

Balcony collapse in Cape Town's CBD - Who is at fault?

The collapse of the balcony at La Trip Club & Social, which forms part of the famed Athletic Club & Social in Cape Town CBD has some asking, "Who's responsible: the landlord or the tenant?" Twenty one people sustained injuries due to the collapse and now many are seeking answers.



Source: Supplied. John Jack, chief executive officer of Galetti Corporate Real Estate.

Home to one of the World's 50 Best Restaurants, the Athletic Club & Social is housed in a building steeped in rich history. "The premises is a Victorian 19th century, three-story heritage building," notes John Jack, chief executive officer of Galetti Corporate Real Estate. "It used to be home to a speakeasy-style bar for athletes and sports fans alike, hence the inspiration for one of Cape Town's most sought-after establishments."

Jack adds that a collapse like this cannot be overlooked. "Both landlords and tenants are responsible for the property maintenance and repairs to a building. And due diligence should be undertaken by both parties – particularly given the fact that hundreds of people frequent the premises each day."

New details have emerged in the days following the accident with City of Cape Town officials saying that the business had contravened a building directive given in 2018, which stipulated that this part of the premises should not be accessible to the public.

Jack adds that one has to ask a few questions like:

- Was the building fit for purpose, i.e., is the owner allowed to operate a bar and restaurant at the property?
- Has the building been properly maintained?
- What is the maximum capacity of the balcony?

Jack notes that the balcony facing onto Buitengracht Street is supported by steel columns and to date has supported the load. “This new section is only supported by diagonal braces which aren’t able to carry as much load capacity.”

Further, he explains that “If the tenant has contravened capacity limits or is operating without a license, then the liability falls to them. However, in the case where the landlord has not maintained the property correctly or has built against the code, then liability falls to them.”

This is an older building and therefore any purchaser would need to make sure that they carry approved plans and, given the use of the building, has properly investigated the capacity of the balcony.

Landowner liability and safety measures

Here, Lara Colananni from Guthrie Colananni Attorneys comments: “The bottom line is that a landowner is liable for personal injury sustained on his or her property if he or she negligently or wilfully doesn’t take care. It’s imperative that landowners ensure they have adequate public-liability insurance and that their interests are noted in their tenant’s policy.”

Colananni adds that one needs to make sure that one’s building is structurally sound. “It’s advised that one clearly displays signs indemnifying one against loss and puts signs up to regulate the number of people allowed access to or use of an area such as lifts, rooftop bars and/or balconies.”

The landlord could then claim from the tenant if the tenant failed to report a problem, failed to maintain the building, or failed to comply with municipal regulations (i.e., health and safety regulations). To conclude, Colananni says that “Each case has its own merits, and we can only comment in detail when we fully understand the situation and how it plays out.”

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