

Condo Smarts

Headline: Uninsured damages, who's responsible?

Topic: Insurance

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Dear Condo Smarts: I live in a 2 bedroom condo in a 14 year old building in Burnaby. I was the original owner and have upgraded my unit over the years to include hardwood floors and a new kitchen. Back in June, the unit upstairs had a small leak from a dishwasher failure. Their floor was damaged and the ceiling of my unit and one of my cabinets was damaged. Our deductible is \$5,000, but the total cost of damages was under \$4,000 dollars. We have been told by the strata council that each owner is responsible for their own damages and that it is up to us to basically restore our own units and repairs. Is this fair? Isn't the ceiling and beyond common property and the responsibility of the strata corporation? What if an owner is not capable of doing the repairs? Will they ever get done and if not, how will that affect the rest of the building.

Jason K.

Dear Jason: Your question is the most common inquiry we have addressed this summer. Damages below a deductible create a number of complications for everyone, so it is important to clearly understand who is responsible for maintenance and repair of the strata lot, common property, limited common property and alterations to a strata lot. The dividing line between 2 strata lots is the centre point between the floor and the ceiling. That tells us that the ceiling of your unit and the floor of the unit upstairs are part of the strata lot and each owner's responsibility. If there were pipes, wires, cables or ducts that ran through that floor space, and they were common property because they were capable of being used in connection with another strata lot(s), or they were deemed the responsibility of the strata corporation under the bylaws or the Act, then the strata

corporation may also have responsibilities for restoration. Even though the original ceiling and floors are part of the strata corporation's fixtures and assets for insurable purposes, that does not mean the strata is responsible for their maintenance and repair. At this time, only in the event of an insurable claim will the strata corporation cover those areas of restoration. This is one of the reasons why it is imperative that strata lot owners should be maintaining their own content insurance. Your upgraded floors and cabinets (betterments) would be covered on your home owner policy and underinsured amounts may also be covered. Strata councils sometimes take the view of doing the repairs and then charging the cost back to the owner who caused the leak, but the strata corporation does not have any interest or obligation in maintaining or repairing a strata lot unless the bylaws of the strata corporation clearly define the obligations, often leaving the strata in a tenuous position over an unsecured debt. When a claim is caused where an owner of another strata lot is responsible, the amount of the deductible or damages to other parties, could be claimed against that owner. The strata corporation would normally seek to recover the deductible and hopefully the home owner's policy will settle the claim. When the amount is below the deductible, which is much more common these days because of higher deductible rates, owners rely on their own insurance policies for coverage, or they have the damages repaired and sue the owner of the strata lot who caused the damages. It is important for owners to report all the damages to the strata corporation to ensure that there are no hidden losses or damages that could cause future claims or losses, such as mould or dry rot.

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