

Hartman tells two common scenarios resulting in liability claim settlements

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From a crack in the sidewalk to loose handrails, it seems people are suing for everything these days. The following two typical scenarios with the actual resulting liability judgment against the property owner highlight the inherent risks a property owner faces in the day to day operations of their property.

1. There is a crack in the concrete walkway from an apartment building to the pool. The property owner or manager is aware of the crack, but has not yet fixed it. The tenant has walked passed every day without tripping over it, until one day the tenant trips and sustains a broken arm.

In this case, the property owner or manager was held liable for the injury sustained by the tenant because (1) They knew about the damage, but didn't fix it; and (2) They did not exercise reasonable care by putting a sign next to the crack, indicating the danger of the problem.

2. The handrail on the second story of an apartment building is weak, and the property owner or manager makes arrangements for maintenance to fix it the following day. That evening, a tenant trips while walking down the stairs, grabs onto the weak handrail and falls, sustaining a broken leg.

Here, the property owner or manager was held liable because (1) They had knowledge of the faulty handrail; and (2) No sign was posted to indicate the danger.

The best defense against liability lawsuits is proactive care. It is important to conduct regular and frequent inspections of all working and walking areas. Property managers and maintenance staff should keep an eye out for slippery surfaces, spills, highly trafficked areas, loose mats or carpeting, poor lighting, potholes, poor housekeeping, cables or wires and uneven floor surfaces. When an area is identified as having the potential for an accident, a warning sign should be posted and/or the area should be marked off until the hazard can be corrected. If a hazard cannot be eliminated, the property owner/manager has a duty to warn of the hazards.

Documentation and follow up is an essential part of controlling the cost of claims associated with these losses. When deficiencies are noted, and repairs have been done, it is important to document all efforts to correct the situation. Evidence of your actions will help to aide in the defense and reduce the cost of potential liability claims.

Lisa Hartman, ARM is the director of claims and loss management at Albert Risk Management Consultants, Needham, Mass.