

## SJC Expands Condo Associations' Rights to Recover for Construction Defects

The Massachusetts Supreme Judicial Court issued an opinion on July 10, 2014 which will make it much easier for residential condominium trustees to recover the cost to repair negligently constructed or designed common area building elements, such as window frames, exterior cladding and roofs, from the condominium's developer. *Bryan Wyman, et. al., Trustees v. Ayer Properties, Inc., 2014 Mass. Lexis 524.*

Previously, a legal principle known as the "Economic Loss Doctrine" precluded trustees from recovering such costs because the trustees have no contractual relationship with the condominium's developer. Individual unit owners have a contractual relationship with the developer by virtue of their purchase and sale agreements and, in addition to their units, own an undivided interest in the common areas. However, under the Massachusetts condominium statute, only the trustees have the ability to institute legal action to recover the cost to repair the common area building elements.

Under the particular circumstances of this case, the SJC ruled that the Economic Loss Doctrine does not prevent the trustees from recovering the reasonable cost to repair or replace negligently constructed or designed common area building elements.

If you have questions about this decision or other matters, please contact your attorney or an attorney in our [Construction Law Group](#).

If you have any questions about the issues addressed here, or any other matters involving Construction Law issues, please feel free to contact:

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