

CONDO LIVING

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Ask an Expert

Must unit owner pay the cost of moving air conditioner?

Cooling unit's location hinders foundation repair

Q The basement of my condo townhouse leaks because of a huge crack in the foundation. The condo association says it will pay to have the crack repaired. However, the air conditioning unit is in the way and I was told it is my responsibility to pay to have it moved out of the way.

I called several air conditioning companies and the cost is approximately \$400. This is to remove the freon, move the unit, replace the freon and hook the unit up again. I think that this should be part of the cost assumed to repair the basement. The property manager is unsure of who owns the air conditioner, which was already in place when I bought the unit.

A *Condo Living* asked Martin Gerskup, an investigative architect and building science specialist. Principal of Best Consultants Inc., he has some 15 years' experience with condominiums and is an adjunct assistant professor at the University of Toronto's Faculty of Architecture, Landscape and Design:

Water leakage through foundation walls into basements is often considered a complex problem in townhouse condominium developments for a variety of reasons. Depending on the source of the leak and the extent of damage, more than one party may be responsible for the repair.

The repair of a cracked foundation wall resulting in water leakage is usually considered the responsibility of a corporation, whereas the repair of any interior damage may not be covered by the corporation. If the water leak caused damage to interior finishes or personal belongings, the reader may be insured, depending on the specific wording of his or her home contents insurance policy.

Foundation walls are normally considered common element compo-

nents. Common element components are defined as all of the property except the units. This information is usually clearly set out in the condominium corporation's declaration, which will describe the boundaries of all units.

The declaration also sets out the corporation's responsibilities for the repair and maintenance of all common element components. It is suggested that the declaration be checked to resolve ownership of the air conditioning unit.

If the reader owns the air conditioning unit, the corporation is correct in asking the reader to move the air conditioning unit to gain access to the cracked foundation wall. If the air conditioning unit is determined a common element component, however, the corporation must pay to move or relocate the air conditioner. If ownership of the air conditioning unit remains in dispute, a dilemma is created.

One way of resolving this without incurring great cost would be to place the air conditioning unit on wall-mounted metal brackets above ground level, thereby providing unrestricted access for exterior waterproofing repairs to the foundation wall.

Another method would involve injection of waterproofing into the foundation wall crack from within the townhouse basement. Both methods preclude having to remove the freon and move the air conditioner.

Finally, the reader is advised to closely monitor the foundation wall repairs and to report any further leakage to the board of directors for action.

Do you have a question about condominiums? Send it to Condo Living, The Toronto Star, One Yonge St., Toronto M5E 1E6, fax it to Ask an Expert, (416) 865-3635 or send it by E-mail (condos@thestar.ca). Condo Living will put the question to the appropriate expert, such as a real estate agent, lawyer, accountant or designer. No personal replies are possible.