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Don’t Cave In To Group Pressure

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Legal Talk

CASE IN POINT:

Don't Cave In To Group Pressure



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The backstory. A building had water damage as a result of facade work done by a contractor, and walls in four apartments had to be torn down for mold remediation. The contractor refused to file a claim with his insurance carrier, so the board filed with its carrier. The insurer paid out, but some expenses weren't covered. The four affected shareholders — one of whom was a board member — were putting enormous pressure on the board to get the contractor to pay their outstanding costs out of his own pocket.



Feeling torn. The board wanted to do right by the shareholders and make them whole, since the damage had occurred through no fault of their own. But the bylaws made it extremely clear that damage to individual units was the responsibility of the shareholders. It took some time for the board to get there, but it finally took a vote and decided it would seek to recoup only its own damages. As a result, the four shareholders would have to file claims with their insurance carriers or pay for the repairs themselves.

The takeaway. There are two lessons here. One is that boards are bound by fiduciary duty to operate their buildings in the best interests of their community, not on behalf of particular shareholders. The instinct to take care of your neighbors can't supersede that.

The second lesson is that house rules should mandate that shareholders have their own insurance, and managing agents should require proof of insurance on a yearly basis. ■

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