



Interactive Reserve Analysis

LIMITED COMMON ELEMENTS, VIRGINIA STATUTES

We have encountered situations in which the Board of Directors for Associations are confused as to their responsibility for “*limited common elements*”. With regard to *limited common elements* the Virginia Statute of the 2011 Condominium Act states:

Section 55-79.41 Definitions

“Common elements” means all portions of the condominium other than the units.

“Limited common element” means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

Section 55-79.83 Liability for Common Expenses

- A. Except to the extent that the condominium instruments provide otherwise, any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of any limited common elements shall be specially assessed against the condominium unit to which that limited common element was assigned at the time such expenses were made or incurred. If the limited common element involved was assigned at that time to more than one condominium unit, however, such expenses shall be specially assessed against each such condominium unit equally so that the total of such special assessments equals the total of such expenses, except to the extent that the condominium instruments provide otherwise.

We have generally found that Associations do not reserve funds for the repair and replacement of limited common elements. On the other hand we have found that the Associations have the same fiduciary responsibility for the limited common elements under their control as they do for the common elements. Therefore the Association can initiate the repair and replacement of any limited common element and issue a special assessment to the owners assigned to that limited common element under the statute.

Most importantly you should ask your attorney to look at your declaration and bylaws to see if the Association is responsible for the maintenance and repair of the *limited common* elements.

If you have additional questions about DMA reserve studies, please contact us at our office at 804-644-6404 or by e-mail at admin@dma-va.com.