

Cambridge Cove
Devonshire Place
Hamilton Cay

Limited Common Elements (LCEs)

What is a Limited Common Element (“LCE”)? The association has received and answered individual questions regarding this topic over the years

This document will provide:

Section 1: **Definition of LCE**

Section 2: **List of Limited Common Elements (LCEs)**

Section 3: **Visual Examples of LCEs on all Condos in Bermuda Bay**

Section 4: **References to the Declarations and N.C. Gen. Stat.** that support the visual examples in Section 3 and the list of examples in Section 2.

Section 1: Definition of LCE: The definition of “Limited Common Elements” is one that many folks, especially those new to condo associations are not familiar with. It is key to understanding issues as to **“who is responsible for the maintenance of each portion of their condo.”**

There are only three types of property in a condominium – (1) a **Unit**; (2) a **Common Element**; and (3) a **Limited Common Element (LCE)**. Technically, a Limited Common Element is part of a Common Element, but for all intents and purposes, these are the “three” types of a property in a condominium. Every structure, blade of grass, strip of asphalt, window, roof and piece of dirt falls into one of these three categories based on the formal governing documents for the three (3) separate condominium associations comprising “Bermuda Bay.”

There are four (4) declarations in Bermuda Bay – one for “Bermuda Bay” and one each for Cambridge Cove, Hamilton Cay and Devonshire Place. Each declaration has its own definition of a LCE. In general, however, a LCE is defined as -

- a. a **“portion of the common elements for the exclusive use of one or more but fewer than all of the units.”**

In all declarations, the Owners are ultimately financially responsible for Limited Common Elements

NOTE: **Devonshire** is only recently an owner led board as the developer has just recently departed the association in late 2019. There was some confusion caused by the Developer’s actions to keep the buildings looking good as they performed work on LCEs, such as garage doors, front doors and windows. However, now that the board is under owner control, the board is adhering to the definition of LCE in the above-referenced declarations.

Section 2: List of Limited Common Elements (LCEs)

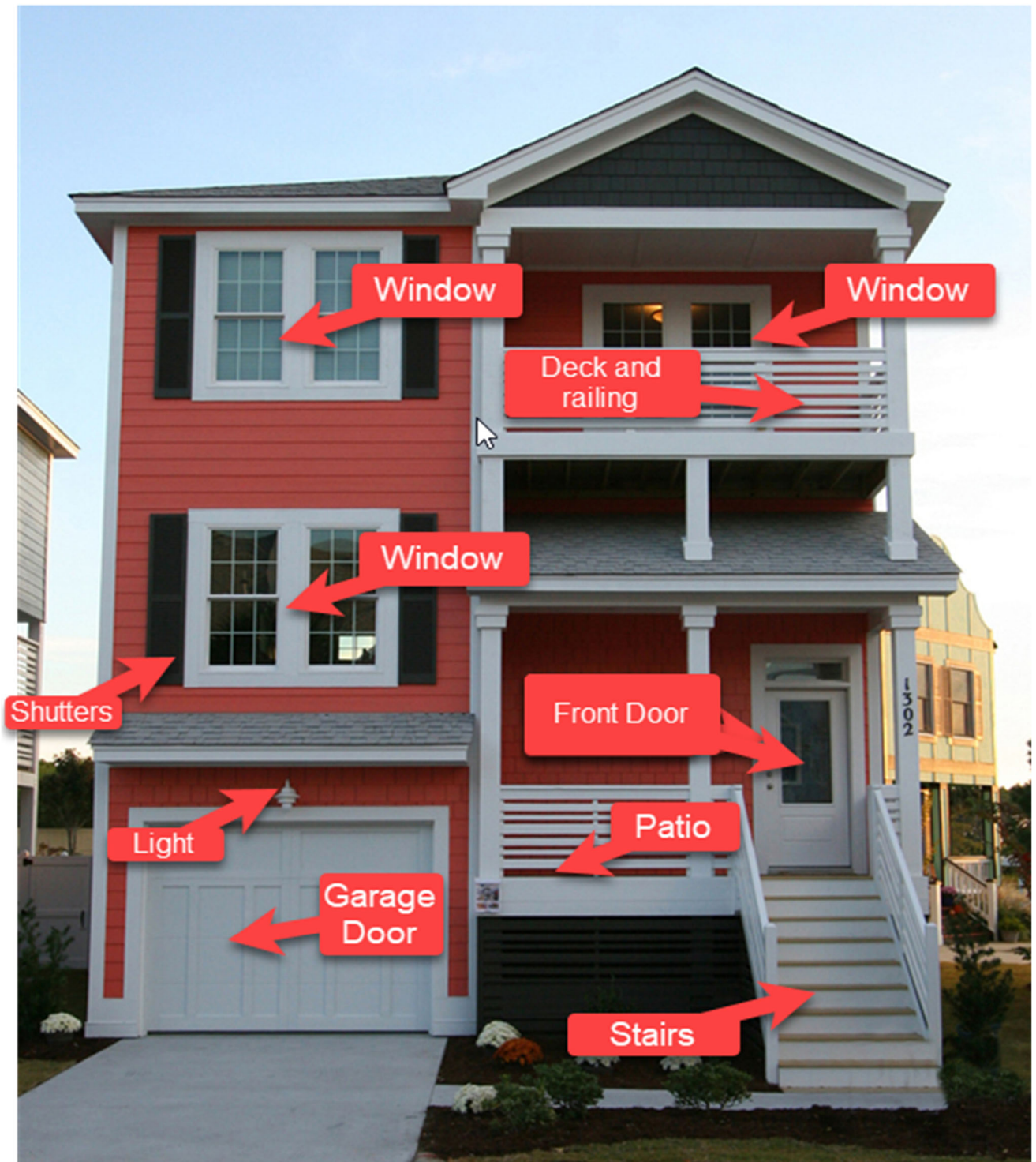
- ✓ Windows from the frame into the home
- ✓ Window Screens
- ✓ Shutters
- ✓ All access doors, front door, side door, back door, patio door, sliding glass door, and garage door
- ✓ Patio and Decks Front and Rear
- ✓ Stairs and supporting structures (Cambridge this is shared between two owners)
- ✓ Lattice work around stair structures (Cambridge Cove new section only)
- ✓ Lights attached to the home and Light bulbs

- ✓ Walkway and exterior light fixtures including bulb replacement
- ✓ Door hardware

- ✓ HVAC including the Air Handlers outside
- ✓ Driveway (Not the cement area in front of Hamilton Cay)
- ✓ Handrails (not Hamilton Cay)

- ✓ Entryway steps, stoops, walkways and trash bins if previously modified by a unit owner
- ✓ Awnings and handrails
- ✓ Skylights, windows, exterior doors and shed roofing over kitchen doors
- ✓ Doorbells, alarm systems and motion sensors
- ✓ Chimneys and exhaust vents, including dryer vents
- ✓ Outside water spigots
- ✓ Backyard landscaping and lawncare (Devonshire Only)
- ✓ Electrical Boxes attached to the unit

Section 3: Visual Examples of LCEs on Condos in Bermuda Bay (Devonshire)



All Windows, Stairs, Railings, Steps, Front Door, Garage, Patios, Decks, Spigot, Electrical box

(Devonshire)



**Lawn, shrubs, patio, stairs, railing, sliding glass door, light, and Air Handler,
Windows and screens, cleaning of inside of fence, spigot, electrical box**

(Devonshire)



Lawn, Air handlers, stairs, patio, door, landing, light, windows, screens, spigot,, electrical box

(Cambridge Cove)



Front Door, All Windows, Garage Door, Entry doors, Stairs, Railings, and supporting structure and lattice work, spigot, and outside electrical boxes

(Cambridge Cove)



Including handrails, Screens, Exterior lights, spigot, and outside electrical boxes,
Decks and railings

(Cambridge Cove)



**Pergola, Sliding Glass Door, Windows, Screens, Decks, Air handlers, Spigots and
Electrical outlets
(Hamilton Cay)**



**Patio, Access doors, All Windows.
(Hamilton Cay)**



Front Door, All windows and screens, Garage door, Unit Exterior Light, Spigot and outlet boxes



**Air Handlers and circuit breaker covers.
(Hamilton Cay)**



Air Handlers and Circuit breaker box covers, Access doors, Windows and screens, Decks and rail section

4: References to the Declarations and N.C. Gen. Stat.

(This section is the ‘legalese’ that supports the list in Section 2 and the visual examples in Section 3)

Cambridge Cove supporting Declaration and Statues

The term, “Limited Common Elements” is defined in Section 3.13 of the Cambridge Cove Declaration as a **“portion of the common elements for the exclusive use of one or more but fewer than all of the units.”** Section 24.2 notes that “any common expense associated with the maintenance, **repair, or replacement of a limited common element be assessed equally against the units to which that limited common element is assigned.**” N.C. Gen. Stat. 47C-2-102 .

Unit boundaries (examples) N.C.G.S. §47C-2-102

- 1) If walls, floors, or ceilings are designated as boundaries of a unit, then all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit; and all other portions of such walls, floors, or ceilings are a part of the **common elements**.
- 2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a **limited common element** allocated exclusively to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.
- 3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit is a part of the unit.
- 4) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, and balconies, patios, and all exterior doors and windows other fixtures designed to serve a single unit but located outside the unit's boundaries are limited

common elements allocated exclusively to that unit. (1985 (Reg. Sess., 1986), c. 877, s. 1.)

Driveways : Article 1.1 (15) of the BB Declaration defines Limited Common Elements (LCEs) a portion of the common elements allocated by the Declaration or pursuant to the Act, for the exclusive use of one or more but fewer than all of the Lots.” Section 3.10 of the BB Declaration states LCEs may be indicated as such on recorded plats.

Owner Responsibility 3.13 of the CC Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common Elements on Exhibit B.”

18.1 – Unit Owner maintains the Unit. “Betterments and improvements” to an LCE are the Unit Owners responsibility under 18.3.

Handrails on the Stairs: Owner Responsibility: 3.13 of the CC Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common Elements on Exhibit B.

Hamilton Cay supporting Declaration and Statues

Section 2.15 Limited Common Elements. “Limited Common elements’ means those portions of the common elements allocated by operation of § 47C-2-102 for the exclusive use of one or more but fewer than all of the Units, those portions of the Common elements described in this Declaration as Limited Common elements and those portion of the Common Elements designated as Limited Common Elements on Exhibit ‘B’

Driveway

Owner Responsibility: Outside parking no; under building parking yes. 2.15 of the HC Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common Elements on Exhibit B.” The Hamilton Cay parking under the building is a LCE, but the concrete in front of the building outside the footprint is a Common Element.

Handrails on the Stairs

No. 2.15 of the HC Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common Elements on Exhibit B.” The stairs are all Common Elements and the railings are common elements on the front of the building as they are part of the stairs.

16.1 – Unit Owner maintains the Unit. “Betterments and improvements” to an LCE are the Unit Owners responsibility under 16.3. Further, if an Owner makes an improvement to the LCE, then the entire LCE becomes the responsibility of the Owner to maintain – see 16.3.

Devonshire Place supporting Declaration and Statues

Section 3.13 Limited Common Elements. "Limited Common Elements" means those portions of the Common Elements allocated by operation of N.C. Gen. Stat. § 47C-2-102 for the exclusive use of one or more but fewer than all of the Units, those portions of the Common Elements described in this Declaration as Limited Common Elements and those portions of the Common Elements designated as Limited Common Elements

Driveways

Owner responsibility. 3.13 of the DP Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common Elements. Hence, the driveway would be an LCE.

Handrails

Owner Responsibility: . 3.13 of the DP Declaration defines “LCEs”, in part, as “those portions of the Common Elements designated as Limited Common. Hence, the railings on those stairs are a LCE.

18.1 – Unit Owner maintains the Unit. “Betterments and improvements” to an LCE are the Unit Owners responsibility under 18.3. 16.1 – Unit Owner is responsible for “improvements” to LCEs.

The Owner performs maintenance on “betterments and improvements” to their limited common elements. If the owner does not perform the necessary maintenance to the LCE, then the HOA will provide maintenance on the LCEs, then charge the Owner for the work performed on the LCE.

Example: the stairs to a unit in Cambridge become unsafe to use. The owners, since two units share stairs in Cambridge are notified that the repair is causing a safety hazard. If the owners do not make the necessary repairs the HoA will repair the stairs and will place a charge against the owner's accounts for the expense incurred.

Lately, even though the areas are the responsibility of the owner, the HOAs can make repairs and assess the owners. The HoA upon inspection will notify the owner(s) if an LCE is a safety risk (most commonly stairs or decking). The HoA will communicate with the owner. If the owner does not replace/ repair the issue the HoA will repair the item and charge the owners account. This approach affords the owner the opportunity to address the issue as opposed to the HoA performing the repair and directly charging the owner.

The HOA will perform the underlying basic LCE maintenance work and expense the costs to the Owners that benefit from the LCE work. Section 7.1 of the BB Declaration states that the Board can determine that any upkeep of the LCEs may be the expense of the Owner assigned to the LCEs. NCGS 47C-2-102 (4) provides, "[a]ny shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit." NCGS 47C-3-115 (c) (1) provides "To the extent required by the declaration: Any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides."

The policy justification for this in the docs is for the HOA to make sure basic maintenance standards are met and consistent.

If you have additional questions, please feel free to email us at:
bermudabayhoa@yahoo.com

Sincerely

Cambridge Cove OA
Devonshire Place OA
Hamilton Cay OA