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Q & A; The Owner of Record Has Left the Building

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Q. *I have a co-op unit on the market that has water damage from a shower leak in the apartment above me. I asked the management company to write a letter advising the resident of the unit that she is responsible for the damage. The management company wrote the letter to the shareholder of record: the deceased husband of the current resident. What should be done if a co-op stock certificate is not in the actual resident's name?*

A. "The writer should contact the co-op's management company immediately," said **Adam Leitman Bailey**, a Manhattan co-op and condominium lawyer. "It may be that the co-op is unaware that the tenant of record has died."

Mr. Bailey said the management should determine the ownership of the co-op and issue shares to the proper party. "First," he said, "it must be determined whether the surviving spouse is entitled to be a shareholder."

If the surviving spouse is not permitted to assume ownership, the deceased owner's estate probably remains a party to the lease and is liable for all leasehold obligations, including proper care of the apartment.

So the surviving spouse, or the estate, or both, may be liable for the damages resulting from the leak.

"While cooperatives are normally responsible for all conditions inside walls" within an apartment, **Mr. Bailey** said, "the cooperative can look to individual shareholders for responsibility to maintain the visible plumbing in proper working order."

Therefore, he said, it must be determined whether the repair of the shower pipes -- and the damage to the writer's apartment -- is the responsibility of the co-op, the shareholder's estate or his widow.

In any case, if she is insured, the letter writer should promptly file a claim with her insurance carrier, because the carrier will generally cover the damages less any deductible and then seek to be reimbursed by the responsible party.