

Condo Smarts

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Dear Tony: Our strata council have been struggling with an issue in our building that involves insurance claims in a strata lot. Our property manager tells us that if a claim happens in a strata lot, it is the owner's responsibility and expense, and if it happens on the common property the strata is responsible, but both the strata insurance company and the owner's insurance company cannot agree on a current claim. A pipe has broken in the ceiling between two strata lots causing about \$17,000 damage to the strata lot below. Our water deductible is \$10,000 but the damage is only to the strata lot below and the insurer says it is the responsibility of the strata owner, but the owner's insurance company has advised that this is an insurable loss on the strata corporation's insurance. We need some help to answer this question so we can get moving on the repairs.

Karen North Vancouver

Dear Karen: There are a few simple rules to follow that help in understanding the obligations of insurance and claims in a strata. The first issue everyone needs to clarify is to define what was damaged. If the damages occurred to the original assets and fixtures, and the amount is equal to and greater than the deductible, then the claim will be covered under the strata policy. It is also important to understand that strata lot owners are named insureds on the policy by virtue of the Strata Property Act (SPA) and as a result can directly file a claim with the strata insurance provider without the consent of the strata corporation. Whether or not there is a claim is a decision that will be determined by the adjuster's assessment of the value of damages. In Karen's strata if the claim is for the strata common assets and fixtures and it exceeds the value of the deductible rate, then it is a claim on the strata corporation insurance.

The second issue to assess is what caused the claim. Now we know what is being covered and under what policy, it is important to identify the cause of a claim and whether it was the responsibility of the owner or the strata corporation. The pipe identified in Karen's strata is

common property as defined under the Act, and is therefore the responsibility of the strata corporation to maintain and repair, and the strata corporation will not be able to recover the \$10,000 deductible from either owner. However, if the water loss was caused by the failure of a toilet tank or leaking dishwasher, failed washing machine or bath tub, the owner may likely have been responsible for the maintenance and repair of those fixtures and the strata council would have been able to seek an action to recover the \$10,000 deductible from the owner who was responsible for or caused the claim.

An underlying principle of the SPA is that owners are responsible to maintain and repair their strata lots to the extent that the repairs are not damages caused by an insurable claim, a critical issue that is missed by many strata owners. If in Karen's situation, the damage was caused by the neighbor overflowing their tub, and the damage amount was below \$10,000 with no claim, Karen would be required to go to her own insurance provider to file claim for the restoration to her strata lot or pay it directly herself.

There would be far fewer disputes over insurance claims if owners would simply invest in proper insurance coverage for their condos as there would be much less need to sue the neighbor who caused an underinsured claim because you as an owner failed to buy insurance.

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