

Strata Living

Headline: Determining who will do strata repairs.

Topic: Repair and Maintenance; townhouses

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Dear Tony: We have a serious problem in our townhouse unit. Our strata is in Richmond and is 24 years old. One of the owners has complained about a crack in the floor which was noticed because the tiling in their kitchen cracked. The movement has progressed so far that a water line in the kitchen floor has eventually broken causing significant damage to the strata lot. The additional gushing water has also increased the failure of the floor area and increased the crack so now there is about a 5cm difference in the on grade slab. The owner is expecting the strata corporation to repair this, but we always understood that in townhouses, each owner was responsible for their own repairs of the interior of the strata lots. The strata corporation agreed that they will execute the repairs if we are responsible but we cannot find anything in the Strata Act that determines we are responsible.

Sharon J.

Dear Sharon: There are three steps to determining who is responsible for the repairs. Step 1 is to look at the registered strata plan and determine how the area is designated. Is it common property, limited common property or part of the strata? Step two is to determine under the definitions of the Strata Property Act, if this area falls within the definition of common property.

In this case where it is slab on grade, the floor between the strata lot and the area below which is common property, helps us to determine that there may be utilities located within the slab that under the definitions are common property. Step three is to review the bylaws and determine what is the responsibility of the strata corporation and that of the strata lot owner. The crack may simply not be cosmetic in this case. If it is structural, under your bylaws the strata corporation is responsible for the structure of the building, as well as the pipe which is contained within a wall or floor in a boundary between the strata lot and common property. One other variable that may affect the responsibility of this repair is whether an owner conducted any structural repairs or changes to the strata lot. It would be prudent for the strata corporation to hire a structural engineer to look at the slab and soil conditions before you proceed further. The obligation of maintenance and repair in strata corporations is a challenging concept even for the very experienced practitioners in our industry. There is no consistent rule that applies because every strata plan and the registered bylaws of the corporations have some variations. A methodical approach to analyzing the responsibility is the only method to find solutions.

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