

Water Damage: Who's Responsible?

Determining responsibility for water damage that occurs in a unit within a homeowners association is not always a simple process. There are several considerations to be had and whether or not a party was negligent or irresponsible isn't always the first question to ask. According to the community association law firm, Altitude Law, there are three questions to ask when attempting to determine who is responsible for water damage in attached units within an HOA.

1. What, exactly, was damaged?
2. Who is responsible for maintaining and repairing the damaged component(s)?
3. Does negligence or insurance serve to shift the cost of repair to another party?

[_Who Pays For What In A Condominium Water Leak Situation?\(opens in new window\)](#)

As the executives of the association, the members of the board should be the party to determine the answers to the above questions. If a homeowner disagrees with the board's determination, they should follow an escalated approach to dealing with the dispute. First, contact your board or management company in writing, preferably by certified mail with return receipt requested. This will ensure someone will have to sign for the correspondence and will provide you with evidence of such. This writing should address the issue, and point to specific sections of your governing documents and/or the Colorado Common Interest Ownership Act which support their position. It is important to conclude your correspondence with a request for a specific resolution.

[_Colorado Common Interest Ownership Act](#)

If that is unsuccessful, you may request that your board and/or management company engage in alternative dispute resolution. This typically involves mediation. The Colorado Judicial Branch's Office of Dispute Resolution(opens in new window) offers affordable access to qualified mediators and has several professionals that specialize in issues related to Common Interest Communities. However, alternative dispute resolution is a voluntary process. Therefore, if alternative dispute resolution is unsuccessful, your last resort would be to contact an attorney and file suit in court.

For more information on what the Colorado Common Interest Ownership Act says about insurance and maintenance, please see section 38-33.3-313(opens in new window) (Insurance) and section 38-33.3-307(opens in new window) (Upkeep of the common interest community).

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