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Construction Law: Damage from a neighbor's renovation - by C. Jaye Berger

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I always advise my clients that the best time to gear up to handle damage from a neighbor's renovation is before any damage occurs. Generally neighbors and/or managing agents of co-op or condominium buildings send out notices before a neighbor's renovations commence. It is usually left in a mailbox or under the door. Sometimes the notice is accompanied with a box of cookies to

sweeten the news. All of that is a good reminder that you should photograph and document the condition of your apartment now, so that if any damage occurs, it is clear that it occurred after the renovation commenced and was not a pre-existing condition.

Occasionally the building's managing agent assists with this process. It might also be handled by the contractor for the neighbor, but be on the alert that it is "independent." It is prudent to photograph the good, as well as the bad. For example, you may have a pre-existing crack or two. When you photograph them, one can determine later on whether they got larger. In some buildings and townhouses, there are even crack monitors which measure and document the widening of cracks.

Receiving such notice is also a good time to make sure that your homeowner's insurance is in place and is in the right amounts. Some might ask, "Why do I need to care about that? The neighbor needs to have insurance, don't they?" Sometimes the neighbor does not have adequate insurance or for some reason it does not apply. Therefore, it is best to have your own coverage. Having more than enough or overlapping coverage is not a bad thing. When carriers pay damages on a claim, they try to "subrogate" to recover that money from others who may be responsible.

I always like to have a look at the form of Alteration Agreement the building uses. There may be a security deposit in place with the managing agent to cover smaller damages.

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