Who let the Termites in?

Whilst the most common strata building defects are still generally water ingress from defective membranes and window sealants as well as the fire and life safety non-compliances we are now also seeing a lot more defects claims featuring mould and termite damage, particularly in coastal and regional areas.

After the initial shock of discovering termite activity and /or damage the first question that we usually get asked is “who is responsible”.

Assuming that the termites were not transported into the unit by a vindictive tenant, or an errant scientist, or a negligent flea market purchase the answer is usually that the termites have entered from outside the unit and so therefore it is a common property defect.

Particularly in high risk areas near trees and water, new build units should have some form of termite barrier or be constructed of termite proof materials and so the entry of the insects may be due to a failure in the initial design or construction of the building which is attributable to the original builders and designers.

In older buildings it is more likely that the termite infestation is due to a failure of the Owners Corporation to properly maintain the common property to ensure that termites do not enter.

Termites can cause a lot of damage very quickly, and unfortunately, like the unseen fire defects a lot of the damage may have been present but unseen behind wall linings and furniture.

The question will always be asked as to how and when did they get in, but the solution is the same, the damage needs to be rectified, and generally it is the responsibility of the Owners Corporation to fix and pay for, even where all the damage appears to only be within one unit. Just like external water ingress coming through a common property wall the ingress of termites from outside and the damage that they cause comes within the responsibility of the Owners Corporation to maintain the common property.

We are dealing with a number of cases like this and can assist you and your clients with any advice and assistance that you may need.

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Key takeaways

- Termite damage in strata properties is often a common property defect.
- The Owners Corporation is generally responsible for rectifying termite damage.
- New builds should include termite barriers to prevent infestations.
- Older buildings may suffer from termite issues due to inadequate maintenance by the Owners Corporation.
- Timely action is crucial to mitigate damage caused by termites.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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