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PARKWAY TOWERS INSURANCE SEMINAR APRIL 15, 2013

Overview

Whenever there is damage to a Unit or Association property, the first step is to answer the following questions:

1. Is the cause a “covered cause”?
2. Is the property that was damaged covered by insurance?
3. Whose insurance, Association or Owner, has the obligation to insure the property that was damaged?
4. Is the damage less than the deductible amount on the policy?

Declaration Insurance Provisions

In the event of a casualty loss, the Association insures the entire Condominium Project, including all of the Units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied or installed by Unit Owners. (Declaration, Article XII, Section 12.1(a))

It is the Owners’ responsibility to carry insurance coverage on furnishings, including carpet, draperies, oven, range, refrigerator, wallpaper, disposal and other items of personal property, and public liability coverage within each Unit. (Declaration, Article XII, Section 12.5)

Process to Determine Who Pays for the Damage

The same process is followed in the event of any type of damage, whether caused by water leaks from pipes, fire, hail storms, or any other cause. The following questions illustrate the information that must be obtained in order to determine who must pay for the damage:

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1. What is damaged?
2. Is it an insurable event?
3. Whose insurance is responsible?
4. Is the amount of the damage under the deductible amount of the policy?
5. Who pays for the damage?

Examples

1. The toilet backs up and causes water damage to the carpet and the subfloor underneath the carpet. There is no damage beyond the Unit.
2. A pipe behind the bathroom wall breaks and causes damage inside the Unit. The water damage is contained within the Unit.
3. The Association's main sewer line backs up and causes damage to several units and the common elements, including damage to interior drywall, flooring and subfloors in the Unit.

Exceptions for Negligence

If an Owner causes damage due to negligence or intentional misconduct, then the Owner is responsible to pay for the damage. (Declaration, Article VIII, Section 8.2)

The Association can also be liable for negligence if it (1) had a maintenance obligation that was not performed; and (2) was on notice of a specific problem.