

Destructive Napa earthquake brings issue of owner liability to tenants to the forefront

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The 6.0 earthquake that hit Northern California in August caused considerable damage, and has brought the issue of property owner liability to the forefront. A

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number of rental properties near the epicenter sustained significant damage to the extent that many rental units became unsafe and thus uninhabitable by their tenants. Where does the liability in the event of a natural disaster rest? Are

property owners liable to their tenants for loss or damage of tenants’ personal property? There are no simple answers to these questions except “it depends.”

For example, in the Napa Earthquake the liability of an owner may depend on whether or not the property was in compliance with the earthquake retrofitting laws of the city, county, or state, and if being non-compliant contributed to or created the loss, damage, or injury. Generally, the amount of liability is directly based upon the answers to these questions, the terms of the contract, and disclosures between parties.

Remember, no one can predict when or where an earthquake will strike, or what type of quake it will be. Additionally, building and safety codes were not established to prevent all types of damages from an earthquake. They were designed primarily as life and safety ordinances or laws aimed at mitigating possible injury, loss, and damage resulting from such events.

Northridge was a new type of earthquake

In the 1994 Northridge Earthquake, in addition to the swaying and lateral thrusts previously experienced in the area, there were also vertical thrusts which the area had never experienced before. These vertical thrusts caused buildings to “pancake,” causing loss of life and greater property damage than previous tremors. Because no one could have predicted that variance in earthquake behavior, liability was not easily assigned to property owners.

Furthermore, building and safety code compliance does not necessarily guarantee a structure will survive unscathed in the event of a temblor. The primary function of building and safety codes is to help reasonably minimize risk to the health and safety of those occupying a structure. In fact, the uncertainty and inconsistency of the assignment of liability in these situations is a contributing factor to the high cost of earthquake insurance. This ambiguity makes earthquake insurance



The 6.0 earthquake that hit Northern California's Napa area in August caused considerable damage and put the spotlight once again on the issue of owner liability in natural disasters.

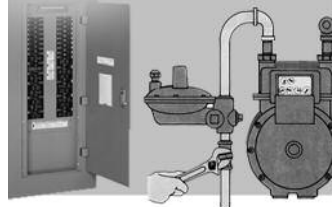
a risky venture for insurance companies, and as a result, it becomes a costly expense for property owners.

Normally, if a natural disaster occurs and a structure is compliant with building and safety codes, the landlord or property owner is not held responsible for loss or damage sustained by its occupants. However, there are always exceptions. Property owners may be found liable if their property is not in compliance with building codes and/or if the agreement between parties specifically assigns liability for these types of events. Moreover, if a property does not comply with current code requirements and the property owner knowingly evades compliance and withholds that information from a tenant, the owner may be exposed to a greater likelihood of liability than the landlord who informed the tenant of the non-compliance beforehand.

There are a myriad of factors that contribute to determining liability in the event of an “act of God.” It would be good practice for property owners to consult with professionals and experts who may assist them in understanding their potential liability and the available options to mitigate and minimize their exposure before the next ‘Big One’ hits. 🏠

Do you know where the gas shut-off valves and electrical panels are located in your building?

... and when and when not to turn off the gas?



... Just one of the many questions you should be able to answer in the affirmative. Unfortunately, most people admit that they're not prepared for a major earthquake nor have they retrofitted their properties adequately. Go to our website Newsletter Vault and download our April 2011 issue for valuable and timely information on how to take the necessary steps.