

**THE CITY OF ALEXANDRIA
COMMON INTEREST COMMUNITIES
EDUCATION SERIES**



INSURANCE COVERAGE

***WHAT OWNERS SHOULD KNOW ABOUT INSURANCE
COVERAGE & WATER DAMAGE CLAIMS!***

FEBRUARY 8, 2025

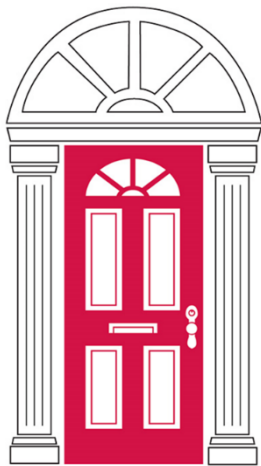
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Program Overview

- Insurance Coverage
- Determining Responsibility
- Property Damage
- Reporting & Managing a Claim
- Restoration
- Developing a Plan



Insurance Coverage

- General Liability
- Workers Compensation
- Automobile
- Directors & Officers Liability
- Pollution Liability

Property Damage & Loss



State of the Market

- Are we healing from an extended hard property market?
- Property market is stabilizing *but*....
- The impact of “social inflation” on liability coverage lines.
- Renewal expectations.



Underwriting Guidelines

- Create a strong narrative in the marketplace.
- Know how to COPE.
- Are you a **best-in-class** risk?
- Abundant challenges for older buildings.
- Control the aging process.
- Know your loss history.



Claims Under Master Policy

Three Criteria for an Insurable (property) Loss



Damage occurs to property covered under the master policy



The cause of loss is a covered cause of loss



Repairs meet/exceed master policy deductible



The Questions

Who is responsible for *performing* maintenance?

Who is responsible to pay the *cost* of performing maintenance?



SOURCE OF AUTHORITY

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Source of Authority

Virginia Statutes

Condominium Act

Nonstock Corporation Act



Source of Authority

Condominium Instruments

Declaration

Bylaws

**Maintenance
Responsibilities
Chart**

Plats & Plans



Condominium Instruments

- Insurance provisions
- Maintenance responsibility vs. insurance requirements
- Repair and reconstruction after fire or other loss
- Deductible allocation



General Rule

Except as otherwise provided in the condominium instruments, all powers and responsibilities (including financial responsibility) for maintenance, repair, renovation, restoration, and replacement in the condominium belongs to:

- The association for common elements; and
- The unit owner for unit or any part of the unit.

Condominium Act, § 55.1-1955



General Rule

Exception

Unit owner responsible for maintenance, repair, renovation, restoration, and replacement in Unit ***except*** to the extent that work arises from a condition originating in or through the common elements or any apparatus located within the common elements, ***in which case, the association is responsible.***



General Rule *Modification*

The condominium instruments may modify the general rule established by the Act:

- **Bylaws** – Maintenance, repair, and replacement section.
- **Maintenance Responsibilities Chart** – Sometimes an exhibit to the Bylaws.



DETERMINING RESPONSIBILITY



Determine Unit Boundaries

- Condominium Instruments
 - Declaration, or
 - Plats & Plans (older Condominiums)
- If condominium instruments are silent, § 55.1-1912 of the Act.



Who Repairs?

The party responsible for performing repair or replacement of a component after a loss is not necessarily responsible for associated costs, or the party that is typically responsible for maintenance.



Who Pays?

Circumstances - what caused damage?

- Insurance coverage.
- Condominium instrument provisions.
- Statutes.
- Common Law.



Negligence

The condominium instruments may provide for unit owner liability in cases of negligence.



Negligence is Fact-Specific

- Given the myriad of circumstances that may result in a loss, it is impossible to establish a single rule that applies in all circumstances.
- Under Virginia law, negligence is the failure to use ordinary care in performing one's responsibilities (Ordinary care is the care a reasonable person would use under the circumstances).

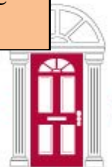
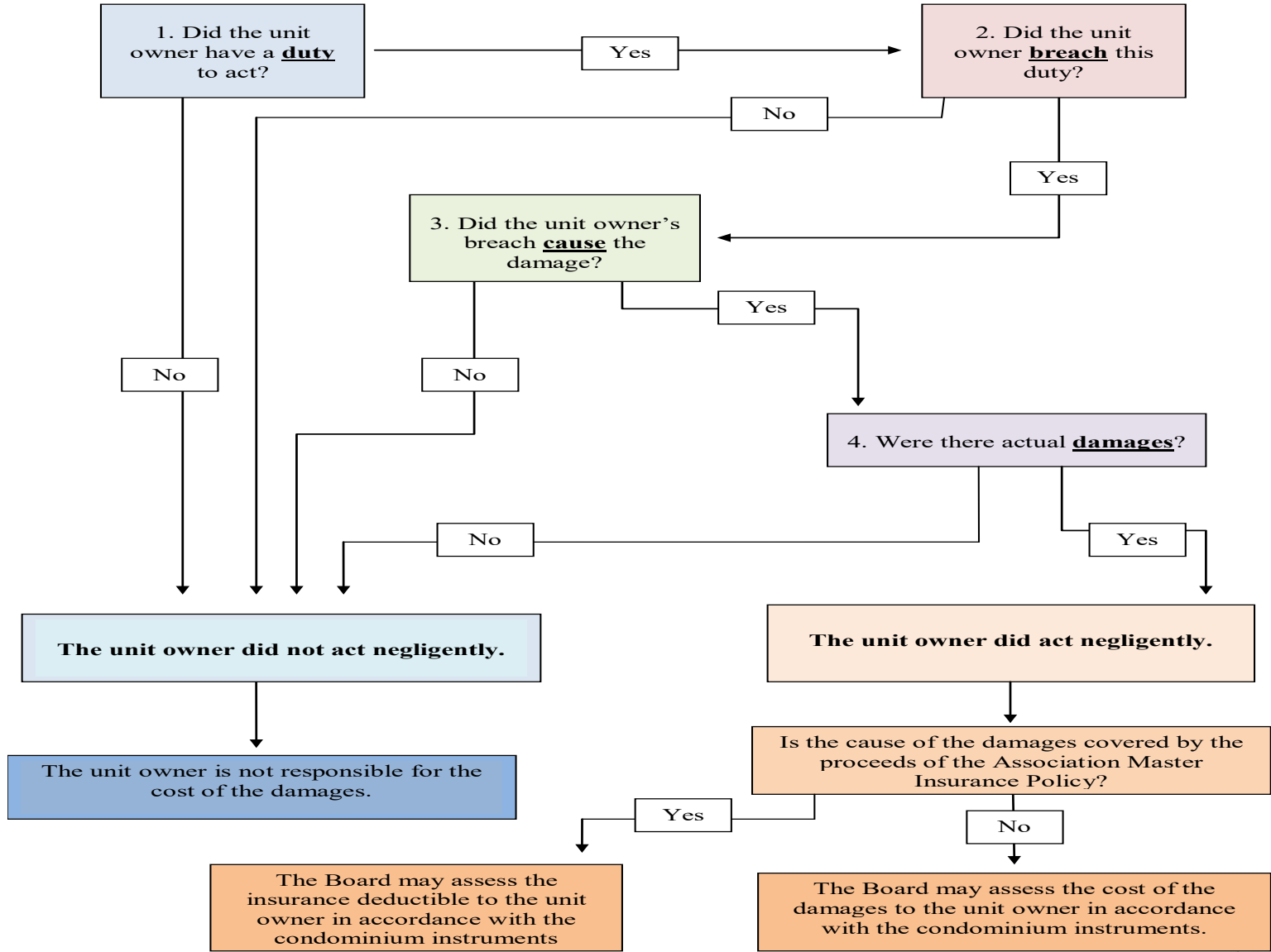


Negligence is Fact-Specific

- A determination of negligence is not automatic and must be made by the Board on a case-by-case basis, based on the facts.
- Based on the facts, the Board determines whether the unit owner was negligent, whether that negligence caused the damage, and whether the repair costs should be charged to the unit owner.



NEGLIGENCE DETERMINATION MATRIX



Insurance

- Determine whether damage is covered by or required to be covered by the association master insurance policy.
 - **HINT:** *Typically found in insurance section of the Bylaws.*
- Do carve-outs to coverage apply:
 - Personal property
 - Mold remediation
- **Unit Owner Insurance** - No Statutory Requirement in Virginia



Other Considerations

- When in doubt, involve association legal counsel and insurance broker.
- Amend condominium instruments to address ambiguities or inconsistencies.
- Adopt resolution to address negligence *per se* and insurance deductible.



PROPERTY DAMAGE

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What if Property Damage is Involved?

- Do not admit liability or fault.
- Note how the incident occurred.
- Take steps to prevent further loss.
- Take photographs of damaged property.
- All physical evidence should be saved.
- Let adjuster determine what is okay to discard - if in doubt, save it.



What if Property Damage is Involved?

- Make emergency repairs to protect premises and property.
- Get detailed estimates of repair and clean up.
- Promptly report loss if it appears that the amount of the damage will exceed the Association insurance deductible.
- Separate damaged property to allow for inspection by insurance company, if necessary.



Preparation & Planning

- Identify key staff members and outside contractors.
- Keep handy the name of carrier, policy number, and claims reporting contact information.
- Develop emergency contact list with 24-hour call numbers - should be updated regularly.
- Fire Watch providers, as necessary.
- Have information on hand for local government emergency contacts (e.g., Fire Marshal, Red Cross).



REPORTING & MANAGING A CLAIM



Proper Reporting

- Claims must be reported by:
 - Community or on-site manager; **or**
 - A designated board member acting on behalf of the Association.
- Most insurance brokers offer online reporting services for claims but administrators are also available to take claim information.



Who is Involved?

Insured/Community Manager

Insurance Broker/Agent

Claims Adjuster

Mitigation/Restoration Company



Claims Adjuster

- Operates on behalf of insurer.
- May handle *property claims* - damage to buildings and structures.
- Assesses damages with defined scope of work.
- Notifies insurer of covered loss as defined in insurance policy.
- Responds to claims in a timely manner.
- Files paperwork required to resolve claim.
- Communicates with insureds.
- Investigates coverage issues.



Claims Adjuster

What You Need to Know

- Identify who is responsible - who performs required work?
- Association documents ready to produce.
- Estimate of repairs/reconstruction.
- Emergency repairs.
- Statement of Loss.
- Depreciation/ Holdback.



Responding to a Loss

1. Take action to mitigate further damage.
2. Call insurance agent or carrier.
3. Contact restoration company.
4. Review association responsibilities under the insurance policy to ensure proper mitigation.
5. Thoroughly walk affected area(s) and identify what needs to be addressed.



Responding to a Loss

6. Maintain records
 - Document - take plenty of pictures!
 - Preserve Evidence
 - Keep a written record
7. Review work authorization, estimate and scope of work.
8. Review process with owners.



Community Manager/Insured

- Know what the insurance policy requires.
- Determine the extent of affected units and common elements.
- Choose a well respected mitigation and restoration company to provide emergency service. Identify a company **before** an incident occurs.
- Response time is crucial to preventing further damage, including mold issues; delay can lead to a more costly reconstruction.



RESTORATION

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Restoration Overview

- Understand the various roles involved in your loss.
- Step by step process when you employ a restoration company.
- Know what you are entitled to as the insured party after your property is stabilized.



Restoration Company

- Restoration contractor operates on behalf of the insured.
- Is usually first responder after significant damage from floods, fires, sewage backups, and other major events.
- Prepares a detailed damages report based on monthly updated insurance cost software in order to present a precise invoice to insurer.
- Responds to emergency in a timely manner.
- Files paperwork and photo documentation.



Restoration Company

- Communicates with policy holders.
- Assesses damage and cleans in accordance with industry standards.
- Once contract is signed, Association is responsible to pay the restoration company; most insurance claims cover the cost of necessary cleanup if damage is due to a covered loss.
- Acquire proper documentation, which includes showing drying progress and completion.



What to Expect

- Removal of non salvageable property – charred, soaked, etc.
- Cleaning and drying of remaining – fans, dehu, air scrubbers. **LOUD & HOT.**
- 3-5 days for equipment with daily monitoring and drying logs.
- Antimicrobial.



Prepare for Challenges

- Improvements and Betterments.
- Personal property damage and content manipulation.
- Living elsewhere - Pack out? Hotels?
- Dust containment.
- Lack of cooperation – resident & insured.
- Preexisting Conditions.
- **NO Gypcrete!**



Repairs – at Last!

- Total building, select units, cashing out?
- Contractor selection – when, who, bid?
- Agreed price with Insurer – why bid?
- Start date and schedule with completion date.
- Payment schedule.
- Priority list.
- Unit owner selections and changes.



Good To Know

- Employ a firm with sufficient experience and stability in the community to stand behind its work and warranty responsibilities.
- Materials and workmanship should be fully equivalent to your existing installation in “like kind and quality.”
- There is no requirement that you accept the lowest bidder.



More Good Things To Know

- Request a detailed listing of the scope of repairs and quantities of materials to be provided, before work begins.
- Request an appraisal if views differ on the amount of loss.
- Make sure restoration company has resources available to handle circumstances.
- Do not request resources that you do not need.





Supplemental Claims

Timing

More Pictures

***Documentation
& Reports***

***Communicate
with Insured***



Management Report Summary to Client & Insured

***Documentation
& Reports***

***Communicate
with Insured***



DEVELOPING A PLAN



Risk Management Review

Post Mortem

- Identify deficiencies in the process.
- Provide solutions, secure approvals.
- Communicate findings to insurer.



Annual Review

- Annual insurance program review with insurance broker, Board and Management Agent.
- Ask questions.
- Update coverage.
- Review community details & amenities.



Tips for Managing Insurance Coverage & Claims

- Understand requirements of Virginia law and regulations and condominium instruments.
- Schedule annual insurance *check up* with insurance broker to review coverage, limits, recommendations.
- Confirm insurance coverage meets statutory and document requirements.
- Review claims history and develop a risk management plan – rolling 3-year review.



Tips for Managing Insurance Coverage & Claims

- Consider document amendments to transfer risk – including responsibility for insurance deductible.
- Adopt insurance deductible policy, understanding that an insurance deductible is self insurance and budget accordingly.
- Develop checklist and policy for reporting and managing insurance claims.
- When losses occur, get the facts – contact information of owners, residents, representatives, insurance professionals.



Tips for Managing Insurance Coverage & Claims

- Inspect and document damage.
- Mitigate damage, preserve evidence and document claims.
- Report incident: *make a claim.*
- Communicate expectations.
- Advocate for the Association.



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