



## Condominium Law Q&A

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**Question** – I’m perplexed by a position taken by our condominium association, or, perhaps it’s Florida law. We live on the 9<sup>th</sup> floor of a nine story condominium. Occasionally, we get water in our unit due to a roof leak. While it has never been a serious issue and, for the most part, we take care of whatever minimum damage we have incurred, it concerns me that should we have a catastrophic event, the association’s position is that we are personally responsible for this repair even though we have no authority or responsibility to police or repair the roof. The association’s position is, “have your home owners’ policy” cover damage. Well, I don’t have homeowners insurance for a number of reasons and chose not to pay the extraordinary expense of homeowners insurance, but rather spend our money in providing secure windows and doors, etc. My question is, does the association have liability for damage caused by leaky roof? B.G.S., Singer Island

**Answer** – The question as to whether the Association or unit owners are responsible for repair or replacement of improvements damaged by a casualty has been the subject of a great deal of litigation, as well as declaratory decisions by Florida’s Division of Land Sales, Condominiums and Mobile Homes. The 2008 Legislature’s attempt to clarify responsibility, I am afraid, just muddied the waters. Effective October 1, 2008, the law now mandates that when an association acquires hazard insurance, coverage must be based upon the replacement cost of the property being insured as

determined by an independent insurance appraisal; which insurance value must be determined once every 36 months. When determining the adequate amount of hazard insurance coverage the association may consider deductibles which take into consideration industry standards and prevailing practices for communities of similar size and age, available funds, and predetermined assessment authority. The coverage afforded under the association’s policy shall cover all portions of the condominium property as originally installed or replacement of like, kind and quality in accordance with the original plans and specifications. Excluded from coverage, which therefore must be included within the unit owner’s HO6 policy, is all personal property within the unit or limited common elements, floor, wall and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and counter tops, curtains, drapes, blinds, hardware and similar window treatment components. [Please note, previously, unit ac units were also excluded from the association’s policy; it is now included]. Now, the kicker – unit owners are also required to provide insurance coverage for “all improvements or additions to the condominium property that benefits fewer than all unit owners...” Did the legislators intend this result? Translated, that would mean that unit owners must now cover unit balconies, parking spaces, storage units, boat slips, terraces, etc.; and coverage is mandatory. If a unit owner fails to provide evidence of coverage the association can “force place” coverage charging the

unit owner the cost of the insurance. The HO6 policy must also provide for a minimum of \$2,000.00 of “special assessment” coverage. While well intended, I seriously doubt that there will be any carriers willing to write such a policy without the cost to unit owners being exorbitant. Look for a glitch bill in 2009 to clean up this mess.

**Question** – I live in a no-pet building. This was a commitment the building made to me when I purchased some years ago. All the owners in this building purchased here with that same commitment. I am asthmatic. What happens to my rights as a handicapped person? Many asthmatics will experience problems from so called service dogs. People with needs for pets should seek ownership in buildings which can and do accommodate them. My handicap is less critical than those who suffer from

emotional or other medical needs. Your article and the opinion offered will encourage the intrusion of pets into building currently with no pet rules. Everyone has the right to choose when purchasing. My needs and rights will be violated. What am I to do? A.S., West Palm

**Answer** – It is not I, but rather Congress, which passed the Fair Housing Amendments Act of 1988 which extended its cloak of protection over handicapped individuals. And, it is HUD and the courts, not I, which have interpreted the law to allow service and emotional support animals within no pet buildings. Quite frankly, I feel yours is a valid point, (one raised by a number of readers) which Congress, HUD and the courts should provide some guidance on how to balance the needs of the competing interests.

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