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## Condo Smarts

Headline: Who Pays When the Strata Damages a Unit?

Topic: Repair and Maintenance; Strata Corporation's responsibility for repairing a strata lot

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Written by: Tony Gioventu

**Dear Tony:** This situation must occur in every strata. An owner upstairs overflows their toilet, or there is a water stain indicating a leak, or a washing machine overflows, but where does the line get crossed when a strata corporation investigates a leak and causes damages to a strata lot? We have a wall that showed significant water damage to the base area. The strata called a restoration company to look at it, they cut open the wall and found there was a drain line that had become disconnected. The company resolved the problem and repaired the drywall. We heard nothing for 6 months and then the management company sent us a bill for \$2,800 claiming it was in our unit and below the strata insurance deductible, therefore, we must pay. We didn't cause the damage, we didn't order the construction, and we didn't order the repairs. Why do we have to pay?

*Mitchell V. Richmond*

**Dear Mitchell:** There is a liability condition for strata corporations known as above and below the deductible. Every owner and tenant is a named insured on a strata corporation policy. If a claim on the insurance is above the deductible amount, it is a claim on the strata policy, and the deductible is a common expense. That deductible may be the responsibility of an owner and may be recovered under certain circumstances.

When the amount is below the deductible, and there is damage to a strata lot, the owner is responsible for the repairs and maintenance to the strata lot, and files a claim on their homeowner insurance; however, the costs associated with strata corporation repairs may be different.

When there is a report of water escape or other conditions where the strata corporation orders repairs

and the resulting repairs cause damages, the strata corporation is generally responsible for those costs.

Basic rule here for common property and assets: the strata breaks, the strata pays. A recent decision in the Civil Resolution Tribunal affirms this obligation. *Naryan v. The Owners, Strata Plan BCS 3832 citing Manak (BCCRT 2020)*, "strata is responsible to repair damage intentionally caused to a SL when inspecting/repairing CP".

While this may not apply to all circumstances and every condition, it is a general application where a strata corporation is required to investigate damages, with the result being demolition and repairs, the cost is the strata responsibility. The strata corporation will not be responsible for your personal property or any betterments such as hard wood flooring, upgraded carpets, tiling or cabinetry. Betterments remain the responsibility of each owner.

Tribunal decisions are based on common law, recent decisions and more specifically the evidence presented in each application. While decisions provide an indication of outcomes under these principles, applications may result in a different outcome, based solely on the facts of that case. Go to [civilresolutionbc.ca](http://civilresolutionbc.ca) to search decisions.