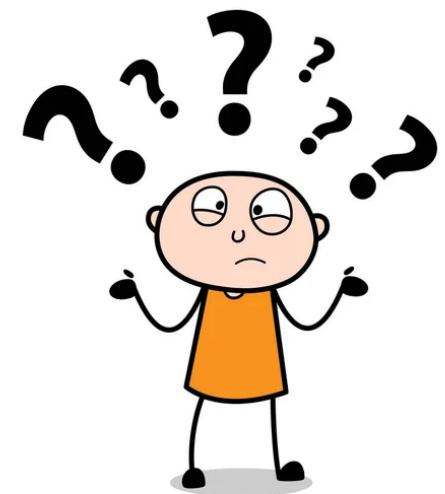
- Typically, the Association's Responsibility to do the repair
- The Condo Docs will say who pays for repair:
  - ▶ The costs and expenses pertaining to the Limited Common Elements, ...., shall be charged to the Owner of the Apartment to which it is appurtenant. . .
- If silent, its treated the same as Common Element



# What is Part of the unit?

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- Windows and Doors– does this include window Frames?
- Lanais? Does this include Lanai Railings? Lanai Tile? What about Waterproofing?
- What happens if its unclear?



# There is a Solution!

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- ▶ HAR") § 16-107-65(b):
- ▶ The board shall compile a list of the association's assets. *If the project's declaration and association's bylaws fail to clearly state whether a particular part of a condominium project is association property, the board may adopt a resolution allocating responsibility for that part to the association, an individual owner, or individual owners*
- ▶ Board must pass by resolution.
- ▶ Underused solution to this problem





# Leaks From one Unit to Another

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- ▶ 514b 143(d) Allows the Association to assess the deductible 1) to all owners, 2) to originating unit, or 3) affected Unit.
- ▶ Generate a Policy So it's Uniform
- ▶ Good Documentation



# Good Luck and Don't Get Sued!!!

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