

Shed Maintenance and Repair Policy for Tempe Gardens Townhomes

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Categories of Property in an Association

1. Limited Common Elements are those elements available or accessible to fewer than all the units in an association. This could include exclusive-use limited common elements – such as a patio cover or shed. The homeowner’s association (HOA) continues to have a regulatory function for limited common elements. It has the right to regulate them by doing things like setting color or height requirements. However, the responsibility for maintenance of a limited common element generally goes with the owner it's attached to.
2. General Common Elements - property not included with any unit and owned by all the owners.

Source: <http://www.hoaleader.com/public/391.cfm>,

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Tempe Gardens Limited Common Elements

The Maricopa County Assessor Plat maps shows the property line for each individual townhouse extending from the front of the house, through the patio and to the far edge of the parking directly behind the unit. This means that the parking area, patio, and home are all considered part of the actual unit and fall into the category of a Limited Common Element.

Our governing documents (CC&Rs) state that the exterior of the building (not inclusive of windows), and all common elements that fall outside of the property line are to be maintained by the HOA as Common Elements. The CC&Rs also specifically include HOA responsibility on the carports, including the parking superstructure. All other limited common elements, inclusive of the patio and everything that falls within the patio (common walls between patios, patio covers, and storage units), are not the HOAs responsibility to maintain. For these elements, the individual homeowners must step up and assume responsibility.

This is based on language in our CC&Rs (sections 9.b, 9.f. and 10.a) and in Arizona legislation ARS §33-1255(c) (2) which is included below.

Storage Shed Maintenance Requirements

- Storage Sheds are limited common elements, for use solely by each individual homeowner and located entirely within each home's private patio area. As a limited common element, each homeowner bears the responsibility of maintenance and must keep the shed in good state.
- If a shed is allowed to deteriorate, the HOA can determine that the homeowner has been negligent in maintenance and opt to make the repairs which will then be charged back to the homeowner. Failure to pay for such repair can result in a lien against the property.
- Any shed changes or replacements require approval to ensure that architectural standards are met and the shed is in harmony with the design of the property.
- The HOA may decide to absorb the costs for changes or repairs to sheds on a case-by-case basis if:
 - Damages were not due to negligence or actions of the homeowner (i.e. base boards torn up from paving process).
 - Changes help benefit the community (i.e. replacing regular lights with security lights).

Storage Shed Assessments and HOA Repair or Replace

- At least annually, our Manager will assess all storage sheds and notify homeowners of any sheds that are not maintained in compliance with the HOA's standards (as developed by the HOA Architectural Committee).
- Homeowners will have 60 days to bring the shed up to community standards or ask the HOA to perform any necessary repairs.
- If, at the end of 60 days, no repairs have been made the HOA will contact a vendor to either:
 - Repair the shed and bring it back up to standards or
 - Replace the shed with a unit that has been approved by the Architectural Committee.
- The decision to repair or replace will be based on the extent of damage or deterioration. The HOA will attempt to control costs by negotiating the best rates and will not mark up any charges nor add any fees to the repair or replacement costs.
- Any additional features, changes or upgrades requested by the homeowner, such as moving a door or adding shelving, must be addressed with the vendor providing the services and paid for by the homeowner directly.
- Homeowners are responsible for providing access to patio areas and storage sheds as needed for either repair or replacement. Increased costs due to lack of access will be charged back to the homeowner.

Payments and Liens

- Within 30 days of completion, the HOA's Manager will submit a bill to the homeowner on behalf of the HOA.
- Per the CC&Rs, **homeowners have 10 days to submit payment** for these repairs.
- If the repair/replacement bill is not paid in a timely fashion, it shall become a lien on the townhouse and shall continue to be such lien until fully paid or collected through a legal proceeding.

Legislative and CC&R Language

The legal opinion for this policy was based on our CC&Rs and Arizona legislation. The pertinent language is included here as an FYI.

33-1255 - Assessments for common expenses

C. Unless otherwise provided for in the declaration all of the following apply:

- 1. Any common expense associated with the maintenance, repair or replacement of a limited common element shall be equally assessed against the units to which the limited common element is assigned.*
- 2. Any common expense or portion of a common expense benefiting fewer than all of the units shall be assessed exclusively against the units benefited.*

Tempe Gardens HOA CC&Rs Section 9.b, 9.f, and 10.a

9.b. The Association, or its duly delegated representative shall maintain and otherwise manage all property up to the exterior building lines and patio enclosures including, but not limited to the landscaping, parking areas, streets and recreational facilities, roofs, common elements and exteriors of the buildings located upon the above described properties, except windows of townhouse units, and shall maintain and otherwise manage and be responsible for the rubbish removal of all areas within the above described property.

9.f. No exterior additions, or alterations to any building nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the property by an architectural committee composed of the Board of Directors of the Association, or by a representative designated by the Board of Directors. The members of such committee shall not be entitled to compensation for services performed pursuant to this paragraph.

10.a. *In the event any common element, townhouse (exclusive of any party wall), carport or storage facility is damaged or destroyed through the negligent or culpable act of an owner or any of his guests, agents or members of his family, such owner does hereby irrevocably authorize the Association to repair said damaged element, townhouse, carport or storage facility, and the Association shall so repair said damaged element, townhouse, carport or storage facility. The owner shall then repay the Association in the amount actually expended for said repairs.*

Each townhouse owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall become a lien upon said owner 's townhouse and percentage ownership of the common elements and shall continue to be such lien until fully paid. The amount owed by said owner to the Association shall be a debt, and shall be collectible by an lawful procedure allowed by the laws of the State of Arizona.