

REQUEST FOR ACTION

To	The Collection Board of Directors				
Subject	Investigation of Impact Noise from Upstairs Neighbor				
Preparer	Scott & Amanda Schwarzwaldner, Apt. 1708				
Date	4/21/2021	For Board	x	Action	Info

EXECUTIVE SUMMARY

We have been hearing loud impact noises (footfalls, stomping, bangs, dropping items on the floor, dragging items across the floor) on a regular basis for the last few months from the unit above us. The noises can be heard in ALL rooms of our apartment at ALL hours, especially during quiet hours (particularly around 4am). We also hear a loud gush of rushing water in the drain pipes every time our upstairs neighbor flushes the toilet. The noises are impacting our ability to sleep and are having a huge negative impact on our quality of life. We have also recently observed cracks to our concrete ceiling slab, which could be due to the structure-borne vibrations, and management has failed to solicit a response from the Building Architect addressing the potential hazard. These acoustical issues are unacceptable in a luxury condominium, especially of this age.

RECOMMENDATION

Building Management has advised that there have been no documented changes to the flooring of the unit above us, but given the acoustical issues, we request a visit to the unit by at least 1 member of the Building, Grounds & Design Review Committee (Exhibit 1); 1 member of the Management team; and 1 Acoustical Engineer who will be selected by the RFA preparers. The aims of the visit will be to 1) confirm that no floor modifications were undertaken without Board approval (Exhibit 2), and 2) have the Acoustical Engineer conduct a test of the IIC value (impact insulation class), which measures impact sound absorption and vibration isolation, to confirm that the flooring satisfies requirements set forth in Exhibit 3.

RATIONALE

There was an RFA put forth in July 2019 (#13-2019) which identified issues very similar to ours (Exhibit 4). The RFA was withdrawn on August 24, 2020 (presumably because the Owner sold the unit on September 3, 2020), but it indicates a pattern of potential acoustical deficiencies throughout the building that the Board has a responsibility to investigate and address.

Exhibits (If applicable)	Index	Title
	1	Association Policy 100 – Governance, Section 3b
	2	ByLaws of the Association of Unit Owners of the Collection, Section 10.5
	3	Amended and Restated Declaration of Condominium Property Regime of the Collection, Section 16.3
	4	RFA #13-2019 Request for Inspection, 7/18/2019

FOR BOARD USE ONLY											
CERTIFICATE OF BOARD ACTION											
<input type="checkbox"/>	Approved	<input type="checkbox"/>	Declined	<input type="checkbox"/>	Noted	<input type="checkbox"/>	Returned	<input type="checkbox"/>	Deferred	<input type="checkbox"/>	Withdrawn
Stipulations											
Coordinating Instructions											
Distribution Instructions											
To be discussed at the April 27, 2021 Board Meeting.											
Recording Secretary	Desmond Oliveira			Action Date		RFA No.	01-2021				

EXHIBIT 1: ASSOCIATION POLICY 100 - GOVERNANCE

3b. **Roles and Responsibilities of the Committees: Building, Grounds & Design Review Committee.** ...The Committee's responsibilities, include: (v) investigating complaints and violations of design controls and recommending action to the Board and Management.

EXHIBIT 2: BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF THE COLLECTION

10.5 **Additions or Alterations by Residential Unit Owners.** Except as set forth in the Declaration, no Owner shall make any addition or alteration in or to a Residential Unit without first complying with the requirements of this Section and securing the prior written approval of the Board. This section does not apply to Commercial Units.

10.5.1 **Written Submission of Request for Approval and Requirement of Board Action.** No Unit Owner shall commence work on any alterations or additions within a Unit until the Owner has submitted to the Board a written request (which may include plans and specifications if the Board so requires) and the Board (or a subcommittee of the Board established for such purpose) either approves the request in writing or the Board is deemed to have approved the request as provided in section 10.5.2 below.

10.5.4 **Board May Require a Halt in the Construction or Removal of Unauthorized Work.** The Board may inspect the work from time to time and direct a halt in construction for any reason and the Board may require the removal or correction of any work which was (i) not authorized by the Board, or (ii) which may adversely affect the Common Elements, the exterior of the Project or the rights of any other Unit Owner.

10.6 **Right of Access.** The Association, acting through the Board or its designee, shall have the right to access to each Unit or its exclusive Limited Common Elements, without liability for trespass or other consequential damages, from time to time during reasonable hours as may be necessary for the operation of the Project upon twenty-four (24) hours written notice, or, at any time without notice, for making emergency repairs in the Unit necessary to prevent damage to the Common Elements or to another Unit or Units.

**EXHIBIT 3: AMENDED AND RESTATED DECLARATION OF CONDOMINIUM PROPERTY REGIME OF THE
COLLECTION**

16.3 **Noise Restrictions on Residential Unit Floor Coverings.** As a condition to the installation, repair, alteration or replacement of any surface floor coverings in a Residential Unit, the Unit Owner must provide the Board with written evidence that, as installed, **the new floor covering will mitigate sound transmission with a minimum Sound Transmission Coefficient (STC) Acoustic Standard of STC-55 and an Impact Isolation Class (IIC) rating of IIC-55 or such other rating as the Board shall have determined is required to prevent unreasonable sound transmission through the type of flooring that will be installed.** Following installation of any such approved hard floor covering, the Owner will provide the Board with written confirmation from the installer that the material specified in the Board's written approval was duly installed and that as installed, such flooring meets the minimum standards set forth above. **The Board shall have the right to require that any hard surface floor covering installed without the Board's prior approval or not in conformity with the minimum standards in this paragraph shall be removed at the Unit Owner's expense.**

REQUEST FOR ACTION

To	The Collection Board of Directors				
Subject	Request for inspection				
Preparer	Unit #4202				
Date	7/18/2019	For Board	x	Action	Info

EXECUTIVE SUMMARY

We are experiencing hollow, clacking, sharp sounds, and other impact noises similar to a hard object striking the floor, coming from the ceiling area of our unit, in ALL rooms, throughout the day, and sometimes during the quiet times (10:00 pm to 7:00 am). This has been occurring since our move in date, January 16, 2016.

If any flooring changes were made to unit above us, it is assumed that the owner abided by the AOOU Bylaw "10.5.1 Written Submission of Request for Approval and Requirement of Board Action."

It is also assumed the Board abided by AOOU Bylaw "10.5.3 Board May Impose Reasonable Conditions. The Board may impose reasonable conditions on its approval of any such request including, without limitation, requiring (i) changes or amendments to the request, including changes or amendments designed to minimize the potential effects of such additions or alterations on Owners or occupants of other Units, ... Without limitation to the foregoing, the Board may, as a condition to approving any request to install tile, hardwood, or similar hard surface flooring, require the Owner to install subfloor padding or acoustical insulation." See attachment for the definition of noise restrictions on residential unit floor coverings, as described in the **DECLARATION OF CONDOMINIUM PROPERTY REGIME OF THE COLLECTION**

We would like to request an informal visit by at least three (1) member of the Building, Grounds & Design Review Committee, a member of the Management team, and any other individual that has knowledge in this area to confirm that the floor covering in the unit above us meets the standards set forth by the AOOU, in accordance with the Association Policy 100 – Governance section 3(c), Building, Grounds & Design Review Committee, "The Committee's responsibilities, include: ... (v) Investigating complaints and violations of design controls and recommending action to the Board and Management;"

RECOMMENDATION

RATIONALE

Exhibits	Index	Title
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EXHIBIT 4

(If applicable)	1	DECLARATION OF CONDOMINIUM PROPERTY REGIME OF THE COLLECTION, ARTICLE 16. ALTERATION OF PROJECT, (section) 16.3 Noise Restrictions on Residential Unit Floor Coverings.

FOR BOARD USE ONLY											
CERTIFICATE OF BOARD ACTION											
<input type="checkbox"/>	Approved	<input type="checkbox"/>	Declined	<input type="checkbox"/>	Noted	<input type="checkbox"/>	Returned	<input type="checkbox"/>	Deferred	<input checked="" type="checkbox"/>	Withdrawn
Stipulations											
Coordinating Instructions											
Distribution Instructions											
Withdrawn at the request of the preparer on 08/24/20.											
Recording Secretary	Desmond Oliveira			Action Date	08/24/20	RFA No.	13-2019				

EXHIBIT 4

Exhibit 1

DECLARATION OF CONDOMINIUM PROPERTY REGIME OF THE COLLECTION

16.3 Noise Restrictions on Residential Unit Floor Coverings. As a condition to the installation, repair, alteration or replacement of any surface floor coverings in a Residential Unit, the Unit Owner must provide the Board with written evidence that, as installed, the new floor covering will mitigate sound transmission with a minimum Sound Transmission Coefficient (STC) Acoustic Standard of STC-55 and an Impact Isolation Class (IIC) rating of IIC-55 or such other rating as the Board shall have determined is required to prevent unreasonable sound transmission through the type of flooring that will be installed. Following installation of any such approved hard floor covering, the Owner will provide the Board with written confirmation from the installer that the material specified in the Board's written approval was duly installed and that as installed, such flooring meets the minimum standards set forth above. The Board shall have the right to require that any hard surface floor covering installed without the Board's prior written approval or not in conformity with the minimum standards in this paragraph shall be removed at the Unit Owner's expense.