

PROPERTY IN THAILAND:

Part 33 - Of leaky roofs, common area repairs and sinking funds

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Two of the main attractions of owning a condominium rather than a house are that maintenance responsibilities are handled by a manager and the cost of common area repairs is borne equally by the co-owners.



At the heart of this system is the sinking fund. While these shared pots are essential for financing condominium repairs, they are not a guaranteed defence against owners having to pay for additional repair work to common areas. It is important, therefore, for prospective and existing condo owners to understand their liabilities with regard to common area repairs, the nature of sinking funds, how they are used, and the scope of their fiscal obligations to them.

Condominium ownership rights and obligations are detailed in the Condominium Act (2008), which states that all owners are liable for a proportionate share of expenses incurred in maintaining and repairing common property. This comprises the land on which the building is situated, the building superstructure, lifts, and anything else related to common area aesthetics and usability, such as swimming pools, exercise facilities and parking areas.

Sinking funds act as a reserve account to be used for structural repairs (to a roof, perhaps) and emergency repairs (such as flood damage not covered by insurance) to common property. They also allow owners to spread the cost of major repairs over time and between themselves. By setting aside a sinking fund, owners can generally rest assured that repair work will be undertaken and funded as and when it is required.

This is not the same for the owners of single unit properties, who have far more control over both when repairs are carried out and the quality of the work undertaken. Homeowners can also defer the replacement of a leaky roof in order to buy a new plasma TV or take a holiday. Condominium committees do not offer such options.

Sinking funds differ from condominium fees, which are usually assessed on an annual basis and are used to finance the general upkeep of the building. This might include such things as routine maintenance, insurance for common areas, salaries for security guards, receptionists and gardeners, building management and pest control.

Although the Condominium Act does not require the creation of a sinking fund or prescribe rules for its use, they are mentioned in Section 40(2). More importantly, each condominium will set its own rules regarding the establishment of sinking funds and any disbursements made from it. Typically a committee elected by the owners will be granted authority to disburse funds from the fund, perhaps with an upper limit on spending. The amount each owner must contribute to the fund is in accordance with the size of their property and is expressed as an amount per square meter.

Sinking funds are usually established by a one-time payment by purchasers of new condominiums, with an ongoing commitment from all future owners to finance top-ups as required. In administering the fund the condominium committee might use third-party experts to help assess the maintenance requirements over an agreed timeframe.

Sinking funds have particular relevance for older buildings, as repairs are likely to be more costly than straightforward wear and tear work. Buyers of older condos are therefore advised to have a building surveyor assess the property for possible future structural repairs that might require additional financial contributions.

The details of the sinking fund requirement will be set out in the condominium sale and purchase agreement. The fund's accounts should be reviewed to assess its adequacy, to review draws upon it and to identify contribution deficiencies by owners. Shortfalls in the fund may be a sign of financial problems generally, dissent among the owners or the management committee, or vacant units.

To keep up to date, read the minutes of past condominium committee meetings.

Potential condo buyers should also inquire about the building's insurance policy and annual premiums to determine whether the coverage is sufficient and if there are any significant exemptions (such as flood damage), in which case owners would be held financially liable for repairs.

Ultimately, however, the best information about the overall quality of life in a building undoubtedly comes from spending time on site and from meeting owners and tenants. Talk to occupants while touring a condominium to discover the positives and negatives of the development, and visit at different times of day. Take a friend or relative with you to help with questions, and be sure to ask about the effectiveness of the management team.

By way of example, the new owner of a condominium on a ski hill was asked to contribute to the sinking fund to help finance the addition of security fencing around the hot tubs and to pay for repairs to the parking garage. The first issue was easy to miss when the owner toured the property with the agent; the second would have been obvious had he not been distracted by the 36cm of fresh powder snow. An emotionally uninvested friend or relative would have caught it.

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