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## Q&A

By JAY ROMANO

### The Drainage System as 'Common Element'

*Q I own a condominium in a six-unit historical building. The two ground-floor apartments suffered extensive water damage from a recent storm, and none of the damage was covered by the condominium master policy or the unit owners' individual policies. The condo board has solicited estimates to repair the drainage defects that caused the problem, with the lowest bid about \$16,000. Is it fair to split this equally among all unit owners when the units on the second and third floors suffered no damage and would not benefit from this repair?*

**A** Alexander Suslensky, a Manhattan co-op and condo lawyer, says that if the drainage systems are a "common element" of the building, which is likely, then the condominium as a whole is responsible for the cost of the repairs, and each apartment owner pays for this indirectly through the common charge or assessment. "The allocation of common charges or assessments to a particular apartment is based upon the percentage of common elements allocated to that apartment pursuant to the condominium governing documents," Mr. Suslensky said. So if the common elements are allocated evenly among the six units in the building, each of the owners splits the cost equally. "The concept that the repair of a common element may not seem fair if all apartments do not benefit from it is irrelevant," he said. "It's just a part of communal living."