

MOLD

This is to confirm the where mold is found in a unit, generally speaking, the unit owner will be responsible for remediation of the mold.

The only exceptions to the foregoing are (a) if there is insurance coverage for mold (and/or the cause of the mold) in the Corporation's Master Insurance Policy; or (b) where the mold was caused by the Corporation's negligence. I'm assuming that neither exceptions apply in this case.

I see that generally speaking, owners are responsible for repair and maintenance of their units and the condominium corporation is responsible for repair/maintenance of the common elements.

In the case where mold is identified in the unit, the owner would have the responsibility to remediate. In addition, if the mold is from a source within the unit, the unit owner would also be required to repair the cause of the mold.

Likewise, the condominium would be responsible for remediating mold found on the common elements, and would also be responsible for repairing any source that is causing or contributing to the mold.

Where the mold is in both the common elements and the unit, each of the condominium and the unit owner would be responsible for the apportioned remediation cost associated with the common elements and the unit, respectively. The party responsible for rectifying the source of the damage would depend on where the source is located.

Because mold has a potential to spread and to cause damage to other building components (either other units or common elements) and can also create health concerns, where an owner fails to rectify mold identified in his/her unit, the Corporation would have a duty to enter the unit and remediate the mold pursuant to section 92 of the Act. Where the source of the mold is within the unit, the Corporation would also have a duty to take reasonable steps to ensure the source of the mold is addressed, including entering the unit to undertake repairs as may be required (pursuant to section 92). (Of course, where the source is on the common elements, the Corporation would have a direct duty to address the source.) Any costs incurred by the Corporation pursuant to section 92 may be added to the common expenses for the unit.