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Appellate Division Finds that Condo Board Not Liable For Repairing Newly Constructed Building and finds that Obligation to Repair Remains with Sponsor

Lorne v 50 Madison Avenue LLC

On November 8, 2009, the Appellate Division ruled that a building's developer and not a condominium board shall be responsible for making repairs to a newly constructed building. In *Lorne v. 50 Madison Avenue LLC*, a unit owner sued the board of directors for failing to remediate a construction defect. A unanimous Appellate Division dismissed the condominium board from the lawsuit while determining that the sponsor was the proper party for the lawsuit. It should be noted that this is a case of first impression regarding the responsibilities of the Sponsor and Board of Directors of a newly constructed building.

The Court also found that where the Unit owner sought to take matters into its own hands and remediate a construction defect, the Board acted reasonably in asking the unit owner to sign the same alteration agreement that other unit owners had to sign. Finally, by ruling that the floor defect was, as per the condominium documents, a structural defect, and the obligation of the Sponsor to repair, the Court rebutted the unit owners' attempt to shift repair responsibility to the Condominium Board.

