



Condominium Law Q&A

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Question – We have resided in a condo community for the past 18 years. We are enduring continued water problems from our upstairs neighbor! This is a senior community. I have complained to the board of the association to no avail. The couple involved, who live above us, have given us at least (8) negligent downpours of an over running kitchen sink and bathroom seepage into our apartment. They do not respond to my calls for help – won't answer their door and their common response is "What do I want from them." They get annoyed and peeved over my constant pleas! Why, I don't know. I firmly believe they are not of sound mind and are not hygienic, as I detect urine odors and observe strange behavior! The condominium board has advised us that they can't do anything as to their removal, etc. The couple in question do not bother with any of the condominium owners. They seclude themselves in their apartment with hurricane and window shutters closed. They don't attend clubhouse meetings or join our courtyard picnic. Something is wrong, and my wife and I are the victims! My wife has a pulmonary condition (COPD) and, since our arrival, she has been progressively ill and hospitalized. The latest water leakage occurrence was 5/15/09, and caused water to cascade over my kitchen sink and ceiling. I have a police report to confirm same. What rights do we have as victims, as I call ourselves to protect our well being? G.A.C., Green Acres

Answer – The conditions being created by your upstairs neighbors in all likelihood qualify as a

nuisance [a noise, smell or other bothersome condition or event that interferes with a neighbor's right of peaceful use and possession of his or her unit] and, as such, will be enjoined by the court. Regretfully, the conditions you described occur more frequently than one might imagine, particularly in senior retirement communities where individuals who are aging in place progress through various stages of senility and dementia with no apparent interaction from their families. I have written about what I refer to as "elder dumping," the practice of moving seniors into traditional condominiums without any assisted living options, and leaving them to fend for themselves. I have heard individuals living on third floor buildings with cat walks, who, due to the lack of elevators and their own physical impairments, are virtually held prisoners within their own units. Couple the conditions you have described with the obsessive/compulsive disorder of hoarding, and, quite frankly, it presents lay association boards with issues they never contemplated. In some cases, when the individuals present a threat of danger to themselves and/or others, the association is compelled to file a petition to "Baker Act" the unit owner(s) for observation. Most troubling is the board's refusal to get involved and provide you assistance. If the board continues to ignore the problem, your only recourse will be to hire a private attorney to take action on your behalf. In the meantime, if you continue having problems with water cascading from the upstairs unit to yours, I would call the police.

Question – My question relates to incidental damage caused to my unit during repairs to the building, for which the association has responsibility. It seems that squirrels have gnawed the lead seal around the soil pipe. In the past, when this occurred, the association paid for repairs inside the unit caused by water leaking into the unit. This year, there was a recurrence of the problem. We were advised that, due to a change in the State's insurance law, the unit owner's insurance would be responsible for coverage of damage to the unit.

Answer – The association is responsible for the cost of repair or replacement of any damage caused to the condominium property by a casualty, other than certain expressed exceptions specified in the Act. Among the exceptions which must be covered by the unit in their HO6 policy, is unit wall, floor and

ceiling coverings. However, the wall board is the responsibility of the association. The only change in insurance coverage in 2008 was to codify what is referred to as the *Plaza East*

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