



Condominium Law Q&A

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Question – I have been reading your column in the newspaper and I have a few questions regarding condo association liability relative to Florida Statute 718.111(11). Our condo in Florida sustained extensive water damage due to a water pipe failure in a bathroom. Our own homeowner's insurance paid for some of the water damage. We did have to replace about 60% of the wallboards which was not covered under our homeowner's insurance. We did put in a claim to the condo association insurance company. They settled our claim and sent a check to the condo association for damages less the condo association's insurance deductible. The condo association board of directors refused to hand over the check and the deductible amount. The statute 718.111(11) reads that the condo association insurance excludes "all floor, wall, and ceiling coverings". My question - is the condo association liable for the replacement of damaged wallboards? How can the association board refused to hand over the insurance money sent to cover some of the damages? Our own homeowner's insurance told us that the condo association is responsible for the wallboard on out. We were also told this by the company that did the replacement of the damages wallboard according to Florida Statute 718.111(11). Is this information correct or not? J.T., Lantana

Answer – The Florida Condominium Act delineates casualty liability between the association and the unit owners. The association is responsible (be it through insurance coverage or as a common expense), for repair/restoration of all improvements except for certain listed items, including unit owner

personality, which are required to be covered under the unit owners HO6 policy. Excluded from the association's coverage are wall, floor and ceiling finishes over the floor, ceiling, concrete slabs and sheet rock. In other words, the association should have paid for the cost of replacing/repairing the wallboard, and the unit owner the finish of same.

Question – Do these two agencies, Florida Commission on Human Relations and HUD, have the right to tell a condo board that certain conditions must be met at a private condominium? Owners have filed a complaint that the pool must be heated to 85°F so that they may do the exercises their doctor recommends. In the interest of economy, the new pool heater will now be set to 80° during winter months. The condominium association has now received forms from both HUD and Florida Commission on Human Relations that the Board is discriminating against these owners and a medical condition. Do they have jurisdiction over private condominiums or is this setting a precedent? Florida Civil Rights Act of 1992, as amended, Sections 760.20-37, Florida Statutes (2007) and Civil Rights Act of the United States (42 U.S.C. 1981, 1982 and 3601 et seq.) Thanks for your help as this is a far-reaching decision. A.S., Ormond by the Sea

Answer – The Fair Housing Amendments Act of 1988 added as a protected class handicapped individuals. The Act requires community associations to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a

handicapped person equal opportunity to use and enjoy a dwelling. That said, cost and benefit is a factor which must be weighed in determining if the Association must modify its rules and policies. HUD cannot act unilaterally. There had to have been notice to the association and an opportunity for the association to express its position and, if it disagreed with HUD, a hearing before an administrative officer.

Question – I live in a condo that was built in 1973. At our annual meeting the owners again voted down having reserves for repairs, etc. In order to put money away for myself for assessments, I made a motion during new business that the board set up a committee to report to the board of directors what

big expenses might occur in the next 10 years. One of the members of the board of directors got up making a long loud dissertation saying that according to Roberts Rules of Order the motion couldn't be made. Everyone was silent after his speech including the board and the matter was dropped. Could the unit owners have voted to have the board follow their wishes on a subject? P.S., Palm Beach

Answer –Your motion was in order and, if seconded and approved by a majority vote of the members present at a meeting at which a quorum was present, would have carried and the board would have been compelled to implement same.

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