

Fairlington Meadows Council of Co-Owners

Insurance Basics

Kathleen N. Machado

Rees, Broome, P.C.

Master Deed and Bylaws Requirements

- Council is required to insure the entire Condominium against casualty losses (Unit and Common Elements) (21st paragraph of Master Deed)
- Council serves as an Insurance Trustee over any master claims- makes sure repairs occur and proceeds are paid out properly
- Owners maintain their own insurance coverage over their Units- not mandated under documents yet but strongly recommended via Policy Resolution to avoid uncovered losses including master insurance deductible
- Unit Owners are obligated to perform maintenance and repair work to their Unit and common element repairs due to their negligence (Article IV, Section 2 of Bylaws)
- Council generally handles common element repairs, unless caused by the owner

Factors To Allocate Expenses/Repairs

- Where the damage is (Unit v. Common Element)
- The value of the loss (helps determine whether to report to master insurance)
- How the damage occurred (negligence, or an uncontrolled and unforeseeable condition)
- Note: no rule that if your Unit or a Common Element is the source of the damage, it is automatically your or the Council's obligation to handle all repairs

Source and Deductible

- Initial investigation (by qualified parties) is important to determine the source of the damage and the location(s) of the damage (unit v. common element), as well as estimation on value of loss
 - Timely reporting is important to mitigate damage and not jeopardize coverage of any claims
- Value of loss controls reporting to master carrier based on the deductible-if under deductible will not report and will allocate repairs and costs to responsible parties under the Condo Docs
- If reported under master policy, owner may still have to pay master deductible which can be expensive but may be covered by H06 policies (currently \$10,000)

General Unit v. Common Element Boundaries

- General rules, but will be very fact specific and all cases are unique:

(i) Horizontal Boundaries: The plane of the underside of the lowest floor slab and the plane of the underside of the exterior surface of the roof (the plane of the underside of the exterior surface of the roof shall be defined so as to exclude roof shingles and/or other exterior finish of the roof).

(ii) Vertical Boundaries: The plane of the outer surface of the exterior walls which do not separate a Family Unit from other Family Units and the plane of the center line of the walls which separate the Family Unit from other Family Units and shall include windows, window frames, doors, door frames and trim included in such exterior walls, and when there is attached to the Family Unit a balcony, terrace, patio, canopy, steps, stairway or other structure serving only such Family Unit, then such Family Unit shall also include such structures and fixtures thereon. Whenever the context so requires, the word "Family Unit" shall be deemed to include the interest of the owner thereof in the General and Limited Common Elements as hereinafter defined. The main door of each Type A Family Unit has access to a corridor or stairway or has an exterior entrance as shown on Exhibit A.

Unit v. Common Element

- Section 55.1-1912 of the Condominium Act:
 - Except if our documents provide otherwise:
 - Chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or other apparatus which serve a Unit but are located outside the Unit, are considered part of the Unit