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# Legal-Ease: Am I Liable For That?

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Commercial property owners and managers juggle many important responsibilities each day. One of the most important of these responsibilities is providing a safe environment for tenants, customers and visitors. When properties are not properly maintained, accidents and injuries can occur that expose the building owner or property manager to lawsuits and liability. If repair and maintenance liability is not something you have considered recently, now is a good time to review best practices to minimize exposure to litigation.


Suppose that negligent maintenance and repair work resulted in a small portion of a building façade crumbling off, hitting and injuring a bystander below. Who would be liable for this type of negligence: the building owner or the property manager? Confusion over this issue is quite common, and the answer often depends on the relationship and arrangement between the two parties.

Often, a building owner hires a property management company to manage and maintain the property. In that situation, the property manager may be liable for any injuries or accidents caused by negligent maintenance or repairs. However, even if one party, such as the property management company, is clearly responsible for maintaining the building, it does not mean a plaintiff would not sue the building owner if injuries or other harm occur. What, then, are the best practices to implement to reduce liability exposure?

First, it is important to review any agreements between the owner and manager to ensure that they are drafted as the parties intended, with apportionment of liability and indemnification clearly stated. Although indemnification clauses are not a panacea, if drafted properly, they can reduce unnecessary costs and time expended on lawsuits for the party being indemnified. Consulting an attorney to periodically review the contractual arrangements between the parties, including the scope and enforceability of any indemnification clauses, also is recommended so that areas of exposure can be addressed and risk can be apportioned before a lawsuit is filed.

Next, undertake a review of your insurance policies. Many building owners and property managers obtain insurance to cover slip-and-falls and other similar injuries. Regardless of whether legal liability exists, insurance coverage can protect property owners and managers from lawsuits filed to seek quick payouts.

Third, it is important to have—and to follow—a written and property-specific maintenance policy. The policy should detail how to inspect and maintain all parts of the property, as well as what steps to take when repairs are required or hazards are discovered. Regular inspections of the property also should be conducted, and any necessary repairs should be completed in a prompt manner. Accurate documentation of inspections and repairs is helpful in establishing conformance with what is known as “the standard of care.”



Building owners and property managers also should ensure that relevant personnel are trained to be proactive and responsive to all maintenance and repair issues. If repairs are only being made in response to accidents or complaints, then a more preventive, less reactive approach needs to be implemented. Taking these steps also will assist in demonstrating that the proper standard of care was being exercised if litigation arises.

Finally, take action to fix common, easy-to-resolve hazards that, if left uncorrected, could lead to accidents, injuries and potential lawsuits. For example, if any of the following issues exist at your property and have been overlooked as being “minor,” they should be immediately addressed and remedied to ensure safety:

- Unsecured locks on windows or entrance doors;
- Malfunctioning surveillance cameras and insufficient security;
- Trip hazards caused by loose cords or torn rugs;
- Slip hazards caused by a lack of non-slip treads or carpeting;
- Damaged or cracked pavement and flooring;
- Blocked emergency exits;
- Broken or damaged stairwells or railings;
- Faulty or poor lighting; or
- Leaking ceilings or pipes.

Although no property owner or manager can ever be completely immune from liability, taking these steps can help reduce the chance of litigation surprises.

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