

Cost Allocation: How are costs allocated among owners?

An Association's Governing Documents determine how costs are allocated among owners in a particular community. However, some requirements are imposed by statute.

Statutes give Associations the authority to collect assessments from owners for common expenses, in accordance with the Governing Documents.¹ Regular assessments are usually estimates of future expenses, but may be for reimbursement of common expenses already paid by the Association. Actual expenses may vary and some owners could have additional expenses if a condo Declaration provides for it. Some services may be assessed or charged based on usage and expenses that benefit only some owners can be assessed to only those owners.²

For both New Act and Old Act condo Associations, common expenses are assessed against the units according to the percentage of each owner's allocation of common expenses as specified in the Declaration.³ For New Act condo Associations only, cost allocation may be different than the percentage of ownership interest.^{4 5} For Old Act condo Associations only, allocation of common expense liabilities, votes in the Association, and common element interests must all be determined by a single common formula that is related to the original value of the units.⁶

The New Act allows the allocation of common expense liabilities, votes in the Association, and common element interests to be made on different bases that can be unrelated to value of the units (as long as the bases are explained and do not favor units owned by the declarant).⁷

For both New Act and Old Act condo Associations, the Declaration may provide for a different method of allocating costs with respect to limited common element maintenance and repair, insurance, utilities, and other expenses that benefit fewer than all of the units.⁸ Statutes allow expenses that benefit only some units or those caused by unit owners to be allocated only to those units.^{9 10} Costs related to collection of unpaid assessments may be assessed against individual delinquent units.¹¹

For HOAs, the CC&Rs may provide for a reasonable method of allocating common expenses, including allocating expenses that benefit only some homeowners against only those homeowners. In addition, costs related to the collection of unpaid assessments may be assessed against individual owners.¹² Associations may only change the allocations of costs among homeowners in accordance with the provisions of the Governing Documents.

Failure by an owner to pay “entitles an aggrieved party to any remedy provided by law or in equity,” and the court may award reasonable attorneys’ fees to the prevailing party.¹³

¹ RCW 64.34.304(b) (Unit owners’ Association– Powers); 64.32.080 (Common profits and expenses); RCW 64.38.020(2) (Association powers).

² RCW 64.34.360(3) (Common expenses – Assessments).

³ **RCW 64.32.080 (Common profits and expenses); RCW 64.34.360(2) (Common expenses – Assessments).**

⁴ RCW 64.34.224(1) (Common element interests, votes, and expenses – Allocation).

⁵ RCW 64.34.224, Official Comments, provides:

[RCW 64.34] departs radically from [RCW 64.32] by permitting [allocation of common element interests, votes in the Association, and common expense liabilities] to be made on different bases, and by permitting allocations which are unrelated

to value. . . . Thus, all three allocations might be made equally among all units, or in proportion to the relative size of each unit, or on the basis of any other formula the declarant may select, regardless of the values of those units. . . . This section does not require that the formulas used by the declarant be justified, but it does require that the formulas be explained. The sole restriction on the formulas to be used in these allocations is that they not discriminate in favor of the units owned by the declarant or an affiliate of the declarant. Otherwise, each of the separate allocations may be made on any basis which the declarant chooses, and none of the allocations need be tied to any other allocation.

⁶ RCW 64.32.050(1) (Common areas and facilities.) provides:

Each [unit] owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage shall be computed by taking as a basis the value of the [unit] in relation to the value of the [entire condo property].

⁷ RCW 64.34.224, Official Comments.

⁸ RCW 64.34.360(3) (applicable to Old Act and New Act condo Associations).

⁹ RCW 64.34.360(3) (applicable to Old Act and New Act condo Associations). For example, assessments for insurance could be made in accordance with risk; and utility assessments in accordance with use.

¹⁰ RCW 64.34.360(5) (applicable to New Act condo Associations only). Assessments for expenses due to misconduct by a unit owner can be assessed solely against that owner.

¹¹ RCW 64.34.364(14) (Lien for assessments) (applicable to both Old Act and New Act condo Associations).

¹² RCW 64.38.020 (11).

¹³ RCW 64.38.050 (Violation – Remedy – Attorneys' fees).